



Combating with the Corruption in India

Dr. A. Guravaiah, M.A.,M.A.,LL.M.,Ph.D., Senior Faculty in Law, Andhra Christian College of Law, Guntur, A.P

Abstract: *Corruption is one of the Major burning problem for developing countries like India. The Govt. of India the black money stashed way in swiss bank. At present corruption is eating in to the vitals of our polity. No institution is free of his menace for example revenue, police, income tax, judiciary ext., Looking number of agencies created to take corruption. The prevention of corruption Act enacted in 1947 created by Home Ministry. But even today on at most all departments are have corruption. In this circumstances India facing many problems it is also major problems. Anti-corruption laws are there for achieving of corruption. These laws are not to prevent (or) eradicate corruption from Indian society; why because in India investigating authorities are under control of ruling Government.*

Key Words:

History of corruption, Corruption in various departments in India, Combating corruption.

Introduction:

Corruption was a social cancer eating into our institutions of governance. The educated youth had major roll to play in sensitising the people about the ill effects of corruption on the society and the individuals. Corruption is one of the major burning problem for developing countries like India. In 1970 in Hongkong had very much corruption, today Hongkong one of the most honest governance machinery. The government of Hongkong appoints independent commission against corruption (ICAC). There is no damnation authority on that commission the anty corruption commission exercise the all the powers without any problem.

In 17th century, during India's colonial era, corruption had become a serious issue. The British parliament witnessed numerous debates on bribery and corruption particularly in the East-India Company.

The economy of India was under socialist-inspired policies for an entire generation from the 1950s until the late 1980s. The economy was characterized by extensive regulation, protectionism, and public ownership, policies vulnerable to pervasive corruption and slow growth. In 1960s, Chakravarthi Rajagopalachari suggested License Raj was often at the core of corruption.

The Vohra Report, submitted by the former Indian Union Home Secretary, N.N. Vohra, in October 1993, studied the problem of the criminalisation of politics and of the nexus among criminals, politicians and bureaucrats in India. The report contained several observations made by official agencies on the criminal network which was virtually running a parallel government. It also discussed criminal gangs who enjoyed the patronage of politicians of all political parties and the protection of government functionaries.¹



Corruption in India is a major issue and adversely affects its economy. A 2005 study conducted by Transparency International in India found that more than 62% of Indians had first-hand experience of paying bribes or influence peddling to get jobs done in public offices successfully. In its 2008 study, Transparency International reports about 40% of Indians had first-hand experience of paying bribes or using a contact to get a job done in public office².

In 2011 India was ranked 95th out of 178 countries in Transparency International's Corruption Perceptions Index. We should recheck this 95th because each and every public service sector corrupted and private sector works on commission basis and it is are same.

Some of the largest sources of corruption in India are entitlement programs and social spending schemes enacted by the Indian government. Examples include Mahatma Gandhi National Rural Employment Guarantee Act and National Rural Health Mission. Other daily sources of corruption include India's trucking industry which is forced to pay billions in bribes annually to numerous regulatory and police stops on its interstate highways³.

Indian media has widely published allegations of corrupt Indian citizens stashing trillions of dollars in Swiss banks. Swiss authorities, however, assert these allegations to be a complete fabrication and false⁴.

The causes of corruption in India include excessive regulations, complicated taxes and licensing systems, numerous government departments each with opaque bureaucracy and discretionary powers, monopoly by government controlled institutions on

certain goods and services delivery, and the lack of transparent laws and processes. There are significant variations in level of corruption as well as in state government efforts to reduce corruption across India⁵.

