Paper No. 358

A JOURNEY FROM CORRUPT TO TRANSPARENT SYSTEM OF PROCUREMENT

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By:

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ABSTRACT

Pakistan today is struggling to move forward from a corrupt system of public procurement to a transparent and accountable system. This Paper conducts a state of the art survey of the findings in this regard and the suggestions expressed by a number of contemporary studies. A causal analysis for identifying the prevalent major causes of the ingress of corruption has been conducted, in the form of a simple fish bone diagram. A SWOT, strengths, weaknesses, opportunities, and threats, analysis has been done Since, corruption has multi-dimensional facets, a model has been presented to arrive at the way forward on three major lines: institutional strengthening, personnel capacity building and public actualization.

A. INTRODUCTION

Transparency International has recently ranked Pakistan at 120 among 180 countries in order of the success in eradicating corruption from public procurement. Attention is therefore called up to focus on this matter. Need arises to review the situation, to see what other contemporary studies are reporting, and to analyze the causes that induce corruption in public procurement. In order to combat this situation, our strengths, weaknesses, opportunities and threats need to be examined, so that a way forward can be conceived.

B. LITERATURE SURVEY

Andrew Henderson [1] reckons high level financial and political corruption, nepotism and illuse of power is rampant in Pakistan, leaving aside low scale bribery and common day frauds. Public procurement is a perfect area where corruption can conveniently manifest itself.

National Accountability Bureau (NAB) was setup in 1999 to curb corruption, and carries on by checking unexplained assets, both in private and public sectors, except the judiciary and the military. NAB is poorly funded and is acutely understaffed. It is also not completely free from political and administrative interference.

Often, instead of strict punishments, as in the quoted case of Smith and Wesson, out of the court settlement took place through an 'internal administrative order', that in true sense is considered a leniency.

Similarly, when an anticompetitive arrangement was exposed against Siemens, their application for leniency was accepted, and a 100% reduction in penalty was granted.

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According to **Engr. Shafiq Hussain Bangash** [2], OECD estimates that the public procurement consumes 45 to 65 percent of a national budget, that makes 15-20 percent of the gross domestic product. However, the knowhow and knowledge on procurement is hardly professional. The resources allocated to enforce the regulations are hardly sufficient. What is needed are: personnel responsible on procurement must first be professionally trained in finance, tendering, accountancy, engineering, legalities and computer use, and more importantly in personality development towards integrity, trust, customer focus, interpersonal skills, and empathy. There are three levels, all of must be equally addressed: practitioners, principal accounting officers.

Dr. Rafi Amir-Ud-Din [3], has referred to the ranking of Pakistan that Transparency International has announced as 120 on a list of 120 countries on the scale of corruption perceptions index. According to Rafi-Ud-Din corruption is a culturally determined and is rather an issue among social and political institutions. It is believed that people indulge in corruption because of economic reasons when the basic necessities compel them so. A house that one can afford, a primary healthcare and reasonable education for the kids, if provided, can reduce the tendencies of corruption. At the same time self-contentment, simple life and refraining from show off will make a difference to quite an extent. Media, literature and TV can inculcate these values.

Cidd Andrews [4] has referred to the creation in Pakistan of the "National Anti-Corruption Strategy (NACS)". This model was developed on the view that just enforcement could not control corruption. Awareness, prevention and enforcement together were needed to be integrated.

Robert Hunja [5] has suggested 10 ways to fight corruption in a simplified rhetoric:

- Corruption in essence is wastage of resources and depriving common people from them.
- Corruption can be tackled when people participate with governments devising solutions.
- Behavioral change is required for this purpose with combined formal and non-formal efforts.
- Dialogue is required among all stakeholders: government, citizens, business, civil society groups, media, academia etc.
- Institutions need to be strengthened to allow change and target service delivery.
- Incentives need to be given for integrity, and smart style in the government.
- Punishments need to be strictly given to the culprits.
- A bridge is to be built among global efforts and the local campaigns.
- International resources need to be mobilized to assist poor countries to fight their battle.
- Results focused approach is required on all endeavors.

According to **Dr. Farrukh Saleem** [6], Pakistan wastes $18b to $60b annually in spite of the presence of Public Procurement Regulatory Framework by various means including:

collusive behavior, bid rigging, substandard procurement, over-valuation, corruption, fraud and abuse. According to him, the public procurement regime is disorderly, which needs to be replaced by small, professionally trained and independent regulatory agency. 'Business as usual' will work no more.

The **ADB/OECD** referred document [7] has suggested the anti-corruption initiative be taken up on three lines:

a. Integrated effort among government and non-government bodies,

b. Sensitizing public on corruption issues that the loss to public funds is loss of everyone, and

c. Access to information and its availability to examination.

The document takes cognition of the fact that, In Pakistan, a National Anticorruption Strategy Project has been launched where the civil society organizations, academia, businesses, media have taken part, although in an advisory capacity. The Freedom of Information Ordinance, has been a result of this effort. The document suggests, a more dynamic role by the actors of the civil society, as is taken up in other countries such as Indonesia, Japan, and Korea in educating the public and making new legal provisions.

In countries such as Cambodia, Fiji Islands, Indonesia, Korea, Malaysia, Papua New Guinea, the Philippines, Singapore and Vanuatu, the governments have even supported financially the civil society in raising corruption issues to the general public.

The document further suggests:

- General public may be allowed scrutiny, monitoring and open discussion on procurement processes.
- General public may be allowed access to information. The information may be routinely published and access to files may be granted on request.
- Legal instruments may be generated to enable access to public documentation.
- For speedy actions, tribunals, information commissions and the ombudsperson may be appointed, who may be given a good deal of independence and powers to overrule the decisions of the departments.

The referred document from **ADB/OECD** [8] has reported a Review on the efforts that have been taken up in Pakistan to curb corruption in public procurement. The Review was conducted through a questionnaire served to relevant government bodies and the inferences were arrived at on the information and views provided by the responding agencies. The questionnaire was divided into chapters such as:

a. General framework, split into legal and organizational and procurement policies and practices.

b. Transparency and fairness of; general policies and regulations, procurement opportunities, & contract evaluation and award procedures.

c. Integrity of; procurement personnel, and bidders and suppliers.

d. Accountability manifested by separation of; responsibilities and independent scrutiny, review and complaint mechanisms.

The Review has observed that:

- Procurement is not done by a central office in Pakistan. The various departments act as procuring agencies. They have to work within the financial resources available to them. These procuring agencies are owned and controlled by the government, except on procurement related to security and defense or concerning intellectual property rights.
- The government has established a Public Procurement Regulatory Authority with a purpose to build, regulate and strengthen capacity to develop a transparent, accountable, well governed and affordable public procurement system. The Authority has developed a Regulatory Framework, which has been notified by the Public Procurement Regulatory Authority Ordinance, 2002 and Public Procurement Rules, 2004 at http://www.ppra.org.pk [8A].
- The Review, in regard to transparency and fairness, has observed that no 'white list' of eligible contractors is maintained by the procuring agencies. However, a list of 'black listed' contractors is maintained.
- The Review has observed that all procuring agencies keep records of for a period of five years. These records are not open to public but can be called by a court or an authorized investigating agency.
- The Review, in regard to integrity, has observed that, no specific training programs for procurement personnel are run that could include integrity building.
- The Review, in regard to accountability, has observed that, no third parties are engaged to monitor procurement staff or to ensure mutual control, by alternating officers, so that validation is ensured. The procuring agencies run their own checks the way suited to them.
- The Review, in regard to accountability, has observed that, no third parties are engaged to entertain complaints, nor to protect the informants against coercion. Complaints are submitted to an internal committees appointed by the procuring agency itself. The decision of such committees are binding. Any unsatisfied party may file an appeal in the court of law. The court normally advises the procuring agency to meet the codal formalities.

