
ANTI-CORRUPTION LAWS IN INDIA: A DETAILED OVERVIEW

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ABSTRACT

This research paper studies Corruption, which is one of the main issues that hinder the development of India. This is such a problem which not only affects a single aspect but several aspects of a country for example economic issues, educational issues, cultural and social issues. It breaks public trust. This study focuses on the problems or hindrances faced by the Indian Judiciary system in dealing with corruption, the inefficiencies, and interference of the corrupted public in every aspect of the society. This paper studies an overall view of corruption problems and their effects; it also studies the legal infrastructures such as “the Prevention of Corruption Act” and a brief study of several case laws related to this problem, including Judgement.

The paper recognizes the main issues, lengthy Judicial proceedings and interference in investigative agencies, and the result of such interference means the corruption is within its roots. This research paper is able to find out the role of corruption in delaying justice, how an innocent is framed because of this corruption issue and how the legal infrastructure became weak because of lack of transparency and supervision over this corruption issue. This paper also studies the legal provisions which are mentioned in our Indian laws. Through a detailed analysis, I’ve stated the definition of corruption and its shortcomings, the problems which are being faced by the Indian legal system and specifically the obstacles in removing corruption.

Legal measures do exist definitely to deal with corruption, but with that, there is also a need to reform and to bring more transparency in this system so that political interference, which is one of the main culprits in this issue, could be removed to uphold the principles of Justice. Taking initiatives in this matter, such anti-corruption policies, and stricter laws in this regard. There are several factors, such as morality and sense, that should come from inside to not take a bribe to not engage/himself in such activities. All these reforms are mandatory or important for bringing back the faith in the Indian

legal system and promoting transparency and accountability in the judiciary system and governance system.

Keywords: Indian law, Judiciary system, corruption, governance system, legal reforms for corruption, difficulties of Indian Judiciary system

INTRODUCTION:

Corruption is one of those serious issues which makes it difficult for common people to maintain trust in the legal system; as India is a developing nation, it is very tough for India to develop properly with such issues as destroying economic growth, breaking public trust, and making the overall infrastructure weak. The existence of corruption is everywhere, from the legal sector to society to education to jobs, and the main factor here is political interference. There are tons of factors, but one of them is this one. This problem later results in inefficiency and injustice not only in the legal arena but in the social arena. India enacted several laws to deal with such issues and aimed to curb this problem; however, the enforcement or implementation of those laws and supervision are mandatory, but India lacks supervision. Not only this problem but also the unnecessary delays in judicial procedure, not providing adequate protection to those people, and giving bribes to legal officers and witnesses who bring this issue into the limelight are just a few issues are mentioned.

Apart from this, there are also tons of issues which makes this issue even more complicated to resolve. Moreover, corruption within legal system can demean the principles of justice. This paper explores the key challenges faced by Indian legal system in dealing with corruption. It studies and explores the reason behind procedural and structural issues in dealing with corruption and the obstacles in implementing anti-corruption laws. The future reforms which are also suggested here at this paper. This paper basically highlights the current situation in dealing with corruption, the challenges, and the need for a more transparent legal system to fight corruption.

RESEARCH METHODOLOGY:

The research work provides detailed observations to query and investigate the challenges being faced by the Indian Judiciary system and addresses the issue of corruption. The research methodology is developed with two main factors: 1. a comprehensive and detailed overview of judicial structure and 2. case law analysis. These two methods provide an elaborated understanding of barriers that hinder the fight against corruption.

LITERATURE REVIEW:

Literature reviews had been conducted on this topic. There are various acts such as the prevention of

Corruption Act (1988), the Lokpal and Lokayuktas Act (2013), the challenges which Indian Judiciary face the most, corruption within law these are specified and explained in “Corruption against the living oracles of law” by Awantika Sarkar in *The Indian Journal of Political Science* Vol. 74, No. 3 (July – September, 2013), pp. 539-544 (6 pages)

Published By: Indian Political Science Association... Another report I would like to mention is “The Global Anticorruption Blog,” which discusses corruption in courts and how to deal with it. All these processes are mentioned in detail. Apart from these, there are also a lot of research papers and blogs that deal with the corruption issue.