Causes of Corruption In India

In a 2011 report on Corruption in India, one of the world's largest audit and compliance firms KPMG notes several causes that encourage corruption in India. The report suggests high taxes and excessive regulation bureaucracy as a major cause. India has high marginal tax rates and numerous regulatory bodies with the power to stop any citizen or business from going about their daily affairs. This power to search and question creates opportunities for corrupt public officials to extract bribes; each individual or business decides if the effort required in due process and the cost of delay is worth not paying the bribe demanded. In cases of high taxes, paying off the corrupt official is cheaper than the tax. This, claims the report, is one major cause of corruption in India and 150 other countries across the world. In real estate industry, the high capital gains tax in India encourages large-scale corruption. The correlation between high real estate taxes and corruption, claims the KPMG report, is high in India as well as other countries including the developed economies; this correlation has been true in modern times as well as for centuries of human history in numerous cultures. The desire to pay lower taxes than those demanded by the state explains the demand side of corruption. The net result is that the corrupt officials collect bribes, state fails to collect taxes for its own budget, and corruption grows. The report suggests regulatory reforms, process simplification and lower taxes as



means to increase tax receipts and reduce causes of corruption⁶.

In addition to tax rates and regulatory burden, the KPMG report claims corruption results from opaque process and paperwork on the part of the government. Lack of transparency allows room for maneuver for both the demanders and suppliers of corruption. Whenever objective standards and transparent processes are missing, and subjective opinion driven regulators and opaque/hidden processes are present, the conditions encourage corruption⁷.

Vito Tanzi in an International Monetary Fund study suggests that in India, like other countries in the world, corruption is caused by excessive regulations and authorization requirements, complicated taxes and licensing systems, mandated spending programs, lack of competitive free markets, monopoly of certain goods and service providers by government controlled institutions, bureaucracy, lack of penalties for corrupt behavior by public officials, and lack of transparent laws and processes. A Harvard University study finds these to be some of the causes of corruption and underground economy in India⁸.

Effects of corruption

According to a report by KPMG, "high-level corruption and scams are now threatening to derail the country's credibility and economic boom".

Economic Concerns

Corruption may lead to further bureaucratic delay and inefficiency as corrupted bureaucrats may introduce red tape to extract more bribes. Such inadequacies in institutional efficiency could affect growth indirectly by lowering

the private marginal product of capital and investment rate. Levine and Renelt showed that investment rate is a robust determinant of economic growth. According to the neoclassical growth model, institutional variables contribute to determining steady-state per capital income levels and speed of convergence to its steady state, hence affecting its growth rate⁹.

Bureaucratic inefficiency also affects growth directly, such as through misallocation of investments in the economy. Additionally, corruption results in lower economic growth for a given level of income¹⁰.

Lower corruption, higher growth rates

If corruption levels in India were reduced to levels in the developed economies such as the United States, India's GDP growth rate could increase by an additional 4 to 5 percent, to 12 to 13 per cent each year. C. K. Prahalad estimates the lost opportunity caused by corruption, in terms of investment, growth and jobs for India is over US\$ 50 billion a year¹¹.

The level of corruption varies in different parts of India. In a July 2011 report, The Economist for example, claims the state government of Gujarat has kept red tape to a minimum, does not ask for bribes, and does not interfere with entrepreneurial corporations. The state, the article claims, has less corruption, less onerous labour laws and effective bureaucracy. With growth rates matching some of the fastest growing economic regions of China, Gujarat continues to outpace growth in other Indian states¹².



Bureaucracy

A 2005 study done by Transparency International (TI) in India found that more than 50% of the people had firsthand experience of paying bribe or peddling influence to get a job done in a public office. Taxes and bribes are common between state borders; Transparency International estimates that truckers pay annually ₹22,200 crores (US\$ 4.5 billion) in bribes. Government regulators and police share in bribe money, each to the tune of 43% and 45% respectively. The en-route stoppages including those at checkpoints and entry-points take up to 11 hours in a day. About 60 percent of these (forced) stoppages on road by concerned authorities such as government regulators, police, forest, sales and excise, octroi, weighing and measuring department are for extorting money. The loss in productivity due to these stoppages is an important national concern. The number of truck trips could increase by 40%, if forced delays are avoided. According to a 2007 World Bank published report, the travel time for a Delhi-Mumbai trip can be reduced by about 2 days per trip if the corruption and associated regulatory stoppages to extract bribes was eliminated¹³.

A 2009 survey of the leading economies of Asia, revealed Indian bureaucracy to be not just least efficient out of Singapore, Hong Kong, Thailand, South Korea, Japan, Malaysia, Taiwan, Vietnam, China, Philippines and Indonesia; further it was also found that working with India's civil servants was a "slow and painful" process¹⁴.