Asian Development Bank Report [9] has described analysis of corruption in public procurement across 25 countries in the Asian Pacific. The Report has specifically addressed the situation in Pakistan on its regulatory framework regarding procurement.

The way forward that has been suggested by the Report specifically for Pakistan, bears:

- Various mechanisms in the procurement framework already exist, which need to be implemented strictly. (Public Procurement Regulatory Authority [9A] http://www.ppra.org.pk).
- To stabilize the procurement system, a supportive parliamentary law is required to be passed.
- A large percentage of procurement is carried out at provincial and district level. They need coherence and updating with a national framework.
- The framework at various levels need to be strengthened by the of implementation.
- At all levels, standardization and homogeneity in the tender documents is required.
- The conditions of disqualification need to be uniform and applied in strict sense at all levels.
- A standardized and consistent review mechanism is required to be generated and adopted.

EPCM (Engineering Procurement and Construction Management Consultants)[10] has conducted a Procurement Risk Assessment Study on Peshawar Bus Rapid Transit Corridor Project, stated, in accordance with the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KP PPRA) framework.

The analysis has reported following risks for the Peshawar Development Authority:

- No independent procurement unit existed in Peshawar Development Authority (PDA).
- No operative project management unit existed in PDA.
- PDA has no experience on international competitive bidding (ICB) projects.
- No accredited training programs on procurement exist that could be served to the personnel of PDA.
- There are no regulations that exist describing state owned enterprise entering into participation with private enterprise.

In spite of these shortcomings, some of which were partially overcome, the project went smoothly without serious legalities though delay in construction did occur.

According to **Kolsoom Abbasi Shahkooh, S. A. Shahkooh, Fatemeh Saghafi and A. Abdollahi** [11], accountability and transparency are key advantages of e-government. They have studied the effect of introducing e-government on reducing corruption in 180 countries and have categorized them into ranking. They have then chosen the lowest corruption category and have listed their specific e-government strategies so that the same can be recommended to other countries. The effort can be stepped into following phases, and the activities associated with them can be described as below:

- Phase 0 Initial study: Start up:

  Building a steering committee; Making a feasible study for e-government; Sensitizing the issue by SWOT

- Phase 1 Vision: To identify what is required from e-government

  Top down policy planning; and Consensus from top management

- Phase 2 Strategy building blocks: To develop strategy considering the aspects of:-

  Establishing e-government model; Differentiating layers of the e-government; Identifying positions to the stakeholders; Selecting type and positions of infrastructure; Establishing bench marks; Developing infrastructure; Imparting professional skills; and Operation ability design

- Phase 3: Governance:

  A. Institutional development

     Governance structure; and Allocating responsibilities

  B. Initiating change

     Start from a weak link; and Understand obstacles

  C. Focus on current projects

     Introduce e-government to current projects; and Device application strategy

- Phase 4: Gap Analysis: Change strategy

  Fix priorities of application e-government; Analyze demand of the public; Obtain experts consensus; Devise action plan; and Perform cost benefit analysis

- Phase 5: Implementing plan: Devise steps on implementation

  Execute selected projects at top management level; Estimate human resource requirement; and Perform costing through modelling

4-Estimate time frame through modelling

- Phase 6: Monitoring and Revisions: Weigh achieving of goals

Determine success indexes; and finalize effective method of measurement

Huma Rasheed, Ludwig Hoellein, Khalid Saeed Bukhari and Ulrike Holzgrabe [12] have mapped the Pakistan's current situation regarding poor quality, sub-standard and falsified medicines, that have gone up as high as 40 to 50% of the entire products. The authors have investigated the available options to put up an effort to fight against poor quality of medicines. They have suggested to strengthen the regulatory framework. They have recommended: improvement in the regulatory structure, good manufacturing

practices (GMP) inspections; reinforcing analytical laboratories; capacity building of regulatory personnel; and improvements in collecting critical data statistics.