OVERVIEW OF ANTI-CORRUPTION LAWS IN INDIA:

1. PREVENTION OF CORRUPTION ACT 1988¹:

- A. If someone receives undue advantages “other than legal remuneration” . The people who will be found guilty shall be given imprisonment for a minimum of six months. It could be extended along with fine
- B. If someone receives undue advantages with the intention of influencing a public servant by using illegal and corrupt methods, they shall face imprisonment for not less than three years, which could be extended to seven years, along with a fine.
- C. Taking undue rewards to exert personal influence over public officials, the individual shall face imprisonment for not less than six months. It could be extended for 5 years by imposing fine also.
- D. Commitment of an act that is considered criminal misconduct by a public servant: The offender shall face imprisonment of at least one year, which could be extended to seven years, along with a heavy fine.

CVC, CBI AND ED deal with such corruption basically. The full forms are “Central Vigilance Commission, Central Bureau of Investigation and the Directorate of Enforcement”. These are the main investigating agencies dealing with cases of corruption. ED and FIU fall under the Ministry of Finance. CBI Investigates crime within Central and State ACBs Investigate crime within states. Under this Act, all

¹ <https://blog.ipleaders.in/prevention-of-corruption-act/#:~:text=Under%20the%20Prevention%20of%20Corruption,are%20penalised%20with%20harsher%20penalties.>

² bare act of prevention of corruption act 1988

matters are judged by those judges who are selected by the state or Central government. Amendments had been made to this act, and the Prevention of Corruption Act 2018 came into effect. The Prevention of Corruption Act came into existence to combat corruption and to align with all those existing laws. The Central government has got the Supreme Authority to provide appointments to judges to investigate and deal with such cases. The act defines such acts as criminal acts for example bribery, money laundering, assets which are not proportionate to income, etc.

LOKPAL AND LOKAYUKTAS ACT 2013² :

This act provides some recommendations and suggests initiatives to improve situations so that transparency and accountability are maintained. 3. This act provides protection for whistleblowers who come forward and report such incidents. They are protected in case they face any harassment just because they reported such an incident.

WHISTLEBLOWER PROTECTION ACT:

The main purpose of this act is to provide protection to whistleblowers who report such incidents of corruption, misuse of power³, and offences caused by a public servant. The vigilance commission will keep the identity of the complainants a secret, and moreover, it will provide punishment to those individuals who will disclose the identity of complainants.

ROLE OF CENTRAL VIGILANCE COMMISSION:

The central vigilance commission had been established to provide transparency and accountability in public administration. It was established in 1964 after getting the recommendations from “**Santhanam Committee⁴ on Prevention of Corruption**”.

JUDICIAL DELAYS IN CORRUPTION CASES:

The delays in Indian legal system dealing with corruption is a serious and important issue which delays the justice in determining such cases and as a result of this situation, innocent people, some

² Lokpal and lokayuktas act 2013

³https://en.m.wikipedia.org/wiki/Whistle_Blowers_Protection_Act,_2011#:~:text=and%20incidental%20thereto.-,Salient%20Features,offense%20by%20a%20public%20servant.

⁴[https://cvc.gov.in/aboutus.html#:~:text=The%20Central%20Vigilance%20Commission%20\(CVC,Committee%20on%20Prevention%20of%20Corruption.](https://cvc.gov.in/aboutus.html#:~:text=The%20Central%20Vigilance%20Commission%20(CVC,Committee%20on%20Prevention%20of%20Corruption.)

individuals who are actually innocent they have been suffering imprisonment for years. There are several factors which contribute this delay. Those are mentioned hereunder

1. Sometimes, the court becomes overburdened with massive cases. In this way, lots of cases are pending, and as a result, a trial takes place for years, and delays occur in getting justice. So, it often takes years to hear a case.
2. Complicated procedure of Court:

These corruption cases often involve the complex procedures in the court, investigation in detail, and verification of the evidence.
3. There are few courts available to deal with such cases, and inadequate infrastructure delays the procedure.
4. Mostly, in high-profile cases, there is political interference, which actually slows down the procedure. The individuals who are actually guilty of such crimes often get the blessings of political leaders, and even those leaders are directly and indirectly involved in such cases. So, this often slows down the Judicial procedure.

CORRUPTION WITHIN THE LEGAL SYSTEM:

Corruption exists in every aspect including Indian Judiciary system⁵, bribing, favoritism towards rich and influential persons. Judges may get influenced by a variety of factors. This often happens in high profile cases and when it happens, it shows a reality to the common people that if you have money you can buy even law and you can escape after committing any crime⁶. Such impartiality on behalf of the Judiciary system provides a wrong message to society, and these things diminish people's faith in the legal system.