Land and property

Officials are alleged to steal state property. In cities and villages

throughout India, consisting of municipal and other government officials, elected politicians, judicial officers, real estate developers and law enforcement officials, acquire, develop and sell land in illegal ways¹⁵.

Tendering processes and awarding contracts

A 2006 report claimed state-funded construction activities in Uttar Pradesh, such as road building, were dominated by construction mafias, which are groupings of corrupt public works officials, materials suppliers, politicians and construction contractors¹⁶.

Corruption caused problems in government funded projects are not limited to the state of Uttar Pradesh. According to The World Bank, aid programs are beset by corruption, bad administration and under-payments. As an example, the report cites only 40% of grain handed out for the poor reaches its intended target. The World Bank study finds that the public distribution programs and social spending contracts have proven to be a waste due to corruption¹⁷.

As an example, India enacted the so-called Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) on August 25, 2005. The Central government outlay for this welfare scheme is ₹40,000 crore (US\$7.56 billion) in FY 2010–2011. After 5 years of implementation, in 2011, the programme was widely criticised as no more effective than other poverty reduction programs in India. Despite its best intentions, MGNREGA is beset with controversy about corrupt officials pocketing money on behalf of fake rural employees, poor quality of infrastructure



built under this program, and unintended destructive effect on poverty¹⁸.

Medicine

In Government Hospitals, corruption is associated with non availability/duplication of medicines, getting admission, consultations with doctors and availing diagnostic services.

National Rural Health Mission is another health care-related government program that has been subject to large scale corruption allegations. This social spending and entitlement program hoped to improve health care delivery across rural India. The program has been run since 2005 by the Ministry of Health of the Indian government. The Indian government mandated a spending of INR 27,700 crores in 2004–05, and increased it annually to be about 1% of India's gross domestic product. The National Rural Health Mission program has been clouded by a large-scale corruption scandal in which top government appointed officials were arrested, several of whom died under mysterious circumstances including one in prison. Corruption, waste and fraud-related losses from this government program has been alleged to be ₹10,000 crores (US\$2 billion)¹⁹.

Income tax department

There have been several cases of collusion of officials of the income tax department of India for a favorable tax treatment and relaxed prosecutions in return for bribes²⁰.

Politics

As of December 2008, 120 of India's 523 parliament members were facing criminal charges. Many of the biggest scandals since 2010 have involved

very high levels of government, including Cabinet Ministers and Chief Ministers, such as in the 2G spectrum scam, the 2010 Commonwealth Games scam and the Adarsh Housing Society scam, Coal Mining Scam, mining scandal in Karnataka and cash for vote scam²¹.

Judiciary

According to Transparency International, judicial corruption in India is attributable to factors such as "delays in the disposal of cases, shortage of judges and complex procedures, all of which are exacerbated by a preponderance of new laws"²².

Armed forces

The Indian Armed Forces have witnessed corruption involving senior armed forces officers from the Indian Army, Indian Navy and Indian Air Force. A number of scandals in the 2000–2010 period damaged the military's reputation; such scandals included skimming of armed forces money, re-selling of government property, and faking combat missions²³.

Anti-corruption organizations in India

A variety of organizations have been created in India to actively fight against corrupt government and business practices. Notable organizations include:

- Bharat Swabhiman Trust established by well known Yog Guru Swami Ramdev running a large campaign against black money and corruption since last 10 years.
- 5th Pillar is most known for the creation of the zero rupee note, a valueless note designed to be given to corrupt officials when they request bribes.
- India Against Corruption is a movement created by a citizens from



a variety of professions and statuses to work against corruption in India. It is currently headed by Anna Hazare.

- Jaago Re! One Billion Votes is an organization originally founded by Tata Tea and Janaagraha to increase youth voter registration. They have since expanded their work to include other social issues, including corruption.
- Association for Social Transparency, Rights and Action (ASTRA) is an NGO focused on grass-roots work to fight corruption in Karnataka.