Mehnaz Bhaur [13] have quoted some international examples of success stories, how was corruption controlled there:

- Georgia made it through anti- corruption reforms in public services, by a new young government, dedicated to combat corruption came into power and they were armed with an overwhelming popular mandate.
- South Korea made it through anti-corruption reforms in public administration, including mandated asset declaration for high-level officials, revision of the public service act, expanding the range of public officials subject to asset registration and post-employment restrictions.
- Azerbaijan made it through tax and customs administration's efforts (i) the enactment of a consolidated tax code, (ii) the establishment of a full service large taxpayers unit, (iii) the adoption of automated systems in several functions, and (iv) the creation of a taxpayer services program. Since 2005, the modernization process continued with (i) the tightening of the VAT (value added tax) registration controls, (ii) the implementation of an integrated computer system for all taxes, (iii) the introduction of electronic filing, and (iv) the establishment of a one-stop shop business registration.
- Russia made it through reforms in the customs service including the following core activities (i) Harmonization and simplification of the regulatory framework, including a new customs code simplifying the custom regulation and customs procedures. (ii) Simple and transparent procedures including the introduction of risk-based verifications to reduce the number of physical inspections and thereby reducing the opportunities for rent-seeking. (iii) Automation of processes; discretion was to be reduced by improving and insuring data exchange and cross-checks, which was made available by the introduction of new technology. (iv) Strengthening and professionalizing customs administration by reforming human resource policies, the organizational restructuring and improving the management systems.
- Bolivia made it through revenue administration consisting of three major components. (i) A juridical reform aimed at improving the administration of justice as well as enhancing enforcement capacities. (ii) Public administration reform including implementation of modern systems for managing public expenditures and human resources. (iii) Short term anticorruption actions to build credibility of the overall reform.
- Mexico made it through reforms in the tax authority consisting of three main efforts; (i) the establishment of a system to anonymously denounce likely acts of corruption using phone, email or paper communication. (ii) continuous monitoring of the internal transparency and service indexes using surveys, and (iii) evaluating staff reliability and reviewing the employment practices – with a focus on the removal and rotation of staff – for those in high-risk positions.

- Brazil made it through improving service delivery and by increasing transparency based on the following key components: (i) simplification of administrative procedures for both citizens and civil servants, (ii) collaboration among administrative units involved, (iii) development of computerized information systems in all administrative units, (iv) availability of trained human resources, (v) a well-developed network of computer equipment, (vi) specific allocation of duties and responsibilities among all functional components aimed at reducing overlapping and increasing synergies.
- Rwanda made it through anticorruption efforts including rebuilding the whole governance systems, structures and institutions, focused on strengthening the legal and institutional framework, improving government effectiveness, building a strong and competent public service, reforming public finance management systems, prosecuting corrupt officials at all levels of the public sector.

Syed Adil Gilani [14] from Transparency International Pakistan has suggested the following measures:

- Element of discretion should be eliminated from public procurement procedures. Only the centralized Authority should have the power to establish these procedures. Technical competence and least cost should only be the controlling basis.
- Consultants should be selected on competitive bidding and least cost basis once their technical competency is established, except in single expertise situations.
- Firstly the bidders should be short listed. Bids in two envelopes one technical and the other financial, should then be called through a criteria declared in advance. With a minimum qualifying marks, the financial bids should then be opened. Awards should then be made on lowest price basis.
- Financial bids of those who get less than qualifying marks should not be opened. The bids should be opened in public.
- The evaluation report should remain open for a minimum of 10 days. Any objections received should first be resolved. Award should then be made to the lowest bidder.
- The evaluation committee should have at least two departmental members, one from Pakistan Engineering Council, one from Institute of Chartered Accountant and one from Chamber of Commerce.
- All bidders should sign an integrity agreement as part of their bids.