ANALYSIS OF ANTI-CORRUPTION POLICIES:

There are various initiatives taken by Indian legal system in order to deal with corruption. Various acts and provisions have been enacted and the same have been implemented. Strategies have been made⁷. Corruption can destroy social, legal, political and cultural aspects,

⁵ <https://www.thehindubusinessline.com/news/national/6841-cbi-corruption-cases-stuck-in-courts-as-on-dec-2022-cvc/article67219493.ece/amp/>

⁶ <https://knowledgehub.transparency.org/guide/topic-guide-on-judicial-corruption/5305>

⁷ <https://www.sciencedirect.com/science/article/pii/S266618882400056X#:~:text=The%20Lokpal%20and%20Lokayuktas%20Act,to%20tackle%20corruption%20%5B22%5D.>

so the Prevention of Corruption Act 1988 and the same had been amended in 2018, the Lokpal and Lokayukta Act 2013, protects whistleblowers who come forward to report such cases, protecting their privacy, and anyone who will disclose their privacy shall get the punishment.

The prevention of money laundering act⁸ 2002 focuses to prevent cases of money laundering and the punishment for extend for a term ten years imprisonment and an attachment of property is given. The Companies act⁹ 2013 also provides provisions in order to prevent corruption and fraud in company.

SFIO (Serious Frauds Investigation Office (SFIO))¹⁰ had been established Under corporate affairs and responsible for dealing with white collar crimes and offences in corporate sector.

The Indian Penal Code 1860 also deals with cases of corruption, which covers bribery and fraud case matters, which also amount to offences such as criminal breach of trust and cheating.

The Foreign Contribution (Regulation) Act, 2010¹¹ introduced by government of India to utilize “foreign contributions and foreign hospitality by individuals”. The act checks the usage of funds by non-governmental organizations and charities and other organizations in India

LEGAL LOOPHOLES WHICH ARE VISIBLE AND EFFECTS THE JUSTICE:

There are lots of trials and appeals, and thing creates a loophole, these loopholes are used by the defence lawyer; unnecessary delays or trials often cause a loss of evidence which makes a case weaker. Investigating agencies should also maintain transparency and accountability; they should prevent internal corruption, and more resources should be allocated to them in order to get a better result and accurate result of the investigation.

⁸ <https://www.drishtiiias.com/daily-news-analysis/anti-corruption-strategies>

⁹ <https://www.drishtiiias.com/daily-news-analysis/anti-corruption-strategies>

¹⁰ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/serious-fraud-investigation-office-sfio>

¹¹ <https://www.drishtiiias.com/daily-updates/daily-news-analysis/foreign-contribution-regulation-amendment-bill-2020#:~:text=Transfer%20of%20foreign%20contribution%3A%20The,registered%20to%20accept%20foreign%20contributions.https://www.legalserviceindia.com/legal/article-10488-anti-corruption-law-in-india-effectiveness-challenges-and-recommendations.html#:~:text=One%20of%20the%20major%20challenges,investigate%20and%20prosecute%20corruption%20cases.>

CHALLENGES WHICH ARE BEING FACED BY INDIA IN IMPLEMENTING ANTI-CORRUPTION LAWS:

1. As I mentioned earlier, unnecessary delays can cause tampering with evidence and, with that, outdated and old laws that are very complicated in nature. Some of these acts are not clear; there is ambiguity. This substantive and procedural loophole leads to long trials and introduces long procedures to get justice.
2. Sometimes, the available resources are not enough to investigate a matter. Poor infrastructure, lack of proper training, and political interference can also influence the investigation of a case. As these agencies work under executive officers, political interference is not an uncommon factor.
3. There is also a lack of supervision of implementation. Laws that are enacted should be checked to ensure that they are properly implemented in society, but poor mechanisms and poor infrastructure make it tough to keep a check on these laws.
4. When corruption exists in the internal investigating agencies themselves, how can justice be served then!? Some of the law enforcement officers engage themselves in the path of corruption for money. They accept bribes and tamper with the evidence, which is crucial, which can save an individual and as well as which can make an individual a criminal.
5. Another challenge is the lack of protection for whistleblowers. Whistleblowers are individuals who come forward and report corruption, but they face many threats, not only threats but also physical harassment, so they get scared and lose the courage to come forward and report such incidents.
6. There is also an absence of Public awareness. Sometimes, common people who are facing corruption do not want to get involved, and they get scared of influential people. They are even not aware of anti-corruption mechanisms. Mass media, which plays a crucial role in exposing corruption, also receive threats regarding this matter. They also face restrictions imposed on them by upper authorities.
7. Successful implementation requires the government's equal participation. Lack of political will and commitment to anti-corruption Strategies leads to delays, which ultimately removes focus from this specific issue. Reforms may be introduced, and corruption laws may be passed, but there is a need for enforcement of such laws. When there is a lack of supervision regarding this matter, it becomes tough to deal with such cases.