One organization, the Lok Satta Movement, has transformed itself from a civil organization to a full-fledged political party, the Lok Satta Party. The party has fielded candidates in Andhra Pradesh, Tamil Nadu, and Bangalore. In 2009, it obtained its first elected post, when Jayaprakash Narayan won the election for the Kukatpally Assembly Constituency in Andhra Pradesh²⁴.

Anti-Corruption Laws in India

Public servants in India can be penalized for corruption under the

- Indian Penal Code, 1860
- Prosecution section of Income Tax Act, 1961
- The Prevention of Corruption Act, 1988
- The Benami Transactions (Prohibition) Act, 1988 to prohibit benami transactions.
- Prevention of Money Laundering Act, 2002

India is also a signatory (not ratified) to the UN Convention against Corruption

since 2005. The Convention covers a wide range of acts of corruption and also proposes certain preventive policies.

The Lokpal Bill, 2011 is a bill pending before the Rajya Sabha.

India's lower house of parliament voted to pass The Whistle Blowers Protection Bill, 2011. The bill is now pending in its Rajya Sabha²⁵.

Anti-corruption police and courts

The Directorate General of Income Tax Investigation, Central Vigilance Commission and Central Bureau of Investigation all deal with anti-corruption initiatives. Certain states such as Andhra Pradesh (Andhra Pradesh Anti-corruption Bureau) and Karnataka (Lokayukta) also have their own anti-corruption agencies and courts²⁶.

The Anti Corruption Bureau (ABC) has launched a large scale investigation into the Central Bureau of Investigation (CBI)'s involvement in the "cash-for-bail" scam.^[56] CBI court judge Talluri Pattabhirama Rao was arrested on 19 June 2012 for taking a bribe to grant bail to former Karnataka Minister Gali Janardhan Reddy, who was allegedly amassing assets disproportionate to his known sources of income. Investigation revealed that India Cements – one of India's largest cement – had been investing in Reddy's businesses in return for government contracts. A case has also been opened against seven other individuals under the Indian Penal Code and the Prevention of Corruption Act²⁷.

Right to Information Act

The Right to Information Act (2005) and equivalent acts in the states, that require government officials to furnish information requested by citizens



or face punitive action, computerization of services and various central and state government acts that established vigilance commissions have considerably reduced corruption or at least have opened up avenues to redress grievances.

Conclusion

Corruption is eating into the vitals of our polity. No institution is free of this menace. The Supreme Court's observations on the rot in the Allahabad High Court are disturbing. A Bench consisting of Justice Markandey Katju and Justice Gyan Sudha Misra said on November 26 that most judges of this High Court are corrupt and collude with advocates.

With a strength of 160 judges, the Allahabad High Court has a rich history. Remember the historic judgement of Justice Jagmohanlal Sinha on June 12, 1975 when he quashed Indira Gandhi's election to the Lok Sabha from Rae Bareilly? He declared her guilty of electoral corruption and disqualified her from contesting elections for six years. His bold judgement shook the country and led to the imposition of Emergency 13 days later.

Sadly, many High Court judges are facing charges of corruption. The cases involving Justice Soumitra Sen of the Calcutta High Court, Chief Justice P.D. Dinakaran of the Sikkim High Court (formerly of the Karnataka High Court) and Justice Nirmal Yadav of the Uttarakhand High Court (formerly of the Punjab and Haryana High Court) are all at various stages. The charge that many former Chief Justices of India were corrupt has given a new twist to judicial corruption. The Supreme Court is seized of the matter (see box).

There is also the Rs 23-crore Ghaziabad PF scam in which a Supreme Court judge (since retired), seven Allahabad High Court judges, 12 judges of the subordinate courts and six retired High Court judges are allegedly involved. The key accused, Ashutosh Asthana, died in jail mysteriously in October, 2009. He had provided vital documents to the CBI that established connivance of these judges. Recently, the Supreme Court rejected the CBI's plea for shifting this case to New Delhi.

Corrupt judges in the higher judiciary can be removed only by impeachment. However, this method is cumbersome. The problem is not just a question of devising proposals for removal. The Judges (Inquiry) Act, 1968, prefaces impeachment by judicial inquiry. In Supreme Court Judge Justice V. Ramaswamy's case, the inquiry indicted him but the impeachment motion fell through in Parliament in 1992.