The Budget Study Centre, at the Centre for Peace and Development Initiatives [15] has made a comprehensive review of the public procurement regime in Pakistan as well as its Provinces, and has made the following recommendations:

- The regulatory framework for procurement need to be simplified;
- A good deal of institutional set up is required with a central control and overseeing of the local units;

- Access to information and documentation should be open to the public;
- Procurement should be handled only by officials who are carefully groomed on competence and integrity and they should be generously rewarded together with a clear career ladder before them;
- Transparency should be abundantly visible, accountability rigidly practiced;
- Strict and pressure free atmosphere should be there to curb fraud, abuse, and corruption;
- Assistance from international bodies should be sought;
- Local NGOs and media should be taken onboard for awareness, attitude building and vigilence;
- The precept that public money is everyone's money and guarding it is everyone's interest, needs to be inculcated.

C. ANALYSIS

Tracing Causes to the Effect

The above literature survey gives a picture of the subject and the general views regarding the possibilities that exist for Pakistan coming out of the corruption and attaining a transparent regime regarding public procurement.

Corruption in public procurement is an effect which cannot be denied, but its causes can now be visibly traced. This is done through a Fish Bone Diagram that is illustrated in Fig-1.

Foremost is the deprivation level. People are deprived of the basic necessities of life; housing, education and health.

People are not made aware of the losses that the public sector has to bear because of corruption. They do not take that the public money is in fact their own money and loss of it is their losses.

Officials engaged on procurement are neither professionally trained nor their moral integrity inculcated.

Departments engaged on checking corruption are short of funds and are short of staff.

The system is not strong enough not to bow down before the pressures of the influential.

SWOT Analysis

A SWOT analysis is conducted here to estimate strengths, weaknesses, opportunities and threats that exist on the way, and is illustrated in Fig-2.

Strengths

Various mechanisms in the procurement framework already exist, which need to be implemented strictly, such as Public Procurement Regulatory Authority [9A] http://www.ppra.org.pk).

National Accountability Bureau (NAB) has already been setup in 1991 with an aim to curb corruption. NAB carries this objective on by checking unexplained assets, both in private and public sectors.

A near about e-government has already been set up. The vehicle can now takes on with an operational model; identifying the layers of corruption wherever it occurs; Identifying involving the stakeholders; establishing and utilizing the required infrastructure; establishing bench marks; conducting gap analysis for professional and integrity skills; and enabling the operations.

Weaknesses

The weakness of the system however is that there is no one central controlling and all incumbent procurement unit that could harmonize the activities of the individual procuring agencies at the provincial and district level and that could bring them to one platform. There is no single operative body that could take elimination of corruption from public procurement as one comprehensive project.

Many procuring agencies and departments have virtually no experience in procurement on projects of recent trends such as private public partnership, design build, or build operate and transfer.

There are no accredited training programs on procurement that could be served to the procurement personnel for their professional training and growth of their moral integrity. Personnel responsible on procurement must first be professionally trained in finance, tendering, accountancy, engineering, legalities and computer use, and more importantly in personality development towards integrity, trust, customer focus, interpersonal skills, and empathy.

NAB is poorly funded and is acutely understaffed. It is also not completely free from political and administrative interferences. Judiciary has a slow and cumbersome process. Benefit of doubt always goes to the culprits.

Opportunities

There are traditional value sets, that teach us self-contentment, simple life and restraint from greed can make a difference to quite an extent. Media, literature and TV can inculcate these values.

Threats

Corruption is a culturally determined and is rather an issue among social and political institutions. It is believed that people indulge in corruption because of economic reasons when the basic necessities compel them so. A house that one can afford, a primary healthcare and reasonable education for the kids, if provided, can reduce the tendencies of corruption.

Model

This model was developed on the view that just enforcement could not control corruption. Awareness, prevention and enforcement together were needed to be integrated.

