

ANTI-CORRUPTION LAW AND ITS SIGNIFICANCE

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ABSTRACT

When someone misuses the power given to them for their benefit, corruption results. This misuse of power destroys the basis of a democratic society and undermines trust between different parties. Corruption can interfere with the economic development of a country and increase poverty and imbalance. The Prevention of Corruption Act is an Act of the Parliament of India enacted to combat corruption in government agencies and public sector businesses in India—an Act to consolidate and amend the law relating to preventing bribery and matters connected. How can we prevent corruption? A compliance-friendly environment, Codes of conduct, Reward and incentive systems, Accessibility, Human resource management, Open government, Citizen and stakeholder participation, E-government, and managing conflicts of interest. The principal legislation that governs corruption in India includes the Prevention of Corruption Act of 1988², the Foreign Contribution Regulation Act (FCRA) of 2010, the Central Vigilance Commission Act of 2003, the Prevention of Money Laundering Act of 2002, the Central Bureau of Investigation (CBI), and the State Anti Corruption Bureaus (ACB). Business, development, and economic advancement are adversely affected by corruption, along with democracies and public institutions. For the fight against corruption to become more effective, collaboration must be improved to increase transparency and accountability standards., the G20AntiCorruption Working Group (ACWG)³ was established in 2010. intensifying the battle against bribery and corruption while expanding international cooperation. Promoting integrity and transparency in both the public and private spheres. Due to the popularity of corruption, hindrance tactics must be personalized for the local environment. The research presents a literature evaluation based on 118 publications on corruption prevention strategies in the public sector, using the United Nations (UN) Convention against Corruption⁴ as our point of departure. The standards of accountability are strengthened by anti-corruption organisations⁵, ethics councils, and ombudsmen in a setting that is mainly devoid of corruption. According to the anti-corruption policy, corruption is the "use of public office for private gain" and should be addressed from four angles: Preventing fraud

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and corruption in projects, assisting nations who ask the Bank for aid in fighting corruption, mainstreaming the issue of corruption in the workplace, and actively supporting global efforts to combat corruption are just a few of the objectives.

Keywords: Corruption, Democratic Society, Trust, Economic Development, Poverty, Prevention of Corruption Act, Compliance.

HYPOTHESIS

Preliminary examination of data from various suggests the formulation of a clear hypothesis concerning the role of civil society in combating corruption in India. The hypothesis posits that the degree of civil society participation in efforts to combat systemic corruption in India is positively correlated with the efforts' sustainability and success⁶. The pace and direction of the developmental efforts are shaped by the umbilical relationship between the state and civil society. Viewed in this perspective, anti-corruption policies are not simply policies that can be planned and isolated, but often a set of subtler insights that can be developed only in conjunction with citizen participation. Therefore, preventing corruption requires more than just passing legislation and setting up institutions; rather, it is ingrained in civil society's daily operations.

RESEARCH METHODOLOGY

The research methodology involves a combination of doctrinal methods. Primary sources such as legal texts, statutes, and court judgments will be examined, along with secondary sources such as scholarly articles and reports from regulatory bodies.

RESEARCH QUESTIONS

What are the most effective measures for promoting transparency and accountability in government institutions to deter corruption?

What legislative reforms are needed to strengthen anti-corruption frameworks and create a more deterrent environment?

How do international organizations facilitate cooperation among nations in the fight against corruption?

LITERATURE REVIEW

In recent years, there has been a significant increase in the corpus of theoretical research that examines corruption objectively. (Elliot,1997; Coolidge and Rose-Ackerman,1997; Gandhi,1998; Gill,1998; Girling,1997; HDC,1999; Mauro,1995, Paul and Guhan 1997; Vittal. 1999; World Bank,1997)⁷

According to an initial review of the literature, corruption is acknowledged as a complicated issue that arises from underlying issues with institutional incentives, governance, and policy distortion both in India and abroad.

Therefore, it cannot be solved by passing legislation that just forbids corruption. The reason is that the rule of law is frequently brittle and can therefore be twisted to their advantage by corrupt interests, especially in India where the judiciary, law enforcement agencies, police, and similar legal bodies cannot be trusted.