SUGGESTED MEASURES TO DESTROY CORRUPTION

Corruption is an evil entity in society, and much time and effort is needed to destroy it from the root. Corruption exists everywhere, from education to the legal system. It exists in every aspect of society, so some measures are needed urgently to solve this issue.

Here are a few suggested measures. This may not help totally, but it might help to some extent.

1. The investigating agencies should be strengthened. They should be trained so that they do not take bribes from individuals against whom they are investigating and so that they do not tamper with evidence. More resources should be allocated to them. They should be given independence so that political interference does not work in their organization. Accountability and transparency should be maintained in investigations.
2. Public awareness is mandatory in order to destroy corruption. The general public sometimes does not even get the confidence to combat corruption. They should be given confidence and protection and campaigns are also necessary to make them understand what corruption is and how it affects General public and how the General public should fight with this.
3. Existing laws should be strengthened through reforms. While they are definitely beneficial and working, they still have some loopholes. Criminals use those loopholes to commit crimes, and reforms are necessary to cover those loopholes.
4. Speedy trials are necessary in cases. Evidence gets destroyed with time, so an investigation and trial should be conducted within a prescribed time limit.
5. The Whistleblowers Protection Act exists, but it also lacks strong laws. Whistleblowers are often threatened and harassed, both physically and mentally, so if they do not get protection, they will not be able to come forward and report corruption cases.
6. The scope and nature of RTI (Right to Information Act) should be extended so that the general public can access government data.
7. Freedom should be given to media to telecast all corruption related news. The external pressure which comes on them from outside (influential people) makes their work

difficult so media Freedom is necessary.

Apart from these there are more measures which could be taken in order to deal with corruption.

CASE LAWS RELATED TO CORRUPTION:

Subramanian Swamy v. Manmohan Singh (2012) 3 SCC 64¹² :

The court stated in this case that unnecessary delay “in sanction” to charge a public servant could lead to disobeying the intention of “the Prevention of Corruption Act”.

M. Narayanan Nambiar v. State of Kerala AIR-1963-S.C. 1116¹³ :

The Supreme Court of India emphasized the term “Public servant” widely, which ensured that a large number of officials came under this purview. This case dealt with the scope of the act.

P.V. Narasimha Rao v. State (CBI/SPE) (1998) 4 SCC 626¹⁴

In this case, an elected representative was accused of bribery, which broadened the scope of the Prevention of Corruption Act and included legislators. They are also liable if they commit an act of corruption.

Vijay Madanlal Choudhary v. Union of India 2022 SC 633 [v]¹⁵

The Hon’ble Justice of the Supreme Court of India held in the abovementioned case that merely possessing or being involved in obtaining the profits of a crime is enough to be considered a criminal offense.

CONCLUSION:

I shall conclude by stating that Corruption destroys total human fraternity. It destroys every aspect of a Country. The value of a talent is destroyed because of corruption, this social evil should be finished as soon as possible. To tackle such situations, necessary measures should be applied, and reforms should be made in existing laws. If these laws are implemented with a strong sense of accountability, it will surely destroy corruption. It reduces public trust in government and law, so a corruption-free

¹² <https://www.legalservicesindia.com/article/1233/Prosecution-public-servant-on-private-complaint.html>

¹³ <https://indiankanoon.org/doc/35536/>

¹⁴ <https://indiankanoon.org/doc/45852197/>

¹⁵ <https://www.legalserviceindia.com/legal/article-9085-anti-corruption-laws-in-india-with-recent-judicial-pronouncements-a-complete-guide.html>

government is necessary for the betterment of a country, which is important for the social, cultural, economic and political development of a country.