

Teaching A Hard Lesson

The best way to curbing corruption is to use the calculus of pleasure and pain

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Shehla Masood was killed in Bhopal recently, yet another RTI activist who lost her life in the battle against corruption. The Lokayukta report has brought down the chief minister in Karnataka. A high court judge is being impeached in Parliament. The Comptroller and Auditor General and the Supreme Court are in hot pursuit of mega scams. The CBI has charge-sheeted and locked up top executive honchos, MPs, even a cabinet minister. India is at war against corruption.

Now we have Team Anna's much celebrated victory. His hunger strike and arrest galvanised a whole nation. Nothing like this had been seen since the freedom movement led by Gandhi, except perhaps the JP movement. Congress leaders were clearly shocked. As the rallies swelled and Team Anna grew more stubborn, the party swung from hard line to soft line to hard line again.

Finally, it was Prime Minister Manmohan Singh – much vilified in recent times even by his well-wishers for neither leading nor resigning, and presiding over a corrupt regime – who did the right thing. At his instance, alternative proposals for the Lokpal Bill were discussed in Parliament, and an all-party resolution passed that supports the three key issues raised by Team Anna. He then reached out to Anna, requesting him to withdraw his fast.

Anna responded by congratulating Parliament and breaking his 12-day fast while the nation rejoiced and heaved a collective

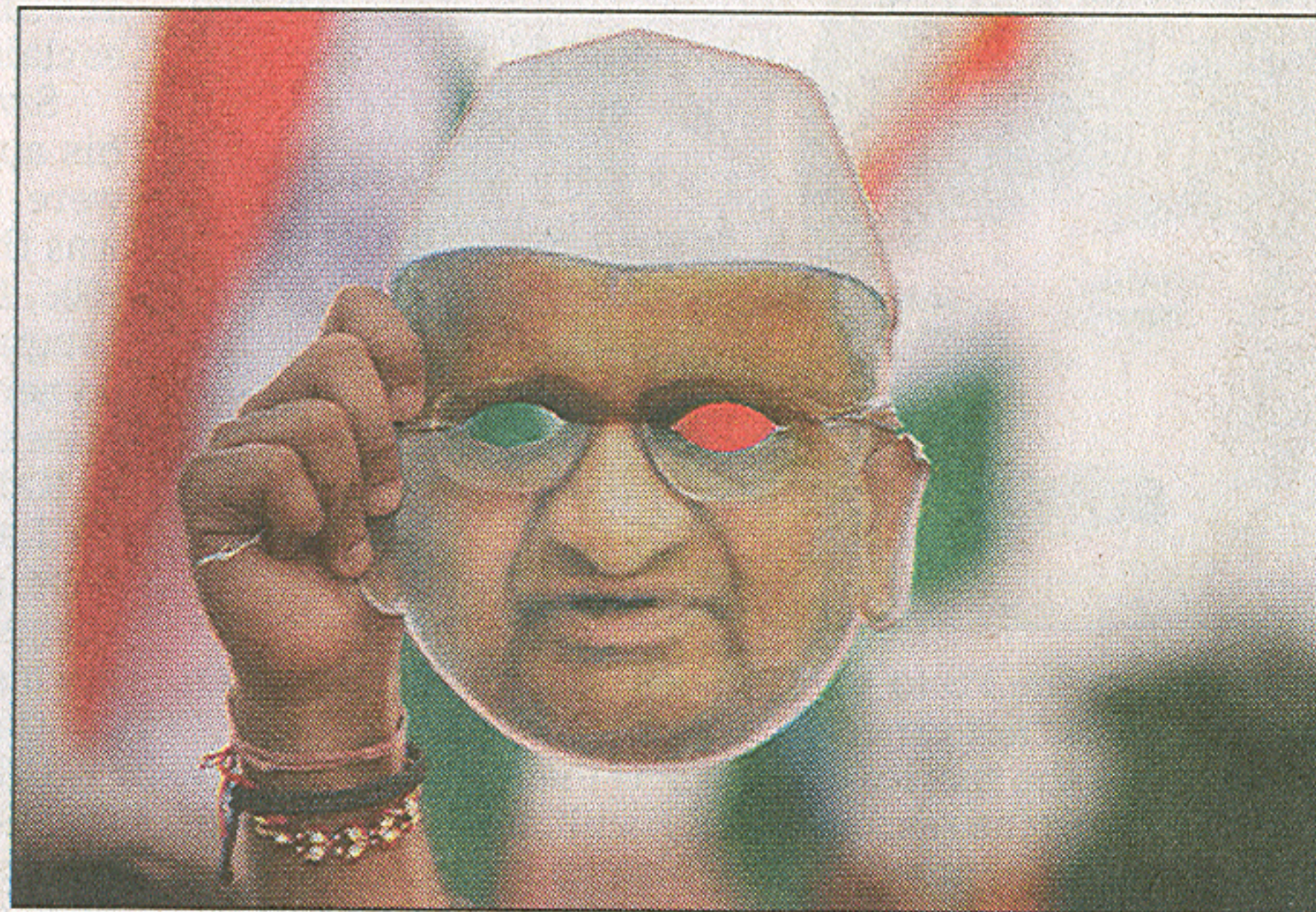
sigh of relief. The prime minister's approach preserved the authority of Parliament, yet ensured that Parliament was responsive to a popular non-violent movement. Between Anna and him, they have led the people and the Parliament of India to the finest moment of our democracy as the world has watched and applauded us.

The Parliament resolution is a giant leap for Indian democracy, but only one big step in fighting corruption. The hard work starts now. As the standing committee gets down to the nitty-gritty of drafting the revised Lokpal Bill, it is a good time to look at the insights on corruption contain-

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ment offered by a cross-over subject called Law and Economics.

The organising theme underlying this approach is the pleasure-pain calculus attributed to philosopher Jeremy Bentham. The idea that all human behaviour is driven by this calculus is controversial. But it seems reasonable to suggest that crimes like corruption are indeed driven by the criminal's perception of potential gain and the loss if caught: pleasure and pain. Much insight on how to



Face that launched countless protests

contain corruption derives from this simple principle. However, corruption takes many forms and no matter how clever a policy, the criminal mind can be equally clever. Also, beyond a point, the costs of further reducing corruption could exceed the loss from corruption. Hence, corruption can be contained, possibly minimised, but not entirely eliminated. With this caveat, the following broad proposals can be made.

First, there is the widespread phenomenon of citizens having to pay a bribe to get what they are entitled to by right, e.g., timely delivery of pensions, ration cards, passports, etc or the timely restoration of power, phone lines, water supply, and so on. In such cases, the bribe payer is actually a victim of extortion. In a recent paper, economist Kaushik Basu has proposed that acts of bribe-giving in such cases of 'harass-

ment corruption' should not be considered a crime, as at present. Instead, the punishment for the bribe seeker should be significantly enhanced. Such an amendment of the relevant law could vastly reduce 'harassment corruption' because the potential extortionist would be deterred by his knowledge that bribe-givers are likely to blow the whistle after getting their job done.

For other forms of major corruption, the pleasure-pain calculus has generated three basic approaches for containment: high civil service pay to moderate the lure of illegal gratification; laws prescribing very harsh punishment and/or strong law enforcement to enhance the probability and expected pain from being caught, compared to the potential gain; and strong competitive structures with transparent non-discretionary rules to minimise the opportunities for

gain from bribe-driven decisions. International evidence reveals two cases of high civil service pay and low levels of corruption, Singapore and Hong Kong. However, both these places also have strong laws against corruption, strict enforcement and open, competitive market structures. Hence, the individual effects of each of the three approaches cannot be disentangled in either of these cases.

Evidence from other countries indicates that strong laws, strict enforcement and competitive structures each individually and significantly contribute to curbing corruption. In most developing countries, including India, poor enforcement of laws is the norm. Turning that around would be very costly in resources and a great administrative challenge. By comparison, enacting strong laws or introducing reforms to strengthen competitiveness are relatively costless and administratively less challenging.

These should be our strategic priorities in fighting corruption. The former requires a revised Lokpal Bill that provides for very stiff punishment of corruption. The latter requires other urgent reforms to strengthen competitiveness through transparent, non-discretionary regulations that are not unduly restrictive. While these should be our priorities, enforcement too has to be strengthened to the extent our fiscal and administrative capacities permit.

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