



## Fight against corruption in India: An uphill battle?

**Daizy Thakur**

Ph.D Research Scholar, Himachal Pradesh University, Himachal Pradesh, India

### Abstract

Corruption has become a global concern and India is among the most corrupt countries in the world. Corruption is when a person abandons honesty, fair play, justice for his personal gain or for favouring someone. Corruption not only encourages inequality and hampers economic progress but also deteriorates rule of law and promotes public distrust in the country. India must fight against the evil of Corruption to uproot it from the nation and for that an active participation from public apart from government is crucial for tackling corruption and strengthening anti-corruption approach in India. We all must collectively work towards our goal of corruption free India.

**Keywords:** corruption, good governance, anti-corruption laws, corruption free India

### Introduction

Corruption is defined as the illegal use of public office for private gains. When money is paid for favours or services it is called bribe and when money is not involved it is called discrimination, bias, favouritism, nepotism etc. Corruption is when a person abandons honesty, fair play, justice for his personal gain or for favouring someone. Ex-chief vigilance commissioner N. Vittal had compared corruption with AIDS, as according to him origin of corruption is from uncontrolled financial conduct like that of AIDS which is caused by uncontrolled sexual behaviour <sup>[1]</sup>. According to Kautiliya the renowned Hindu statesman and philosopher compared corruption to honey or poison on the tip of tongue which is impossible not to be tasted, like it is impossible for government servants employed under the government not to steal from the king's treasury. Just like one cannot determine if fish is drinking under the water, it is difficult to determine if government servants are stealing from the king's treasury or not. Kautilya, had also mentioned 40 methods of embezzlement in the Arthashastra, his famous treatise on government. Corruption is not a new age crisis in India. It was present at that time then as it does now, the only difference is of the degree of it <sup>[2]</sup>.

According to the Transparency International's Corruption Perceptions Index for 2018 India has improved slightly and climbed three positions to 78 in the list of 180 countries in the world. India must fight against the evil of Corruption to uproot it from the nation <sup>[3]</sup>. The socio economic development of the nation will need a dedicated political leadership committed to securing development and progress by fighting corruption, unaccountability, dishonesty and crime. Corruption can be controlled and restricted if not totally eliminated but only if we work with the sole aim of betterment of our nation which is attainable if political parties keep the politics where it belongs and don't interfere and politicize public institutions. Strictly punish corrupt actions irrespective of status and power of the wrongdoer <sup>[4]</sup>.

Corruption directly impact social, economic and environmental aspect of sustainable development and destabilizes the pillars of the 2030 agenda. i.e. People, peace, prosperity, planet and partnerships. Corruption not only encourages inequality and hampers economic progress but also deteriorates rule of law and promotes public distrust in nations <sup>[5]</sup>. The Goal 16 of 2030 Agenda for Sustainable Development bring to light the importance of anti-corruption, transparency, accountability for sustainable development <sup>[6]</sup>. It has become a necessity that corruption must be eradicated if we want to see our nation progressing and among the developed nations.

### 2. Reasons for Growth of Corruption

Corruption is omnipotent and has become a global issue. There are many factors that help corruption to bloom and flourish. There are plentiful reasons for the cause of corruption in India. The following are few Major Causes of Corruption in India <sup>[7]</sup>:

- A. Change in the value system and ethical
- B. Acceptability & Tolerance of people towards corruption
- C. Complex laws and procedures which deter common people
- D. Lack of Strict and speedy Punishments
- E. Lack of Accountability
- F. Desire for an Unfair Advantage
- G. Lack of good control and vigilance
- H. Unnecessary regulations
- I. Scope of personal discretion
- J. lack of transparency in affairs and deals

### 3. Forms of corruption

These are few major forms of corruption prevalent in India which are affecting not only our economy but tarnishing the image of India in the world. They are as follows:

<sup>1</sup> Reddy, 2008, P.13,35,82

<sup>2</sup> Thakur, 1979, P.26,71

<sup>3</sup> Corruption Perceptions Index, 2018

<sup>4</sup> Reddy, 2008, P.10-11

<sup>5</sup> Anti-Corruption in the context of the 2030 Agenda for Sustainable Development <https://www.unssc.org/courses/anti-corruption-context-2030-agenda-sustainable-development/>

<sup>6</sup> Sustainable Development

Goals <https://sustainabledevelopment.un.org/sdgs>

<sup>7</sup> Rajak, 2013, P.22; Shewan and Veer, 2011, P.168-169; Lele 2015, P. 9-11

- A. Political corruption
- B. Administrative corruption
- C. Judicial Corruption
- D. Police Corruption
- E. Health care system
- F. Corruption in Media
- G. Educational corruption
- H. Corruption in the Private Sector

#### 4. Impact of corruption on Development

Corruption adversely affects the country's economic growth and realization of developmental objectives. It elevates inefficiencies in services, compromises with the standard of quality and weakens our economy<sup>[8]</sup>. Corruption has wide ranging impacts on different aspects of a nation's growth. It slows down our economy resulting in economic loss, poor infrastructure inefficiency in public service delivery, discourages foreign direct investment, unnecessary additional costs because of delays. It encourages public distrust in government and system, Poverty, inequality, injustice, Organized crimes, impacts healthcare services, Human rights violations and generates black money into the system. Corruption facilitates many irregularities and violations that have degrading impact on environment and environmental policies. Corruption has also undermined the attainment of Sustainable Development Goals of the United Nations. Presently it has become a grave threat for our country's security as well<sup>[9]</sup>. Corruption is damaging India's progress, growth and image globally, government and public must collectively make efforts and work towards making India a corruption free nation.

#### 4. Anti-corruption laws in India

##### A. The Prevention of Corruption Act, 1988

- The history of anti-corruption laws in India started with the enactment of the Prevention of Corruption Act, 1947. Decades later came the Prevention of Corruption Act, 1988. The Prevention of Corruption Act, 1988 aims to penalise offences committed by public/ Government servants involved in corrupt practices and check corruption in Government departments. The Amendment Act 2018 attempted to bring the PC Act in line with United Nations Convention against Corruption 2005, which was ratified by India in 2011<sup>[10]</sup>. In 2018 Parliament approved the Prevention of Corruption (Amendment) Act introducing few changes to the existing anti-corruption act, which are as follows<sup>[11]</sup>:
  - bribe giving as a specific offence;
  - commercial organisations can be liable for bribe giving i.e. corporate criminal liability for acts of bribery;
  - introduction of a fixed timeline of 2 years for the conclusion of a trial which will be extendable up to 4 years;
  - removal of the protection given to bribe givers who

appear as witnesses; and

- Introduction of stricter punishments for perpetrators of bribery

##### B. Prohibition of Benami Property Transactions Act, 1988

Prohibition of Benami Property Transactions Act, 1988<sup>[12]</sup> was enacted to prohibit all Benami transactions and also to deal with black money and money laundering issues. The Act defined a "Benami transaction" as *"any transaction in which property is transferred to one person or is held by a person, for a consideration paid or provided by another person"*. It gives powers to the competent authorities to attach and confiscate benami properties. With a view to providing effective regime for prohibition of benami transactions the act was amended through the Benami Transactions (Prohibition) Amendment Act, 2016 which gave inclusive definition of Benami transactions; establishment of adjudicating authorities; appellate tribunal and prescribed the penalties for offences under amended act.

##### C. The Lokpal and Lokayukta Act 2013

It is an anti-corruption Act which provides for the establishment of Lokpal at center and Lokayukta at State level to inquire into allegations of corruption against certain important public functionaries and for matters connecting them. Act requires public servants to declare their assets and liabilities and also of the spouses and dependent children<sup>[13]</sup>. Act was further amended in 2016.

##### D. The Prevention of Money Laundering Act, 2002

THE PREVENTION OF MONEY-LAUNDERING ACT, 2002<sup>[14]</sup> criminalises money laundering and provide for seizure of properties acquired from money-laundering. Money laundering means *"directly or indirectly attempting to indulge in, or knowingly assist, or be involved in, a process or activity connected with the proceeds of crime which includes their concealment, possession, acquisition or use and in projecting or claiming that tainted property is untainted."* 'Proceeds of crime' refers to *any property derived as a result of certain identified crimes that are considered predicate offences under the act*. The PMLA obligates banking companies, financial institutions and intermediaries to keep accounts of transactions and client's details and to report suspicious transactions and transactions above a specified value to the central government<sup>[15]</sup>.