- Corruption in essence is wastage of resources and depriving common people from them.
- Corruption can be tackled when people participate with governments devising solutions.
- Behavioral change is required for this purpose with combined formal and non-formal efforts.
- Dialogue is required among all stakeholders: government, citizens, business, civil society groups, media, academia etc.
- Institutions need to be strengthened to allow change and target service delivery.
- Incentives need to be given for integrity, and smart style in the government.
- Punishments need to be strictly given to the culprits.
- A bridge is to be built among global efforts and the local campaigns.
- International resources need to be mobilized to assist poor countries to fight their battle.
- Results focused approach is required on all endeavors.

Three Parallel Lines

In order to achieve the results, three parallel lines need to be pursued, as per Fig-3:

1. Behavioral and attitudinal change among people realizing them what they collectively loose because of their short sighted selfish individual gains.
2. Establishing a stricter punishment and rewards mechanism so that the culprits meet their destinies and the helpers are rewarded.
3. Leveraging the checking officials by imparting them with professional know how, training them on high moral integrity, funding them adequately and rewarding them on their achievements in just and fair ways.

D. CONCLUSION

Pakistan can overcome the menace of corruption in the sphere of public procurement, once it gets on the journey, as it has clear strengths to do so. The weaknesses it has, are surmountable. The opportunities are clear. The threats do exist, but the same can be countered. We need to build up courage, to move systematically and methodologically.

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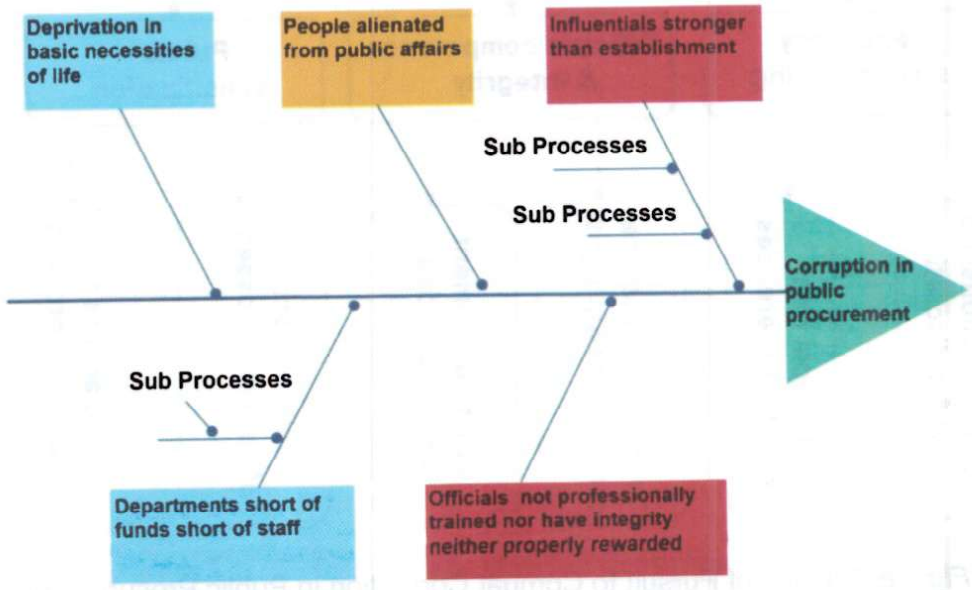

Figure-1: Fish Bone Diagram for Tracing Major Causes to Corruption in Public Procurement