INTRODUCTION

The evil of corruption is linked with the life of each individual in the state because of its socio-economic effects. The origin of the evil of corruption has become a topic of consideration and worry in society at large, in mass media, in academic domains, and amongst the persons of various trades and occupations. It has become a regular topic of debate between members of the legislature, representatives of the people, politicians of different political parties, public servants, businessmen labour communities, and students. Corruption emanates as a result of deficiencies in the present public administration structures as well as traditional, social, political, and other related elements. In addition, the inefficiency of anti-corruption legislation and poor implementation of laws by enforcement agencies has increased the vigour of this evil. The main legislation may provide better results in controlling the evil of corruption⁸.

Apart from other things, social justice is one of the noble goals of a real democracy. Social justice is the need of the hour and has relevance in the modern world for the sake of humanity and equality. All people are born equal and have equal rights to live a healthy life in a democracy. Social justice is essential not only for the people living in a democratic world but also for the people of all of the nation⁹. As observed by Mr. Kofi A. Annan, the then secretary general of the United Nations,- corruption is an insidious plague that has a wide

range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism, and other threats to human security to flourish¹⁰

For example, the money made by corrupt practices is also a source of many criminal activities. The black money made by corrupt practices is being used for promoting terrorism, human trafficking, drug- trafficking, and other serious criminal activities. Thus we can say the evil of corruption is the mother of money of many other crimes and consequently is the main factor.

Hindering the growth of the nation. Hence it becomes the utmost object to control the menace of this evil for attaining an overall growth of the nation. Corruption hurts everyone. Corruption has had corrosive effects on society. Corruption impacts social, economic, and cultural rights in addition to civil and political rights. The largest issue that people worldwide are dealing with is societal corruption. Not a single country is untouched by the effects of corruption. Hence, structured reforms at all levels of society are required. The effects of corruption have many dimensions related to political, economic, social environmental, etc.

Fighting corruption has appeared as a vital development issue in India in recent years¹¹. More and more policymakers, businesses, and civil society organizations have begun to confront the issue openly. At the same time, there has been a notable increase in the general public's comprehension of corruption. It was usual, until recently, to hear someone refer to anti-corruption solely in terms of law enforcement. On the other hand, the majority of professionals in the field today agree that prevention and public education are equally crucial. They have also realized how important civil society is to successful and long-lasting reforms.

IMPACT OF CORRUPTION(NEEDS FOR ANTI-CORRUPTION LAW)

When corruption begins all right ends. The Hon'ble apex court observed that corruption devalues human rights, stops development, and undermines justice, liberty, equality, and fraternity which have core values in our preamble. Therefore every anti-corruption law is to be interpreted and worked out to strengthen the fight against corruption and is accepted to eradicate corruption¹²

Hindrances for Development:¹³ Corruption causes wealth and prosperity to be lost, which

is very detrimental to India's future. India's corruption rate has increased over the last ten years, and the nation has lost countless billions of dollars through various scams involving the theft of taxpayer funds. Many developmental projects are taking unnecessary delay for their completion due to corruption. This leads to backwardness in every field like sports, technology, medicine, research, economy, defence, and infrastructure.

Obstacles to business: Corrupt practices in the public services sector pose significant risks to ethical business practices. Businesses may experience unwelcome bureaucracy, small-time corruption, and bribery when completing any processes or transactions. It will be difficult to pay for public services like water delivery, police protection, and government support to be provided more quickly. Similarly, businesses are finding that irregular payments to government officials—even to apply for a business license—are a significant obstacle. Businesses find it unpleasant when they have to pay officials to obtain even basic services like electricity or water.

Backwardness and poverty: India's government lacks the will or is unable to end poverty as a result of corruption. The impoverished are getting poorer while the wealthy are getting richer. Corrupt individuals in various government departments and contractors siphon off funds through various means, leaving very little for the end users, even despite the announcements of rehabilitation and financial packages.

Brain drain and loss of talent Corrupt government employees and mediators take bribes to give jobs to unskilled and incapable candidates, which results in poor decision-making by management. When competent workers in the private sector experience harassment as a result of corrupt government policies in India, they leave the country. This is a huge loss for the nation, which cannot advance without the contribution of gifted and innovative individuals.

Loss of faith in the judicial system The common man is under a great deal of stress when dealing with India's judiciary, especially at lower court levels, where corruption is a high risk. Bribes are frequently given in exchange for favourable court rulings, which makes the public lose faith in the judiciary. In addition, it is difficult to prosecute public servants who abuse their positions because a minister must give permission before an appeal can be filed. The judicial process is hampered by such a legal barrier. Additionally, postponing the appointment of judges and the establishment of new courts causes justice to be delayed.