The need for an institutional mechanism to deal with cases of misconduct against a High Court judge as also the question of interim arrangements on whether the judge be assigned work pending investigation has long been felt. A beleaguered judge continuing in office smacks of grave impropriety. Remember how Karnataka High Court Chief Justice P.D. Dinakaran continued to attend court, took decisions on the administrative side and even delayed his departure for Gangtok?

The government should fast-track all cases of moral turpitude, corruption and nepotism. The process of impeachment of a judge should be speeded up with a time limit for obtaining the President's sanction and impeaching him/her.



The Centre's decision to set up a National Judicial Oversight Committee (NJOC) to look into complaints against Supreme Court and High Court judges and impose "minor penalties" or recommend their removal is welcome. This has been provided for in the Judicial Standards and Accountability Bill 2010 tabled in the Lok Sabha on December 1. Significantly, the Bill is aimed at replacing the Judges (Inquiry) Act, 1968. The NJOC will consist of a former Chief Justice of India, a Supreme Court judge, the High Court Chief Justice, an eminent person to be nominated by the President and the Attorney-General of India (ex-officio).

The NJOC will send every complaint to a scrutiny panel which, in turn, will examine it and report back to it within three months. Based on its recommendation, the NJOC will get the complaint examined by an investigating panel. Both the scrutiny and investigating panels can summon people and ask for public records. They will also have the power of search and seizure.

It is debatable whether the executive should be given the power to retire judges. This power should remain in the hands of the judiciary itself to maintain the independence of the judiciary which is the cornerstone of the Constitution. Indeed, any amendment of the constitutional provision of impeachment will have to pass the test of judicial scrutiny. Otherwise, the Supreme Court will quash it as null and void for violating the basic structure of the Constitution.

Justice Katju and Justice Misra have directed the Chief Justice of the Allahabad High Court to stem the rot. But can a Chief Justice alone help

improve things without the force of law? They also referred to the syndrome of "uncle judges". The Union Law Ministry admits that this menace has spread to many High Courts, including those in Chandigarh, Shimla and Jaipur. In its 230th Report (2009), the Law Commission has recommended that in order to eliminate the practice of "uncle judges", the judges, whose kith and kin are practicing in a High Court, should not be posted in the same High Court. Union Law Minister M. Veerappa Moily should help check this menace.

There is a need to change the method of selection of judges. The collegium system has failed to attract persons of impeccable integrity. The country deserves a more credible, transparent and broad-based institutional mechanism for selecting judges. As the UK Supreme Court had done early this year, our apex court, too, should advertise vacancies in the Supreme Court and High Courts in the newspapers.

References

1. Roy and Narayan (2011). "India Corruption Study 2010". CMS Transparency.
2. David Loyn (1 March 2012). "British aid to India: Helping Bihar's poor". BBC News.
3. Kar, Dev (2010). *The Drivers and Dynamics of Illicit Financial Flows from India: 1948-2008*. Washington, DC: Global Financial Integrity.
4. "The Hindu Business Line: Black, bold and bountiful". *Thehindubusinessline.in*. 2010-08-13. Retrieved 2011-10-07.



5. There is no organization named Swiss Banking Association; there is, however, an organization named Swiss Bankers Association. For verifiability, this wikipedia article uses the misnomer interchangeably, since it was widely mentioned by Indian media.
6. "Govt to reveal stand on black money on Jan 25 – India News – IBNLive". Iblive.in.com. Retrieved 2011-10-07.
7. "Govt To Reveal Stand On Black Money On Jan 25 | India news, Latest news India, Breaking news India, Current headlines India, News from India on Business, Sports, Politics, Bollywood and World News online". Currentnewsindia.com. 2011-01-25. Retrieved 2011-10-07.
8. "No 'black money' statistics exist: Swiss banks". The Times of India. 13 September 2009. Retrieved 13 November 2011.
9. "No 'black money' statistics exist: Swiss banks". The Times of India. 13 September 2009.
10. Praful Bidwai. "INDIA: Legal System in the Dock".
- 11 Gupta, K. N. (2001). Corruption in India. Anmol Publications Pvt Ltd. ISBN 81-261-0973-4.
- 12 Halayya, M. (1985). Corruption in India. Affiliated East-West Press
- 13 Guhan, Sanjivi; Paul, Samuel (1997). Corruption in India: Agenda for Action. Vision Books
- 14 Vittal, N. (2003). Corruption in India: The Roadblock to National Prosperity. Academic Foundation. ISBN 81-7188-287-0