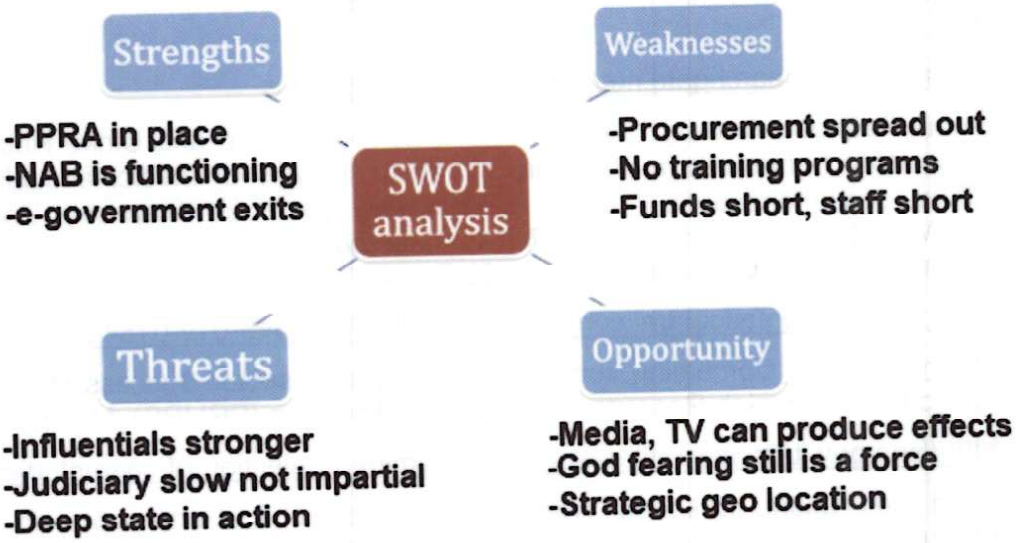

Figure-2: SWOT Analysis for a Movement towards Transparency in Public Procurement

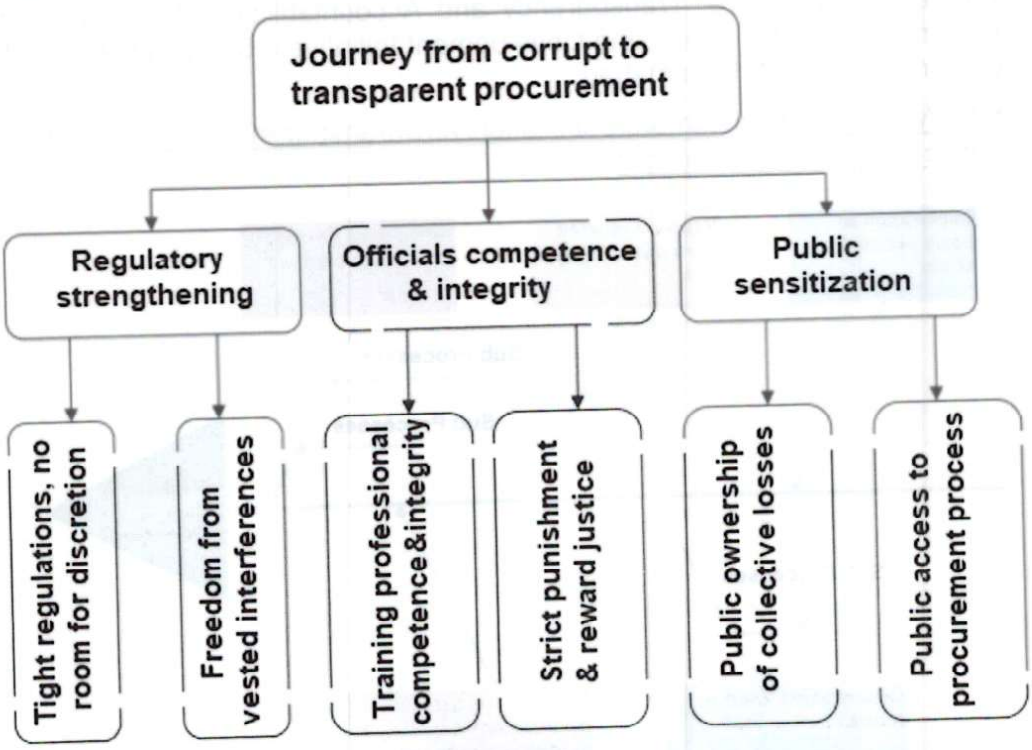

Figure-3: Lines of Pursuit to Combat Corruption in Public Procurement