Lack of resources has a detrimental effect on the court system's effectiveness; the backlog of cases currently stands at crores.

Loss of natural resources Natural resources abound in India, but corruption there causes the loss of these priceless resources. Widespread issues with illegal sand mining lead to lost revenue and seriously disrupt the nation's water supplies. Bribery in the mining sector is widespread and generates enormous sums of money for the government. This is primarily because there is insufficient oversight and transparency; for instance, it is estimated that approximately half of the iron ore exported from the Indian state of Goa is the result of illicit mining.¹⁴

CORRUPTION AFFECTS THE PEOPLE

Lack of quality in services: A corrupt system cannot provide high-quality services. It may cost money to be regarded as high quality. This is evident in several sectors, including municipalities, electricity, the distribution of relief funds, etc. Additionally, candidates who lack the necessary qualifications can purchase a seat to compete for it. Therefore, even if he pursues a career in medicine, he might not be qualified.

Lack of proper justice: Inappropriate justice is the result of judicial system corruption. Additionally, the offended parties may suffer. Due to a lack of evidence or even evidence that has been destroyed, a crime may be proven beyond a reasonable doubt. The police system is corrupt, which is why investigations take decades to complete. This gives the offenders carte blanche to commit more crimes. Even the possibility exists that criminals may become elderly as a result of the prolonged investigation. As a result, one gets the impression that justice is denied or delayed.

Chances of unemployment: We can see this by using an example. Permits are granted to private education and training institutions so they can begin offering instruction. This permit is granted by the infrastructure and adequate hiring of qualified personnel. There's a good chance of corruption here. To obtain permits, the management of the institute or college tries to buy off the quality inspectors.

Poor health and hygiene: Health issues are more common among the populace in nations with higher levels of corruption. There won't be clean drinking water, good roads, a sufficient supply of high-quality grains for food, adulterated milk, etc. The contractors and

officials involved provide these subpar services to save money. Even the medication that hospitals provide to other hospitals is of subpar quality. Therefore, all of these may be factors in common man's poor health.

Accidents and fatalities result from the issuance of a driving license without a proper evaluation of their driving abilities. Some countries allow people to obtain a driver's license without taking it. A test because of corruption.

EFFECTS OF CORRUPTION ON SOCIETY

Disregarding Officials: people start disregarding the officials involved in corruption by thinking negatively about them. However, when they are working with him or her, they approach them once more with the idea that the job will only be completed if financial compensation is given.

Lack of faith and trust in the governments: Voting is a way for people to express their faith in a ruler. But, people lose trust in them and might not vote for them again if they are discovered to be involved in corruption.

Aversion for joining the posts linked to corruption: Even though they would like to, sincere, honest, and hardworking people grow to dislike the position because they think that obtaining it would also require them to engage in corruption.

EFFECTS OF CORRUPTION ON THE ECONOMY

A decrease in foreign investment: There are numerous examples of foreign investments that were willing to enter developing nations but have since returned because of widespread corruption in the government.

Delay in growth: The official who must approve project or industry clearances delays the process out of a desire to profit illegally and in other ways. A task that takes a few days to complete could take a month to complete. Growth, the beginning of industries, and investments are all delayed as a result. Even when a business is launched, expansion is impeded by all. Tasks involving officials are postponed because bribes or other benefits must be given.

Lack of development: If a region is unsuitable, many new industries that are eager to

establish themselves there alter their plans. The companies do not want to open in an area without adequate roads, water, and electricity. This impedes that region's economic advancement¹⁵.

Differences in trade ratio: There are ineffective standard control institutes in some nations. Put another way, these establishments of standard control are so corrupt that they can allow low-quality goods to be dumped in large markets. These nations can produce high-quality goods at low costs, but they are unable to export them to nations with stringent regulatory bodies. They can only do this in nations where there is a possibility of dishonest officials in charge. A prime example is a product that can be sold in other nations with lax import laws and quality control but cannot simply be thrown onto the markets in the US and Europe.