##### E. Whistleblower Protection Act, 2011

The Whistleblowers Protection Act 2011<sup>[16]</sup> aims to promote and protect the interest of whistleblowers and to establish a mechanism to safeguard persons who report corruption or abuse of power by a public authority. The identity of the complainant must be mandatorily protected

<sup>8</sup> Battling India's malaise of Corruption  
<http://cvc.nic.in/sites/default/files/CEO.pdf>

<sup>9</sup> Kundu, 2015, P.203; Kumar Raj, 2011, P.28; Shewan and Veer, 2011, P.12-15.

<sup>10</sup> Significant Updates to India's Anti-Corruption Law  
<https://www.reedsmith.com/en/perspectives/2018/10/significant-updates-to-indias-anti-corruption-law>

<sup>11</sup> Anti-corruption & Bribery in India  
<https://www.lexology.com/library/detail.aspx?g=17185ebc-cfd3-4f76-a504-edf12b3361a3>

<sup>12</sup> The Benami Transactions (Prohibition) Act, 1988(ACT 45 OF 1988)

<sup>13</sup> The Lokpal and Lokayuktas Act, 2013(NO. 1 OF 2014)

<sup>14</sup> THE PREVENTION OF MONEY-LAUNDERING ACT, 2002 (15 OF 2003)

<sup>15</sup> The Anti-bribery and Anti-corruption review available at:<https://thelawreviews.co.uk/edition/the-anti-bribery-and-anti-corruption-review-edition-7/1177226/india>

<sup>16</sup> THE WHISTLE BLOWERS PROTECTION ACT, 2011 NO. 17 OF 2014

subject to certain exceptions and any disclosure to the contrary is punishable with imprisonment and a fine.

#### F. The Right to Information Act, 2005

Right to Information Act 2005<sup>[17]</sup> aims to increase the transparency and governmental accountability and to combat corruption. The RTI Act provides citizens the right to access information from public authorities which may include records, documents, data material held in any electronic form, and also includes information relating to any private organization which can be accessed by a public authority. Act was further amended in 2019 which garnered widespread criticism for amended provisions.

#### G. Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act 2015

Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015<sup>[18]</sup> penalises the undisclosed foreign income and assets and tax evasions. It counters problem of black money provides for the imposition of tax and punishment on such income and assets deposited offshore.

#### H. Foreign Contribution Regulation Act 2010

The Foreign Contribution Regulations Act<sup>[19]</sup> regulates receiving foreign contributions or aid from outside India particularly monetary donations to NGOs, political parties and others within India except with the permission of government and act also ensures that such aid is not used against national interest. The act was originally passed in 1976 and later modified in 2010.

#### I. The Fugitive Economic Offenders Act, 2018

The Act<sup>[20]</sup> confiscates properties and assets of economic offenders that evade laws and avoid prosecution and evades laws by running away from country. Economic offences valuing more than Rs 100 crores come under the purview of this law. Only Special Court under the Prevention of Money Laundering Act, 2002 is empowered to proclaim a person as a Fugitive Economic.

#### 5. The way forward

Good governance provides hostile environment where corruption cannot thrive. Corruption is the main obstacle in achieving our developmental goals. Policies or laws that help breed corruption need to be eliminated. An active participation from public is crucial for tackling corruption and strengthening anti-corruption approach in India<sup>[21]</sup>. Few suggestions to minimise and contain corruption are<sup>[22]</sup> as follows:

1. First and foremost Strong minded and determined Political leadership.
2. Media – a key contributor in fight against corruption.
3. Enhancing Vigilance for curbing corruption prospects.
4. Minimising discretionary powers of public functionaries, politicians and bureaucrats.
5. More accountability & transparency in the system.
6. Inculcation of Social Values encouraging honesty.
7. Anti-corruption legislations should be updated and amended for stricter and stern punishments.
8. Technologies and mobile activism to expose corrupt actions and corrupt officials can be very useful.
9. Protection to Whistleblowers.
10. Zero tolerance approach towards corruption of governments and public.
11. International co-operation among nations striking at corruption.

