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## **Corruption: Its Impact on Development and Curative Actions**

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### **ABSTRACT:**

*Corruption is a factor which effects the development and is present since ages. It is global problem. The meaning of corruption in present scenario is important, how it is prevailing in our country and what are the legal provisions to check this problem. The corruption effects the development which is matter of concern; there is also a comparison of corruption prevailing in our country and the other countries. Then what has been done and what is required to be done including suggestions to check this problem are the main issues.*

### **INTRODUCTION:**

No doubt corruption is a factor which is hindrance in development. It is not only the problem of modern age. There were instances where Judas has received bribes in the ancient civilizations of Egypt, Babylon and Jewish society. Bribery was very common in Roman Empire as well as in France during the fifteenth century. England was described as a 'sink-hole' of corruption in the seventeenth century, even Chanakaya has mentioned cases of embezzlement by government officials, it is mentioned in the Arthashastra<sup>1</sup>, "Just as it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue, so it is impossible for a government servant not to eat up at least a bit of the king's revenue" which is relevant even today. During the British Rule, bribes were accepted not only by the Indian officials but even by the highly placed British officials. Lord Clive and Warren Hastings were tried by a parliamentary committee after their return to England. The corruption is not only an age-old malady but a global problem too.

In India corruption has an ancient linkage, and same is also reflected in the tradition and the history of the country. In the past there were examples of misappropriation of govt. money for personal use and accepting bribes. A corrupt practices is termed immoral and dishonest.

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The corrupt person who has disregard for honesty, righteousness and truth results in his alienation from society.

When we talk about present scenario and look towards the present system and analyze the situation that what is the reason that even after 60 years of independence why we are not developed despite having immense potential and talent at par with any developed nation have. Then the answer would be only one i.e the corruption which is present in every field. In every nook and corner of the day to day life we find this evil what to talk of getting work done in a Government office or to get approval for the construction of a house or to get an electricity connection and other similar situations. The situation has developed and has been adopted by the people that they are now ready to give bribe without any hesitation and accepted it as a part of the system. This reflects the gravity and concern of this evil. The only motive to hold public posts is to get the undeserved money. This evil has so much wide spread in the society that the person who don't take the bribe feels isolated in public. Our present system has been developed like that despite being the democracy which means popular govt. i.e. govt. for the people and by the people seems meaningless because of the penetration of the disease corruption in the every field of life. Today the economic and social policies of the country are made by the govt. but these policies are very much influenced by the business houses which resulted into the injustice to the common man. Corruption starts at the top and percolates down to the whole society. The corruption is not confined to the towns alone but has also spread to the villages where the dishonest officials and the traders carry the germs of the disease. Economic need and exposure to western luxuries are tempting factors in society for the youth. They try to find means and ways to make money, however deceptive or defective these methods may be. For a such wide spread of this problem each section of the society is more or less responsible and the govt. is much more responsible. For this situation there are number of reasons like lack of stringent legislation, slow and delayed judicial systems, poverty, illiteracy, lack of faith in "Dharma" or righteousness, greedy mind and a tendency to be smart are responsible for corruption and this is not only prevalent in India but throughout world.

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## MEANING OF CORRUPTION:

When we talked about the word corruption and its meaning, as corruption is present since ages, it is not easy to define, in simplest sense, corruption may be defined as an act of bribery or misuse of position or power for the fulfilment of selfish motives or to gain personal gratifications.

Legally corruption is defined as "use of public power for private advantage in ways which transgresses some formal rule or law".

According to the Oxford English Dictionary,<sup>ii</sup> the word 'corrupt' means "influenced by bribery, especially at the time of elections".

Encyclopaedia Britannica<sup>iii</sup> says a corrupt practice "includes bribery; but has reference to the electoral systems".

Section 161 of the Indian Penal Code<sup>iv</sup> defines corruption as follows:

"Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain gratification whatever, other than legal remuneration as a motive or a reward for doing or forbearing to do any official act or for showing or forbearing to show, in exercise of his official functions, favour or disfavour to any person with the Central or State Government or Parliament or Legislature of any State or with any public servants as such....."