REASONS OF CORRUPTIONS

Low pay scale: most of the employees in the government sector are paid low wages and salaries. Hence some employees revert to corruption for more financial benefits.¹⁶

Low job opportunities: this is another cause of corruption. Due to the lack of job opportunities at will, many people like to go for corruption mode to get job offers. They will be ready to pay a lump sum amount for the job offers to the higher officials or politicians.

Lack of ill fame: A person should not be respected or avoided if they are discovered to be dishonest or to have engaged in unacceptable behaviour. However, people with a history of corruption and other criminal activity are now appointed to prominent positions, such as members of parliament or even higher positions. They are respected as opposed to being treated with contempt.

Lack of strict and fast punishments: Convicts receive less punishment even if they are proven guilty or even exposed by the media or anti-corruption authorities. They will be placed again in a different location with the same job grade and pay after being suspended for a few months or weeks. This implies that the official who engaged in the corrupt activity has been granted a free license to carry on with his business.

INDIA'S ANTI-CORRUPTION AGENCIES

The most well-known and important anti-corruption organizations in India are the following. These organizations have the authority to receive complaints about corruption and look into it.

Central Vigilance Commission of India (CVC)¹⁷:

The Central Government essentially established the CVC in 1964 in response to the Shri Santharam Committee on Prevention of Corruption's recommendation, which was to support the government in instances of corruption in India.

Central Bureau of Investigation (CBI)¹⁸:

The CBI is the second highest authority and a trailblazer in India when it comes to handling sensitive cases involving corruption and other issues. It has the trust of the entire nation, including the legislature and judiciary. Anti-Corruption Division, Economic Crimes Division, Special Crime Division

State Anti Corruption Bureaus (ACB):

Only cases of corruption against public servants at the federal level may be handled by the CBI and CVC, and cases of corruption at the state level may be investigated similarly.

LANDMARK JUDGMENT

Central Bureau of Investigation (CBI) v. Ramesh Gelli 2016 3 SCC 788¹⁹

According to the case's functions and nature, the Hon'ble Supreme Court of India ruled that directors and bank managers of private banks fall under the definition of "public servants" under Section 2(c) of the PCA, 1988. If these individuals commit fraud or bribery that causes financial losses to the public or any individual, the bank's employees are also considered public servants for prosecution under the PCA's statutory provisions.

K. Shanthamma v. State of Telangana SC 192²⁰

The Hon'ble Supreme Court of India ruled in the case that only recovering money from the accused will not result in his conviction under the Prevention of Corruption Act, 1988, and

that "Demand for Bribe" and "Its Acceptance by the Public Servant" are requirements for establishing a case against him.

Vijay Madanlal Choudhary v. Union of India²¹

In interpreting Section 3 of the Prevention of Money Laundering Act, 2002, the Hon'ble Supreme Court of India ruled that it is not necessary to show the property as untainted to constitute an offence under the PMLA; therefore, the word "and" for demonstrating the proceeds of crime as untainted property is construed as "or" as it must not undermine the Act's fundamental goal.

CORRUPTION SCAMS IN INDIA SINCE 1947

The Jeep Scandal²²

The Jeep Scandal of 1948 was independent India's first scam that involved the country's first High Commissioner to the UK, who bypassed protocol to sign a deal worth US \$111,976 (80 lakhs Indian Rupee, INR) with a foreign firm for the purchase of 200 army jeeps out of which only 155 reached India²³. The case was, however, later closed, and he went on to become defence minister.

The Bofors Case²⁴

The Bofors scandal was a major political scandal during the 1980s and 1990s that involved some of the top politicians including the former Prime Minister of India. This scandal involved illegal kickbacks paid in a US\$1.4 billion deal between the Swedish arms manufacturer Bofors with the Government of India for the sale of 410 field howitzer guns, and a supply contract almost twice that amount. It was the biggest arms deal ever in Sweden, and money marked for development projects was diverted to secure this contract at any cost²⁵.

The JMM Bribery Case²⁶

In 1995 the central government faced a no-confidence motion and it was alleged that he bought the support of some of the MPs of Jharkhand Mukti Morcha (JMM), a regional political party, by paying them a bribe of US \$ 42,148 (INR 30 lakhs) each (Nariman 2005). Since under Article 105(2) of the Constitution of India, a Member of Parliament cannot be

made liable to any proceedings in any court concerning any vote given by him in Parliament, the Supreme Court dismissed all cases against them²⁷.