#### References

1. Reddy D. Narasimha (eds.), Crime Corruption and Development, Deep & Deep Publications Pvt. Ltd, New Delhi, 2008.
2. Thakur Upendra, Corruption in Ancient India, Abhinav publications, New Delhi, 1979.
3. Shewan MA, Veer Udai. (eds), Corruption, Money laundering and Law, Mittal Publications, New Delhi, 2011.
4. Sen Raj Kumar, Dasgupta Asis, Dasgupta Mrinal Kumar (ed.), Crime And Corruption in Indian Economy, Deep and Deep publications Pvt LTD, New Delhi, 2007.
5. Kumar C Raj, Corruption and Human Rights in India: Comparative Perspectives on Transparency and Good Governance, Oxford University Press, New Delhi, 2011.
6. Lele Chitra G. Corruption in India Causes, Effects and Reforms, Atlantic publishers, 2015.
7. Corruption Perceptions Index, 2018. <https://www.transparency.org/country/IND> 15 January, 2020.
8. Rajak, Jeevan Singh, Corruption in India: Nature, Causes, Consequences and Cure, IOSR Journal Of Humanities And Social Science (IOSR-JHSS). 2013; 18(5):20-24.
9. Kundu Mousumi, Some aspects of corruption in India in 21st Century, International Journal of Scientific and Research Publications, 2015, 5(12).
10. Kumar P. Anti-corruption Measures in India: A Democratic Assessment, Asian Journal of Public Affairs, 2019, 11(2). <http://dx.doi.org/10.18003/ajpa.20191>.
11. Sustainable Development Goals <https://sustainabledevelopment.un.org/sdgs>. 25 January, 2020.
12. Anti-Corruption in the context of the Agenda for Sustainable Development, 2030. <https://www.unssc.Org/courses/anti-corruption-context-2030-agenda-sustainable-development/>. 1 february, 2020
13. Significant Updates to India's Anti-Corruption Law <https://www.reedsmith.com/en/perspectives/2018/10/significant-updates-to-indias-anti-corruption-law>. 1 february, 2020
14. The Benami Transactions (Prohibition) Act, 1988 (ACT 45 OF 1988).
15. The Lokpal, Lokayuktas Act, 2013 (NO. 1 OF 2014).
16. The Prevention of Money-Laundering Act, 2002 (15 of

<sup>17</sup> THE RIGHT TO INFORMATION ACT, 2005 No. 22 of 2005

<sup>18</sup> BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015 [No. 22 of 2015]

<sup>19</sup> THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010, ACT NO. 42 OF 2010

<sup>20</sup> Fugitive Economic Offenders Act, 2018 [https://indiacode.nic.in/handle/123456789/4035?view\\_type=browse&sam\\_handle=123456789/1362](https://indiacode.nic.in/handle/123456789/4035?view_type=browse&sam_handle=123456789/1362)

<sup>21</sup> Kumar, P. 2019, P. 15

<sup>22</sup> Lele, 2015, P.63-68; Shewan and Veer, 2011, P.171; FIGHT CORRUPTION

2017 [https://www.transparency.org/news/feature/15\\_ways\\_young\\_people\\_c\\_an\\_fight\\_corruption](https://www.transparency.org/news/feature/15_ways_young_people_c_an_fight_corruption)

- 2003).
17. The Whistleblower Protection Act, 2011 NO. 17 OF 2014.
  18. The Right to Information Act, 2005 No. 22 of 2005
  19. Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 [No. 22 of 2015].
  20. The Foreign Contribution (Regulation) Act, 2010, ACT NO. 42 OF 2010.
  21. Fugitive Economic Offenders Act, 2018 available at: [https://indiacode.nic.in/handle/123456789/4035?view\\_type=browse&sam\\_handle=123456789/1362](https://indiacode.nic.in/handle/123456789/4035?view_type=browse&sam_handle=123456789/1362)
  22. Causes of Corruption <http://siteresources.worldbank.org/PSGLP/Resources/corruptionunit2.pdf>. 1 february, 2020
  23. Battling India's malaise of Corruption <http://cvc.nic.in/sites/default/files/CEO.pdf>. 1 february, 2020
  24. The Anti-bribery and Anti-corruption review available at: <https://thelawreviews.co.uk/edition/the-anti-bribery-and-anti-corruption-review-edition-7/1177226/india>. 2 february, 2020
  25. Anti-corruption Bribery in India available at <https://www.lexology.com/library/detail.aspx?g=17185ebc-cfd3-4f76-a504-edf12b3361a3>. 2 february, 2020.
  26. Fight Corruption 2017 [https://www.transparency.org/news/feature/15\\_ways\\_young\\_people\\_can\\_fight\\_corruption](https://www.transparency.org/news/feature/15_ways_young_people_can_fight_corruption). 2 february, 2020
  27. Corruption Information Why corruption occurs 2008 [http://www.giaccentre.org/why\\_corruption\\_occurs.php](http://www.giaccentre.org/why_corruption_occurs.php). 2 february, 2020.