



Preventing Corruption: Legal Measures for Criminal Liability in Public Corruption Cases: Overview

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Abstract

Corruption has become normalized in our administrative and political environments. All Indian citizens now experience the same thing, having gone through seventy-six years of independence and seventy-three years of constitutional enforcement: they are unable to visit any public office or organization and obtain the services to which they are entitled without either paying a bribe or using the influence of VIP recommendations or references. Corruption has impacted every facet of our political, governmental, and economic structures, much like cancer does. Despite efforts to lessen and control bureaucratic discretion, abolish the licensing raj, open the economy to the rest of the world, and improve accountability and transparency, corruption has expanded even more. Corruption is a major problem in the nation.

Keywords- Corruption, bribery, Transparency

Introduction

When those in positions of authority act dishonestly, it's called corruption. The inclination to use public office for one's own gain comes first.

Put simply, "corruption" refers to dishonest or fraudulent acts by people in positions of authority, oftentimes in exchange for bribes. It is the practice of misusing official power for one's personal gain or the gain of a group to which one pays allegiance. India was leading the charge in anti-corruption initiatives in April 2011, and public opinion was strong. Many individuals with a great desire to end the corruption that afflicts the nation, regardless of their age or background, gender, or level of education, were gathered on the streets. Because of Anna Hazare, the Lokpal campaign had achieved its zenith.

It exhibited the honesty, directness, and tenacity of Gandhi jib. Police attacks, the possibility of being apprehended, concerns about goals, foreign funding, and media manipulation were all ineffective in slowing down the juggernaut. