

CORRUPTION IN PUBLIC OFFICES IN INDIA: PROBLEMS, CHALLENGES AND REMEDIAL MEASURES

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ABSTRACT

India is the largest democratic country of the world. Corruption is widespread in Indian Civilization and it has caused maximum suffering to the human kind. Corruption has been one of the major obstacles on the path of economic growth and development in India. It has rose upto that level where without paying bribe, getting a job done by the government officials or bureaucrats is impossible. It is like an unspoken truth, which everyone dislikes but still obeys to survive in the system. There exists a proper market for corruption where bribe demanded equals bribe supplied. Once this market is identified properly, it would be easy to control and manipulate it. This paper emphasizes that lack of transparency, morality, accountability and consistency as well as institutional weakness provided fertile ground for the growth of corruption in India. It discusses the problems, challenges, and possible remedial measures to overcome corruption in Indian Society. It touches which kinds of reforms are necessary to fight against corruption in India.

Keywords: Corruption, Bribe, Legal Bribe, Bureaucratic Corruption, Transparency, Accountability, Consistency, Misappropriation.

INTRODUCTION

Corruption is an issue that adversely affects India's economy of central, state and local government agencies. Not only has it held the economy back from reaching new heights but rampant corruption has stunted the country's development.ⁱ It is recorded in 2005 that more than 92% of Indians has at same point or another paid a bribe to a public official to get a job done.^{ii iii} In 2008, it is recorded that about 50% of Indians had firsthand experience of paying bribes or using contacts to get services performed by public officer.^{iv} Corruption is an age-old phenomenon and can be seen everywhere in world. It is like a cancer in public life, which has not become to rampant and perpetuated overnight but is course of time. The word corruption means destruction, ruining or spoiling a society or nation. A corrupt society is characterized by immorality and lack of fear or respect for the law. It is the abuse of public power for private gain. Corruption comes under many different guises like bribery, extortion, fraud, embezzlement, misappropriations of public goods, nepotism (favouring family members for jobs and contracts) cronyism and influence pending. The largest contributors to corruption are entitlement programs and social spending schemes enacted by the Indian government. For example- The Mahatma Gandhi National Rural Employment Guarantee Act and The National Rural Health Mission.^v The other areas like India's trucking industry which is forced to pay billions of rupees in bribes annually to numerous regulatory and police stops on interstate highways.^{vi} The media has widely published allegations of corrupt Indian citizens stashing millions of rupees in Swiss banks. The Indian media is largely controlled by extremely corrupt and politicians and industrialists who play a major role by misleading the public with incorrect information and use the media for mudslinging at political and business opponents.^{vii}

Corruption is widespread in Indian civilization and it has caused maximum suffering to the human kind. It emphasizes that how corruption related to development issues in India and which kind negative effects are shown in India political, economic and social system. These issues and effects are presented below;

POLITICS

Corruption in India is a problem that has serious implications for protecting the rule of law and ensuring access to justice. As the month of December 2009, 524 parliament members were

accused of various crimes under India's First Information Report Procedure wherein anyone can allege another to have committed a crime.^{viii} Many of the biggest scandals since 2010 have involved high level government officials including Cabinet Ministers and Chief Ministers, such as the 2010 Common Wealth Games scam Rs.70,000 crore(US \$11 Billion), the Adarsh Housing society scam, the Coal Mining Scandal Rs.1.86 Lakh crore (US \$ 28 billion), the Mining scandal in Karnataka and cash for vote scams.

Political corruption is the use of powers by government officials for illegitimate private gain. An illegal act by an officeholder constitutes political corruption only if the act is directly related to their official duties is done under colour of law or involves trading in influence. Corruption includes bribery, extortion, cronyism, nepotism, parochialism, patronage, influence peddling graft and embezzlement. Corruption may facilitate criminal enterprise such as drug trafficking, money laundering and human trafficking, though is not restricted to these activities. Misuse of government power for other purposes such as repression of political opponents and general police brutality is also considered political corruption. Masiulis case is a typical example of political corruption. A state of unrestrained political corruption is known as a kleptocracy, literally meaning, "rule by thieves".

In politics, corruption undermines democracy and good governance by flouting or even subverting formal processes. Corruption in the judiciary compromises the rule of law and corruption in public administration results in the inefficient provision of services. It violates a basic principle of republicanism regarding the centrality of civil virtue.^{ix}

Corruption erodes the institutional capacity of government if procedures are disregarded, resources are siphoned off and public offices are bought and sold. Corruption undermines the legitimacy of government and such democratic values as trust and tolerance. In recent evidence suggests that variation in the levels of corruption amongst high income democracies can vary significantly depending on the level of accountability of decision makers.

ECONOMIC EFFECTS

In the private sector, corruption increases the cost of business through the price of illicit payments themselves, the management cost of negotiating with officials and the risk of

breached agreements or detection. Although some claim corruption reduces costs by cutting bureaucracy, the availability of bribes can also induce officials to contrive costly and lengthy regulations are better than covertly allowing them to be by passed by using bribes where corruption inflates the cost of business, it also distorts the field of inquiry and action, shielding firms with connections from corruption and thereby sustaining inefficient firms.^x Corruption generates economic distortion in public sector by diverting public investment into capital projects where bribes and kickbacks are more plentiful. Officials may increase the technical complexity of public sector projects to conceal or pave the way for such dealings, thus further distorting investment.^{xi}

ENVIRONMENTAL AND SOCIAL EFFECTS

Corruption facilitates environmental destruction. While corrupt societies may have formal legislation to protect the environment, it cannot be enforced if officials can easily be bribed. The same applies to social rights worker protection, unionization prevention and child labour. Violation of these laws rights enables corrupt. Countries to gain illegitimate economic advantage in the international market. Governments with strong tendencies towards kleptocracy can undermine food security even when harvests are good. Officials often steal state property. In Bihar, more than 80% of the subsidized food aid to poor is stolen by corrupt officials.^{xii} Similarly, food is often robbed at gunpoint by governments' criminals and warlords alike and sold for a profit.

EXISTING LAWS AND PROVISIONS IN INDIA TO TACKLE CORRUPTION

Corruption is an insidious plague that has a wide range to 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 flourish. Public servants in India can be penalized for corruption under the India Penal code 1860 and the Prevention of Corruption Act, 1988. The Benami Transactions (prohibition) Act, 1988 prohibits benami transactions. The Prevention of Money Laundering

Act, 2002 penalizes public servants for the offence of money laundering. India is also a signatory to the UN Convention against corruption since 2005. The Convention covers a wide range of acts of corruption and also proposes certain preventive policies.

KEY FEATURES OF THE ACTS RELATED TO CORRUPTION

Indian Penal Code:- Section 169 pertains to a public servant unlawfully buying or bidding for property. The public servant shall be punished with imprisonment of upto two years or with fine or both. If the property is purchased, it shall be confiscated.

Section 409 pertains to criminal breach of trust by a public servant. The public servant shall be punished with life imprisonment or with imprisonment of up to 10 years and a fine.

The Prevention of Corruption Act, 1988:- It was enacted to consolidate different anti-corruption provisions from various pieces of legislation under one umbrella and to make them more effective. If a public servant takes gratification other than his legal remuneration in respect of an official act on to influence public servants is liable to minimum punishment of six months and maximum punishment of five years and fine. This Act also penalizes a public servant for taking gratification to influence the public influence with a public servant.

The Benami Transaction (Prohibition) Act, 1988:- the Act prohibits any benami transaction (purchase of property in false name of another person who does not pay for the property) except when a person purchases property in his wife's or unmarried daughter's name.

Any person who enters into a benami transaction shall be punishable with imprisonment of up to three years and/or fine. All properties that are held to be benami can be acquired by a prescribed authority and no money shall be paid for such acquisition.

The Prevention of Money Laundering Act, 2002:- The Act states that an offence of money laundering has been committed if a person is a party to any process connected with the proceeds of crime and projects such proceeds as untainted property. A person can be charged with the offence of money laundering only if he has been charged with committing a scheduled offence. The penalty for committing the offence of money laundering is rigorous imprisonment for three to seven years and a fine of up to Rs.5lakh. If a person is convicted of an offence under the

Narcotics Drugs and Psychotropic substances Act, 1985 the term of imprisonment can extend up to 10 years.

PROBLEMS AND CHALLENGES

Despite adequate laws to fight corruption in the public sector, it is still one of the biggest menaces Indian Society is facing today to tackle corruption prevalent in our society. The Indian Criminal Justice system has been facing many problems and challenges in its fight against corruption. Those are highlighted below;

- a) No law to tackle corruption in the private sector:- The problem of corruption in the private sector is increasing with the expansion of the private sector. Today it has assumed alarming proportions. It has become the single biggest menace to Indian Society. Efforts are underway to enact laws to deal with corruption in the private sector as envisaged in the UNCAC.
- b) Inherent delays in the criminal justice system:- The system is painfully slow and punishments are not swift. The Corruption Act provides for trial of corruption cases exclusively by the special judges. The number of special judges is highly insufficient compared to the number of corruption cases filed in their courts. As a result, these courts are overburdened and there is a large discrepancy in the number of cases disposed by the investigating agencies and the number of cases disposed by the courts adding to the backlog each year. During trial of offences, adjournments are often taken or granted on various grounds. Appeals and revisions filed in higher courts against the order of the trial court often taken years to be concluded.
- c) Hostile witnesses:- In order to convict a corrupt public servant, the prosecution has to prove its case beyond doubt. However, witnesses often do not support the prosecution case because of influence, allurements and intimidation from the other side. There is no witness protection scheme, nor are there provisions for quick and effective action against witnesses who become hostile. As a result, witnesses frequently become uncooperative and spoil the prosecution case.
- d) Ineffective Asset Recovery:- Corrupt public servants often acquire properties with the proceeds of crime in the names of their friends, relatives, family members and other

acquaintances. Therefore, it is not easy to prove in court that such properties are the proceeds of crime. Such properties are quite often held offshore under strict privacy laws and it is not easy to trace and recover them especially in the absence of desired international co-operation.

REMEDIAL MEASURES

Corruption is a cancer, which every Indian must strike to cure. Many new leaders declare their determination to eradicate corruption but soon they themselves become corrupt and start amassing huge wealth. Many people become materialistic and money oriented, there is no importance of ethics and morals in business dealing. This is because these kind of people have no moral accountability to anybody or about society or nation.^{xiii}

- Public awareness is must to combat corruption in India for this it should be must to improve our education system because education is the best mean to understand fundamental rights and Right-wrong conversation.
- Corruption can be removed if people can understand and start to believe the value of ethics and morality in their life.
- Foolproof laws should be made so that there is no room for discretion for politicians and bureaucrats. The role of the politicians should be minimized. Application of the evolved policies should be left in the hands of an independent commission or authority in each area of public interest. The decision of the commission or authority should be challenged only in the courts.
- Corruption of the people has to be obtained for successfully containing corruption. People should have a right to recall the elected representatives if they see them becoming indifferent to the electorate.^{xiv}
- Funding of elections is at the care of political corruption. Electoral reforms are crucial in this regard. Bureaucracy, the backbone of good governance should be made more citizen friendly, accountable, ethical and transparent.
- More and more courts should be opened for speedy and inexpensive justice so that cases do not longer in courts for years and justice is delivered on time.

- Local bodies, independent of the government like Lokpals, Lokadalats and vigilance commissions should be formed to provide speedy justice with low expenses. The strongest Lokpal is must to removed corruption in India.
- With the help of the Right to Information Act, citizens should be empowered to ask for information related to public services etc. and this information should be made available to general public as and when required. Such stringent actions against corrupt officials will certainly have a deterrent impact.^{xv}

CONCLUSION AND SUGGESTIONS

There is a much better grasp today of the extent to which corruption is a symptom of fundamental institutional weaknesses in Indian society. Instead of tackling such a symptom with narrow intervention designed to “eliminate” it, it is increasingly understood that the approach ought to address a broad set of fundamental institutional determinants. However, the challenge of integrating this understanding with participatory process, however sophisticated ought to lead to concrete results beyond enhanced participation and heightened awareness. Thus, identifying key institutional reforms in India and mobilizing support for such reforms needs to be fully integrated into the participatory process from very early on. Such early convergence is likely to promote a better balance prevention and enforcement measures in addressing corruption. The gradual swing towards the middle ground has taken place due to recognition of the limitations to expose legalistic enforcement measures since the law institutions themselves are currently part of the corruption problem in India. Therefore, corruption is an intractable problem on India it is like diabetes which can only be controlled but not totally eliminated. It may not be possible to root out corruption completely at all levels but it is possible to contain it within tolerable limits. Honest and dedicated persons in public life, control over electoral expenses could be some of the important prescription to combat corruption. Many people think that only government has responsibility for eliminating corruption and we often blame the government, however in view to the level of corruption and the existing framework that we have in India, it is very clear that government alone cannot stop corruption. Civil society institutions too have a responsibility and duty to fight against corruption and take some actions to promote honesty and integrity. Furthermore fighting corruption requires more than government policy, laws, tools and legal system, it requires

awareness of our social responsibility, moral values, excellence in our daily work etc. In addition that we need role models, campaigns, debates and many different approaches to educate our people, to inspire our young generations to change the mind-set of corrupt people and to tackle with every cause. These are ways by which this corruption can be controlled in our country.

ENDNOTES

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