The U. N. Convention against Corruption<sup>v</sup> (General Assembly Resolution 58/4) defines '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 organised crime, terrorism and other threats to human security to flourish'.

As per the Transparency International<sup>vi</sup> (TI), Corruption is operationally defined as the misuse of entrusted power for private gain or the use of public office for private gain. In other

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words, use of official position, rank or status by an office bearer for his/her own personal benefit.

In fact the most common forms of corruption are taking of bribes (money offered in cash or kind or gift etc), nepotism (undue favour from holder of patronage to relatives), misappropriation (using the money of other people for one's own sake), patronage (undue or wrong support by people in position to friends and family members and favoritism).

### **CORRUPTION AND THE LEGAL PROVISIONS**

Today weeding out of corruption is a major challenge before Indian society. India is a largest democracy of the world. It is the second most populous country in the world after China. It is one of the fastest growing economies in the world and is attracting huge investments from developed countries. In spite of the healthy growth indices, a vast population still lives in poverty and does not have access to basic sanitation, healthcare and education. The country's progress is seriously hampered by all pervasive corruption. It is preventing the benefits of development from reaching the deprived sections of society. The lawmakers of India have always been conscious of this problem. The British enacted the first codified law, The Indian Penal Code, in 1860. It had a chapter dealing with offences committed by public servants involving corruption and corrupt practices. Later, a special piece of legislation was enacted, i.e. The Prevention of Corruption Act 1947, to deal specifically with the problem of corruption in public life. Amendments were made from time to time to keep pace with the changing times. Later on, in 1988, it was replaced by a more comprehensive and broad piece of legislation – The Prevention of Corruption Act 1988. Apart from this Act, India is a signatory to the United Nations Convention against Corruption (UNCAC). It has signed Extradition and Mutual Legal Assistance Treaties in Criminal Matters with a number of countries to ensure mutual co-operation in matters pertaining to investigation of corruption and other criminal cases. The laws which check the corruption in India are as under :-

**(i) The Prevention of Corruption Act, 1988** : The Prevention of Corruption Act 1988 (hereinafter referred to as “the Corruption Act”) was enacted to consolidate different anti-corruption provisions from various pieces of legislation under one umbrella and to make

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them more effective. The Corruption Act, inter alia, widened the scope of the definition of a “public servant”; enhanced penalties provided for offences in earlier laws; incorporated the provisions of freezing of suspected property during trial; mandated trial on a day-to-day basis, prohibited the grant of stay on trial; etc. The Corruption Act is the main law for dealing with offences pertaining to corruption in India, however many avenues of corruption cannot be dealt with under the Prevention of Corruption Act, 1988.

**(ii) India and the United Nations Convention against Corruption 2003 (UNCAC):** India has welcomed the UNCAC, which provides for international co-operation and mutual legal assistance in investigating cases of corruption and recovery of assets. India signed the UNCAC in December 2005. By signing the Convention India has reiterated its resolve to strengthen international co-operation as envisaged in the Convention. It is in the process of enactment of requisite enabling legislations by the concerned Ministries or Departments before ratifying the Convention. Once ratified, the Convention will boost India’s effort and commitment to fight corruption at both domestic and international level.

**(iii) The Prevention of Money Laundering Act 2002 (Article 23 of the UNCAC) :** Many public servants are able to hold their ill-gotten wealth in foreign countries, which they subsequently transfer to their homeland through money laundering, disguising them as funds, apparently from a legal source. This Act empowers the Directorate of Enforcement, India, and Financial Intelligence Unit, India, both agencies of the Government of India, to investigate and prosecute such persons under the said Act.

**(iv) The Foreign Exchange Management Act 1999:** Middlemen or touts, who take huge commissions for brokering deals pertaining to purchases from foreign suppliers, often transfer such money in foreign currencies, claiming it to be the proceeds of some business abroad. This Act empowers the Directorate of Enforcement, India to investigate and prosecute such persons under the said act.

**(v) The Right to Information Act 2005:** It is a well-known fact that too much secrecy in public administration breeds corruption. The Right to Information Act aims at ensuring efficiency, transparency and accountability in public life. This Act requires all public

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authorities, except the ones that handle work relating to national security, to publish all information about their functioning at regular intervals through various means of communication, including the Internet. Now any person can seek any information from the concerned public authority just by filing an application at almost at no cost. The public authority has to reply to the application compulsorily within 30 days. If the information sought is denied, the applicant has a right to agitate further before the appellate authorities under this Act. This can indeed be described as a revolutionary step towards the eradication of corruption from public life.

**(vi) Cases referred by the Central Vigilance Commission (CVC) and the Chief Vigilance Officers (CVOs) of other Government Departments:** The Central Vigilance Commission is a statutory body which monitors corruption in governmental departments. It supervises the work of Chief Vigilance Officers of all the departments of government and issues guidelines to them. The CVC also receives complaints from the general public about corruption. It refers such complaints to the CBI for verification and investigation if found to contain verifiable allegations. The CVOs are in-house supervisors of government departments who monitor the conduct of personnel and enquire into complaints against them pertaining to corruption. If upon enquiry they conclude that a criminal case under the Corruption Act appears to have been made out, they refer the case to the CBI for investigation.

**(vii) Use of Telephonic/Electronic Surveillance:** The legal provisions relating to telephonic or electronic surveillance under the Indian Telegraph Act 1885 are effectively used by the CBI to gather accurate information about corrupt activities of the public servants. After ascertaining details about various phone numbers and email identifications used by the public servant, permission of the competent authority is taken to put the same under surveillance. Information gathered during such surveillance has been successfully used in exposing big scams.

**(viii) Freezing, Seizure and Confiscation of Properties - The Criminal Law (Amendment) Ordinance, 1944 (Article 31 of UNCAC):** This is an important law on freezing, seizure and confiscation of properties which are proceeds of crime, including

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offences under the Corruption Act. Such properties identified during investigation can be frozen under this law. Properties can remain frozen till disposal of the case by the court after completion of the investigation. If the alleged offence is proved in the court of law and the property is proved to be the proceeds of crime, the court will order its confiscation.

**(ix) Criminal Procedure Code 1973 together with Mutual Legal Assistance Treaties (MLAT) in Criminal Matters and Extradition Treaties:** Sec. 166 A and 166 B of the above code empower the crime investigation agencies of India to make requests to other countries as well as to entertain requests from other countries to render assistance in the investigation of crime registered in the respective countries. Such letters of request are popularly known as Letters Rogatory. Such Letters Rogatory are executed on the basis of Mutual Legal Assistance Treaties and Extradition Treaties India has signed with other countries. To date India has Mutual Legal Assistance Treaties in Criminal Matters with 20 countries and Extradition Treaties with 25 countries. The Mutual Legal Assistance Treaties invariably have a chapter on asset recovery and sharing the same. With other countries, international co-operation is sought on the basis of guarantee of reciprocity.

**(x) Lokayukta:** Lokayukta is an anti-corruption organization in the Indian states. As it is in the domain of the states to make it powerful, so in some states it is more effective. These institutions are based on the Ombudsman in Scandinavian countries. The bill has been proposed in Parliament to implement the Lokayukta uniformly, for the centre as well as the states, as a three-member body, headed by a retired Supreme Court judge or high court chief justice, and comprise of the state vigilance commissioner and a jurist or an eminent administrator as other members. Proposals are to give enough powers to the Lokayukta to receive corruption complaints against politicians, bureaucrats and even sitting judges.

### **CORRUPTION IN INDIA**

Acceptance of gifts and rewards for work done in an official capacity, or obtaining objects or advantages, illegally or fraudulent use of public property, acquiring financial resources more than one's income, abuse of public office, avoiding one's duty or avoiding payment of taxes are a few kinds of corruption prevalent in our society. Corruption is also at a high rate in

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departments like Defence, Communication, Public Works, Police, Excise and Revenue. Corruption in these departments is rampant at all levels from the highest to the lowest. The registered number of cases of corruption in India under the Prevention of Corruption Act, 1947 varied from 300 to 500 between 1981 and 1987 but after the enforcement of 1988 Act, the number now varies between 1800 to 2000 annually.

In 2011 India was ranked 95th out of 178 countries in Transparency International's Corruption Perceptions Index<sup>vii</sup>, India is amongst the most corrupt countries of the world. India is worse than many countries in Asia and Africa such as Botswana, Ghana, Namibia, Taiwan, Korea, Bhutan, and China. In the world competitiveness scoreboard, which is the assessment of several factors, e.g. Government system, business efficiency, infrastructure, etc., it is dragging. On March 31, 2010 the Comptroller and Auditor general of India said that unutilized committed external assistance was of the order of Rs.1,05,339 crore<sup>viii</sup>.

The circulation of Black Money is also a important factor of corruption, mainly the black money is the money that is removed from the official economy (via corruption, bribery, tax evasion, etc.) and stored outside of the country. A November 2010 report from the Washington-based Global Financial Integrity estimates that India lost at least US\$462 billion in illicit financial flows, another word for black money, from 1948 up to 2008. The report also estimated the size of India's underground economy at approximately US\$640 billion at the end of 2008 or roughly 50% of the nation's GDP<sup>ix</sup>. According to a 2010 The Hindu article, unofficial estimates indicate that Indians had over US\$1456 billion in black money stored in Swiss banks (approximately USD 1.4 trillion).<sup>x</sup> While some news reports claimed that data provided by the Swiss Banking Association Report (2006) showed India has more black money than the rest of the world combined<sup>xi</sup>. Another report said that Indian-owned Swiss bank account assets are worth 13 times the country's national debt. The current investigation is undertaken by the Income Tax Department.

The Indian political sphere is also very much rooted in corruption, today it is difficult to find an honest politician. Leaders like Lal Bahadur Shastri, Sardar Vallabh Bhai Patel or Dr Rajender Prasad are a rare breed now who had very little bank balance at the time of death.



The corrupt politicians go scot-free, unharmed and unpunished in the scandals and charges which reflect the weakness of our system. The Govt. appointed Vohra Committee to look into the problem of criminalization of politics, the Vohra Report, submitted by the former Indian Home Secretary in October 1993, studied the problem of the criminalization 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. It revealed that political leaders had become the leaders of gangs. Over the years criminals had been elected to local bodies, State Assemblies, and even the parliament. The unpublished annexure to the Vohra Report are believed to contain highly explosive material. The involvement of our politicians and bureaucrats in scams and scandals is endless, which shocked not only the political arena but the entire society.

#### **IMPORTANT CORRUPTION SCANDALS IN INDEPENDENT INDIA**

The involvement of the politicians and bureaucrats in corrupt practices in post-Independence India began with the Jeep scandal in 1948, which involved the then High Commissioner for India in London. Contrary to the demand of the opposition for judicial inquiry as suggested by the Inquiry Committee led by Ananthasayanam Ayyangar, the then Government announced on September 30, 1955 that the Jeep scandal case was closed. The corruption charges in cases like Mudgal case (1951), Mundra deals (1957-58), Malaviya – Sirajuddin scandal (1963), and Pratap Singh Kairon case (1963) were levelled against the Politicians. There after the Cement scandal of 1982 which involved the then Chief Minister of Maharashtra, the Bofors payoff scandal of 1986 in which a total amount of Rs 1750 crore was involved in purchase of guns from a Swedish firm for the Army, the Urea Scam, the Hawala Scandal of 1991, the Harshad Mehta security scam (1992), the JMM bribery case (1995), the Sugar Scandal of 1994, the Telcom scam of 1996, the HDW Submarine deal, the Urea scam (1996), the Tehelka scam (2001), the Ketan Parekh Scam (2001), the Telgi scam (2003) and the Oil-for-Food Scandal (2005) were important scandals which involved the Politicians and bureaucrats. The latest and so far the biggest one is the 2G scam and Common wealth games scandal, again exposed the politicians and the bureaucrats. In corruption charges Mr.Narsimha Rao

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was the first Prime Minister being prosecuted. It is worthwhile to mention here that at one point of time Rajiv Gandhi's the Late Prime Minister had made a public statement about the concern for corruption in governance where apparently 15 paise out of one rupee reached the beneficiaries.

Recent scams have highlighted about the concern of corruption present in our country as it involves politicians, bureaucrats, businessmen, the media, the judiciary and senior armed forces officers in one scam or the other. Most worryingly, there is little to suggest that the guilty will be punished. The gravity of the concern is so much that in the beginning of this year the head of the country's anti-corruption watchdog was forced to resign by the intervention of the Hon'ble Supreme Court on the grounds that he himself faces corruption charges.

#### **IMPACT ON DEVELOPMENT**

Corruption is hindrance in development and particularly it affects the maximum hindrance if the country is poor or developing. In India today Political, bureaucratic, corporate and individual corruption is major concerns. It has been affecting India's economic and political system over the decades posing threats to derail the Indian economy and growth. The report by consultancy firm KMPG<sup>xiii</sup> indicated that because of this problem the foreign investors were being deterred from the country. Corruption poses a risk to India's projected 9% GDP growth and may result in a volatile political and economic environment. The worst-hit areas as identified by the report were real estate and construction. The report said that the country's telecommunications industry was also badly affected. The main sources of corruption today relate to either the allocation of scarce resources like land, spectrum channels and minerals or to large scale government construction or procurement contracts. In all these cases the government at various levels, and especially in the higher echelons of public authorities rather than petty officials, is involved and implicated. On the other side of these transactions are either a new breed of fortune seekers or the larger corporations and not the small and medium sized entrepreneurs, who instead have to fend off the inspectors who harass them, ostensibly to enforce non-enforceable statutory provisions. A new form of crony capitalism can be observed in the various scams that have unfolded over the latter part of 2010 in which

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a new class of entrepreneurs built a strong nexus with corrupt politicians and succeeded with the active connivance of bureaucrats.

The question whether there can be a push back against this crony capitalism in a situation where all the major constituents of our social fabric seem to be tainted. The media, politicians and civil society organizations, the institutions we look to for fighting against entrenched vested interests and corruption, are sadly themselves often implicated. This allows the unscrupulous to argue brazenly that no one has the moral authority or right to hold anyone else to account. Corruption has now become systemic of which root are deep and widespread and according to the pessimists they are beyond repair, but infact despite the rot is extensive and seriously damaging but it can still be reversed. Today we are free from the earlier forms of petty corruption that characterized nearly all aspects of daily life in India. We do not have to pay bribes for securing an industrial license, phone or gas connections or a railway ticket. These are but a few examples that highlight that liberalization, combined with rapid growth, has eliminated many varieties of corruption. There is also an attempt from some quarters to shift the blame for corruption on to Indian industry, and there is growing talk in the public domain of an ethical deficit in the Indian corporate sector, of course it cannot be denied that a few of its members are party to corrupt transactions, but it needs to be remembered that for every payee of a bribe there is a receiver as well. Today the industry and the middle classes clearly suffer far less now from corrupt practices, the poor still continue to suffer as a result of extensive mal-governance that characterizes the delivery of public goods and services in nearly all parts of the country.

It is important that all major stakeholders in the country pay greater attention to self regulation and to weeding out the rotten apples from within their midst. In this context the initiative taken by the Indian Administrative Service Association in Uttar Pradesh several years ago to identify the most corrupt within them is commendable and points to the right direction. It is a pity that the initiative seems to have withered away. It is important that laudable initiatives like this are mainstreamed and receive institutional support and encouragement which are important for development.

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## DIFFERENT WITH OTHER COUNTRIES

The corruption exists every where and it is global problem, no matter the country is poor, developing or developed. Bigger economies, such as the USA and Japan, and other developed nations, which have much bigger per capita income than India, are also crippled by corruption. There are examples in the USA, a number of governors, and state and federal officials have been jailed in graft-related charges in recent years.

By launching the social movements against corruption by civil associations and other organizations in last some years, in which every aspect of corruption in the country has been explored and every socio-political theory related to it has been examined, the difference of corruption which exist in our country and which exist in other countries has also been surfaced. It has been seen in last few years the concern shown by the Indian masses against corruption mainly by the Indian middle class, who seemingly tolerated corrupt politicians and bureaucrats in earlier years, because of the reasons that in the liberalized India, the illicit transactions are in billions of dollars, as opposed to a few millions in the ‘good old days’ of pre-liberalization as evident by the 2G spectrum and the Commonwealth Games scams.

Yet, when one compares India (corruption exists in developing country) and the corruption exists in developed countries, there are qualitative and quantitative differences. In the developed countries corruption doesn’t affect the middle class and the poor people the way it does in India. In these countries people are not forced to bribe officials on a day-to-day basis, for even the most basic services. On the other hand, in India, corruption is rampant at the grassroots level, fuelled by the relatively low wages of the public officials and the centralized nature of dispensing services, both at the state level and the federal level. From getting a birth certificate for a newborn to obtaining an individual’s death certificate, and from enrolling a child at a school to applying for jobs, citizens pay bribes in India as though it is a mandatory thing. Every mundane activity – getting a ration card, securing a passport or purchasing a train ticket – leaves scope for bribery. Even if one is averse to paying bribe, the system doesn’t leave any choice.

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In the developed countries, corruption doesn't affect the quality of life for the general population, it does not hampering the construction and maintenance of infrastructure such as roads, bridges, public transportation, telecommunication, power and schools.

The dilapidated state of infrastructure in India is not just due lack of resources. As Larry Diamond, a senior fellow at Stanford University's Hoover Institution who studied corruption in many developing nations, argued in a 2003 essay, a big reason that infrastructure remained abysmally substandard in those nations was a high prevalence of graft because of a lack of commitment to do public good on the part of the elected officials, the bureaucrats and the overall system itself. Other reasons that he cited for the systemic corruption in developing countries include the absence of good governance, accountability, transparency and rule of law.

Good governance, transparency and accountability are rare commodities in the Indian political system. However, small progress has been made in these areas. The Right to Information law, implemented a few years ago, is beginning to show some results. A handful of politicians and bureaucrats have been jailed during the past year for corruption, although that may have more to do with the public outcry, which followed the spectrum and the Commonwealth Games scandals. There is one more good sign which has been witnessed that the Indian masses has concern about this evil they have signaled that they will not remain mere spectator in future.

### **REASONS AND CURATIVE ACTIONS**

Corruption has been rooted in the Indian society and the concern of the masses towards this evil has been shown through large gatherings of the masses protesting against corruption in the recent years. The message which has been given by the public that they don't support the corrupt practices prevalent in the society and the coming generations require a corruption free environment. The political scenario of the country is not much appreciating. Various Ministers and head of the states are involved in corruption charges. They are the representatives of the people. This is the highest service and chair in the society. It is their utmost duty to show highest standards of morality. But instead of that they fulfil their own

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interests and create a vicious circle which eventually engulfs the lower levels of governance and then leading to the sections of the society. Personal interests rule over the national interest. It is a simple theory that if the nation progresses, the population progresses and vice versa. But lack of vision and a tendency to accumulate for generations gives rise to corruption. The main reasons of corruption and curative measures to check corruption are:-

**Basic Amenities:** There is lack of basic amenities, in the last published census we are a country of 1.2 billion people. Now, the resources are limited and the population is increasing at such a rapid rate. Lack of basic amenities and poor infrastructure gives rise to a corrupt society, where everyone is fighting to get his share.

**Moral Values:** Corruption can not be abolished overnight, more than 60 years has passed of post independence period and now the corruption is deep rooted in the system, we cannot get rid of it immediately, it requires participation of the people, the role of the civil societies, active role of the govt. in awakening the people, there is need to change the mindset of the public. The resistance to commit offences should be developed from one's conscience and it can never be created fully by legislation. Hence, inculcating moral values in people right from infancy could provide the remedy over a period of time.

**Economic Justice:** Faulty economic policies are resulting in widening the gap between the rich and the poor. National wealth is deposited in the foreign banks in the form of black money. The ever rising inflation of basic commodities and eatables and limited salary is pushing the Indian society to indulge in unfair means. If the economic levels of the society could be improved, so that luxuries become basics and the value for them also become affordable, corruption would be unnecessary.

**Social Justice:** Our country is democratic country, and the real power vest in the hands of the people of the country, after such a long time of independence we are not able to achieve the social equality in the society. It is also required all the citizens be treated as their masters and they should be kept in good humour if they have to retain their jobs and privileges. Government agencies are financed by taxes and levies imposed on citizens. They are,

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therefore, answerable and accountable to the public for their acts of omission and commission. People will then give them respect and recognition that they rightly deserve.

**Transparency:** In a modern welfare and democratic state, the government provides a large number of services to the citizens. If these services are indifferently or inefficiently performed, people can rightfully protest. Democratic spirit can flourish only in an environment of openness and trust. Every citizen should know what the public representatives and administrators are doing. The system in democratic state serves the public interest and every decision should be transparent at the Govt. level, and this will bring a fundamental change in the attitude of people, the results of R.T.I.Act are before us. The need of the hour, the Govt. itself adopts the principle of transparency and it should publicly display the names of beneficiaries of a development scheme along with selection criteria and the procedure for making the selection. The requirement for public disclosure will ensure that civil servants take correct and defensible decisions. It is no doubt as RTI Act if Lok Pal bill is passed by the parliament and implemented throughout the territory of India it can be another milestone towards abolishing corruption from India.

**Lack of Education:** It is matter of agony that even after 60 years of independence and being a democratic state we fail to provide the education to all which is a primary factor in curbing the corruption as only by the education one can be aware of its rights and duties. The ignorant society is the dwelling place for corruption. Now making primary education a right of every child is a commendable step, but equal emphasis should also be given to adult education and by education we don't mean literacy, it is the complete development and awareness of self and surroundings.

Despite the main causes of corruption which are mentioned above, the Indian criminal justice system has also been facing many problems and challenges in its fight against corruption. 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, some of the problem and challenges are highlighted below:-

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**(a) No Law to tackle Corruption in the Private Sector:** The Prevention of Corruption Act 1988 is the existing law in India dealing with offences relating to corruption. This law, however, was essentially enacted to take care of corruption cases in the public sector and by public servants, whereas in fact, there is widespread corruption in the private sector also which seriously hampers the overall growth and development of the country. After the liberalization of the Indian economy in the early 1990s, the private sector has expanded greatly. 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.

**(b) Inherent Delays in the Criminal Justice System:** The system is painfully slow and punishments are not swift. Sec. 19 of the Corruption Act requires prior permission of the authority competent to remove a public servant from his or her post before launching prosecution against him or her in court. This often delays the launch of a prosecution. Upon receiving reports from the investigating agencies seeking approval for a prosecution, the concerned authorities often take considerable time to grant such permission. Also, permission is sometimes denied on political and other grounds. The Corruption Act provides for trial of corruption cases under the act 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. Further, the proceedings in the trial court are challenged at various stages by parties filing petitions in the same court as well as in higher courts. Appeals and revisions filed in higher courts against the order of the trial court often take years to be concluded. Even in ordinary cases of corruption, the Act has failed to achieve its objects. Despite the fact that investigation of corruption cases is conducted by a senior police officer not below the rank of Deputy Superintendent of Police and the case are to be tried by a senior-judicial officer(special judge) of long experience not below the rank of Additional Session Judge, the operation of criminal justice system is dismal.



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(c) **Hostile Witnesses:** In order to convict a corrupt public servant, the prosecution has to prove its case beyond doubt. This is a strict legal requirement as per the Indian Evidence Act, the general law on evidence in India. There is no exception to this requirement even for corruption cases. Prosecution has to depend heavily on the testimony of witnesses 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. Punishments are, therefore, not swift and effective under the Corruption Act and don't deter corrupt public servants.

A perusal of the working of the anti-corruption laws in India and in the previous years leads to the conclusion that the anti-corruption Act, 1988 being considered as the strong arm of criminal law has been reduced to the status of ineffective legislation being fractured by the powerful mafia patronizing corruption through the influence, it wields in every sphere of life because of its nexus with politicians, bureaucrats and public men of prominence. Various directions issued by the Supreme Court regarding successful working of the Act have been forgotten in oblivion.

Investigative agencies like the police and the Central Bureau of Investigation, whilst being operated under the auspices of the government, must be allowed to investigate freely and without any interference. Long-pending reforms for the police force must be implemented which will make appointments and therefore investigations transparent.

As more Indian companies venture overseas, the government should consider implementing law similar to the Foreign Corrupt Practices Act, 1977 ("FCPA") prevalent in the United States of America. Interestingly, FCPA has extra territorial effect, which provides an adequate deterrent.

(d) **Ineffective Asset Recovery:** Though there are legal provisions for confiscation and recovery of property acquired as proceeds of crime, such recovery is not easy. Corrupt public servants often acquire properties with the proceeds of crime in the names of their friends,

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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.

Though above mentioned reasons are main causes of corruption, but based upon several research, surveys and studies, **Lack of rules, Transparency and Accountability in public sectors, Lack of control, supervision and auditing, Lack of articulated Code of Conduct for public servants and politicians** are most common causes of corruption in most of the governments and societies. The need of the hour is also to implement the Laws and Rules with strictness and if needed, the outdated ones should be amended in order to check the acts of corruption. Vigilance should be increased so that people think twice before indulging in corrupt practices. Election expenses should be strictly curtailed and co-operation of the people should be taken to eradicate the corruption. It has to be kept in mind that corruption is not the disease which is not curable.

#### **CONCLUSION:**

Corruption is very serious problem of modern India it affects the life of the people and threat to the policies of the Govt. it is more dangerous to the external aggression and threat to socio-economic set up of the country. It has been equated with the disease of cancer in India by the Hon'ble Supreme Court of India. Corruption is the root cause of denying the people good governance; it also results in lack of efficiency, transparency and accountability at Govt. level. It hampers the economic growth and development of the country and also reduces the effectiveness of public administration. In other words it can be said, corruption is anti-poor and anti-development. Corruption is one of the biggest impediments to extending the benefits of development and progress to the poorest of the poor. The Indian criminal justice system is facing many problems and challenges in its fight against corruption. While talking laws to fight corruption, there are certain challenges, there is no law to deal with corruption in the private sector further the offenders take advantage of the very strict requirements of Indian courts to prove every point beyond doubt, the system suffers from inherent delays, as a result punishment is not swift but as far as laws are concerned, we have enough laws need of the

hour is to improve the implementation system, so that they do not become ineffective. Corruption is considered a ‘high profit-low risk’ activity by corrupt public servants. Recoveries of assets, which are proceeds of crime, remain a big challenge. Such assets are often held offshore and getting them back is a very difficult task, especially in the absence of desired international co-operation. At present, Many people think that only government has responsibility for eliminating corruption and we often blame the government, however in present scenario the government alone cannot stop corruption there should also be also role of the people, community and society to fight against corruption and take some actions to promote honesty and integrity. Fighting corruption requires more than government policy, laws, and legal system, it requires awareness of our social responsibility, moral values, excellence in our daily work, etc. It requires role models, campaigns, debates, and many different approaches to educate our people, to inspire our young generations, to change the mindset of corrupt people. Moreover it needs willingness, commitment and active participation of media, civic associations, voluntary groups, teachers, students, social workers, etc. In addition to it if in near future certain bills will be passed by the Govt. such as Judicial Accountability bill, then it will be certainly be proved to be another mile stone in curving out the corruption.

#### **ENDNOTES:**

- i. Kautilya's Arthashastra.
- ii. The Concise Oxford Dictionary of Current English, Clarendon Press, Oxford, 1964.
- iii. Encyclopaedia Britannica, 1929 Edition, London, p.472.
- iv. Sec 161 of the Indian Penal Code (45 of 1860) repealed by the Prevention of Corruption Act,1988(49 of1988).
- v. Adopted 9 December 2003, entered into force 14 December 2005.
- vi. Transparency International (a non-government German Organization).
- vii. Transparency International (a non-government German Organization).
- viii. News -The Hindu (India). Dated 18/03/2011.
- ix. Kar, Dev (2010). The Drivers and Dynamics of Illicit Financial Flows from India: 1948-2008. Washington, DC: Global Financial Integrity.
- x. News- The hindu business line.in. Dated 13/08/2010. Retrieved 07/10/2011, "Black, bold and bountiful".
- xi. News- IBNLive Dated Jan 25,2011, "Govt to reveal stand on black money".
- xii. KPMG LLP, the U.S. audit, tax and advisory services firm, U.S.A.