References

- ¹ Eugene M. Maker (2007) An Americans Guide to Doing Business in India The Swatantra Party and Indian Conservatism Cambridge University Press-P.131
- ² "India Corruption Study – 2008". Transparency International. .
- ³ "Cops turn robbers on India's roads"2009. Asia Online. 27 August.
- ⁴ "Banking secrecy spices up Indian elections".2009 SWISSINFO – A member of Swiss Broadcasting Corporation. 14 May.
- ⁵ Debroy and Bhandari (2011). "Corruption in India". The World Finance Review.
- ⁶ "Corruption in India – A rotten state". 2011 The Economist. 10 March.
- ⁷ U Myint (December 2000). "Corruption: causes, consequences and cures". *Asia-Pacific Development Journal* 7 (2).
- ⁸ Anant and Mitra (November 1998). "The Role of Law and Legal Institutions in Asian Economic Development: The Case of India". Harvard University.
- ⁹ Mankiw, N. Geogory et. al. 1992 A Contribution to the Empirics of Economic Growth. The Quarterly Journal of Economics (May, Vol. 107, 2)
- ¹⁰ Mauro, Paolo. 1995 Corruption and Growth, The Quarterly Journal of Economics (Aug, Vol. 110, 3)
- ¹¹ Nirvikar Singh (19 December 2010). "The trillion-dollar question". The Financial Express.



¹² "Gujarat's Economy: India's Guangdong".2011 The Economist. July.

¹³ MDRA 2007. "Corruption in Trucking Operations in India". The World Bank.

¹⁴ Indian bureaucracy ranked worst in Asia: 2009 Survey *The Times of India*, 3 June.

¹⁵ K.R. Gupta and J.R. Gupta, Indian Economy, Vol #2, Atlantic Publishers & Distributors, 2008, ISBN 81-269-0926-9. Snippet: ... the land market already stands subverted and an active land mafia has already been created ...

¹⁶ "Mulayam Hits Mafia Hard". India Today. 2006-10-16. Retrieved 2008-10-30. Snippet: ... The road sector has always been the main source of income for the mafia. They either ask their men directly to grab the contracts or allow an outsider to take the contract after accepting a hefty commission ... a large number of criminals have been grabbing contracts under the protective umbrella of parties like SP, BSP, BJP, as well as the Congress ... opportunity to refurbish the image of his Government by initiating a crackdown on the mafia-contractor-engineer nexus ...

¹⁷ "India aid programme 2011 'beset by corruption' – World Bank". BBC News. 18 May.

¹⁸ Tom Wright and Harsh Gupta (29 April 2011). "India's Boom Bypasses Rural Poor". The Wall Street Journal.

¹⁹ "NRHM scam: 6 officials booked in accountant's murder - India - DNA". Dnaindia.com. 2012-02-17. Retrieved 2012-08-13.

²⁰ "Two Income Tax officials booked for corruption". The Indian Express. India.

²¹ "A special report on India: The democracy tax is rising: Indian politics is becoming ever more labyrinthine". *The Economist*. 11 December 2008.

²² Praful Bidwai. "INDIA: Legal System in the Dock".

²³ Chakravarty, Pratap 2010. "Indian land scandal spotlights military corruption".2011 Taiwan News. Retrieved 7 November

²⁴ "Articles". Tata Tea. 2011 Retrieved 30 May.

²⁵ Status of Whistleblower's Bill of India (checked in July 2012)

²⁶ "Karnataka Lokayukta". National Informatics Center. Retrieved 2010-06-24.

²⁷ PTI (19 June 2012). "Andhra cash-for-bail scam: Suspended judge questioned". The Times of India.