The Fodder Scam²⁸

The fodder scam, which came to light in 1996, involved officials in the state animal husbandry department of Bihar – withdrawing funds amounting to US \$ 133,470,250 (INR 950 crore) from the government treasury with fictitious bills of food, medicines, etc. The investigation led to the conviction of the then Chief Minister of Bihar²⁹.

The Mining Scam³⁰

This scam involved the former Chief Minister of Jharkhand who was accused of money laundering of around US \$ 561,980,000 (INR 4,000 crores) by taking bribes for illegal allotment of coal mining contracts³¹.

The 2G Spectrum Case³²

This scam was also called the telecommunication scam. The then telecom minister was accused of allocating licenses for 2G spectrum without following the prescribed rules. The Comptroller and Auditor General (CAG) of India estimated the loss out of such illegal allocation to be around. US \$ 24,727,120,000 (INR 1,76,000 crores), thus turning out to be one of the biggest scams in the Indian political history³³.

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The Commonwealth Games Scam³⁴

The preparation for Commonwealth Games 2010 involved massive corruption with misuse of funds at the hands of the chairman of a committee formed to organize the event. This scam involved a sum of US \$ 9,834,650,000 (INR 70,000 crores), which came to light after a report submitted by CAG and also by the regular reports of the media highlighting the poor quality of the preparations.

CONCLUSION

Indian thinks that corruption cannot be eliminated in India at least not in their lifetime. Scales of corruption can be grand, middling, or petty and payment of bribes can be due to collusion between the bribe taker and the bribe giver, crime of corruption may be due to coercion or even anticipatory.

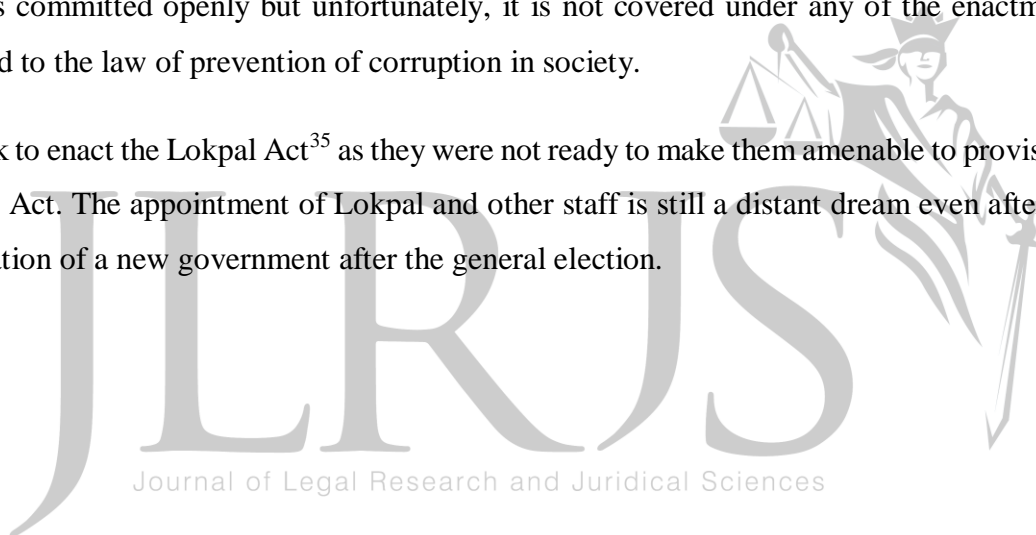
This shows that there is an existence of corrupt people, and there are also corrupt practices and corrupt systems in a society.

Since laws relating to the eradication of corruption were enacted 25 years before due to electronic revaluation and change in the mindset of the people, many corrupt practices fall outside the purview of existing laws and need to be tackled by people themselves.

Very huge lump sum amount or contribution by avoiding tax, given by industrialise or by a businessman to political parties as an election campaign fund. Also, corrupt surgeons and other physicians perform operations in private hospitals in the government hospital timings.

Private hospital bills are sometimes accommodated from the budget of the government. This activity is itself an open secret crime. Everyone knows that it is nothing but “corruption” that is committed openly but unfortunately, it is not covered under any of the enactments related to the law of prevention of corruption in society.

It took to enact the Lokpal Act³⁵ as they were not ready to make them amenable to provisions of the Act. The appointment of Lokpal and other staff is still a distant dream even after the formation of a new government after the general election.



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