

## **ETHICS, ACCOUNTABILITY AND GOOD GOVERNANCE**

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Mr. chairman, keynote speakers, panel discussants, ladies and gentleman

I wish first of all to offer my most sincere thanks and gratitude to the secretariat of Transparency International for inviting me to attend this conference. I think I am one of the chief justices to have been invited to this conference. If the object was to chastise me for the corruption that goes under, above and beyond my nose, I have had my lessons long before this conference took place, but if the object was to sensitise me with correct thinking in the judicial field on corruption, my sponsors have succeeded beyond their means. I take this opportunity to profusely thank the government of the republic of South Africa for the lavish hospitality showered on me and the delegation of Bangladesh during our stay in this beautiful and hospitable stay in Durban

The basic problem of maintaining an ethical regime in any nations' life is the entrenched belief of a powerful group of politicians, bureaucrats, business and industrial personalities, organisations, both governmental and industrial personalities, organisations, both governmental and non-governmental, and other persons from other callings and professions, that although all human beings are equal, they are more equal than others, law and judicial systems exist for those who are less equal than them while they float above the law and the arms of the court are not long enough to reach them. This dichotomy in the day to day affairs of the nation is a breeding ground of corruption. The search for a policy and technique to combat corruption is essentially a search for a leveller except death, which will reduce the more - than - equals to their proper size and stature.

It is here that I would like to differ from the statement made yesterday by Al Gore, Vice President of the United States of America and would like to venture an opinion that if corruption is to be combated, it would have to be addressed both by way of a change of heart and a change of consequences. Thabo Mbeki, president of the republic of South Africa, aptly put the question to the audience on the opening day of the conference: the generation that follows you, what will be your message, mere attainment of material success and prosperity by fair means or foul, or the attainment of a spiritual stature that will transcend material over fulfilment?

As we kill mosquitoes by constantly leaving of stagnant waters, we have to cleanse the fickle minds of human beings almost constantly from the thought that living in this world for a period of 50 years to 100 years, is only a temporary stay and we do not take away our riches and wealth when we have to finally breathe our last. If the short and fleeting stay is not governed by an ethical and moral regime, we fall prey to all kinds of deviations and delinquencies including corruption. An ethical or moral regime is essentially a regime of choice between right and wrong between what is materially attractive and morally apprehensive. Those whose lives and minds have been hardened by following a purely materialistic way of life, perhaps change of consequences will be the only method to contain them, unless they change their hearts themselves. It is for them that the transparency international is planning; debating and commending multi-pronged policies to take meaningful preventative and repressive steps,

keeping the special needs and problems of various regions of the world in view. But please pause here a little, give something to the young and unborn. Should we not present the premise of ethics over matter before them and help them live in a future world of ethical regime.

And ethical environment is also a provisory to acceptability that accounts for his actions when no one asks for it. When a society sustains world environment accountability becomes a part of nation sky. It works as automata and it is ingrained in the national ethos. Institutions and human activities develop built-in methods of accountability. Where, however, and ethical environment is a far cry, conscious steps need to be taken to ensure accountability in written constitutions of countries, in public administration, in business, commercial and industrial activities and so on. Accountability is closely related to transparency. The prime enemy of transparency is conspiratorial of decision-making and even more secretive method of executing decisions. The prime emphasis will be on open democracy, not merely a facade of democracy, on open discussions, nor merely a kitchen cabinet, consultation and on the easy access of people to public documents and decision making procedures.

I shall be failing in my duty if I do not throw some light on ethics, accountability and good governance in the judicial field. About 120 countries gained their independence since the 2nd World War. Donor countries, multinational financial institutions and private entrepreneurs have rushed into these countries with financial and technical help in the fields of agriculture, industries, communications, energy and so on. Put little or no help has been forthcoming in judicial development programs. Some of these countries have suffered a highly independent higher judiciary on their own, but have kept the subordinate judiciary, where most cases originate at the grassroots level, firmly under the executive control, keeping them undermanned and underdeveloped, poorly paid and indeferentially maintained. Now that the donor countries, multi-national financial institutions and private entrepreneurs of finding the investments intersecinely locked in mind-boggling uncertain litigation's with inordinate delays at every turn, they are turning more and more to this long neglected sector and are discovering the delays, corruption and lack of care management to which they themselves have no mean contribution. Arm twisting as a method of subjecting weaker economies into submission is a visible, high profile procedure. But this method is not known to have been used to bring pressure to their judiciary, higher or lower, total independence in judicial, financial and administrative matters. The civil societies in these countries have also played no significant part in securing an independent judiciary for their own benefit.

Good governance, ladies and gentlemen, is an extension of the principle of the rule of law. A society is well governed when there is a rule of law, not a rule of man or woman. A modern state is extensively governed by rules and regulations, by complex guidelines and instructions, by a web of regulations, restrictive, prohibitive and penal procedures. As a fish starts getting rotten from the head, good governance starts sliding from the hands of the people when the top people in parliament, executive and judiciary put rules and regulations aside and start ruling by the rule of the thumb. A democratically elected government is not necessarily a democratic and open government. It has often been found in history that a democratically elected government can also be despotic and autocratic in practice. The external world is satisfied if the adults entitled to suffrage go through the motion of voting at intervals, but little do they realise if these periodic exercises have made any difference in the manner and quality of governance.

It is heartening to find that ever more well-meaning persons are taking ever more interest in

combating corruption. Their combined wisdom and efforts will not go in vain. Man lives on hope and what is the harm in hoping that anti-corruption world-wide movements which is still in an embryonic stage, will produce concrete world-wide results in the near future.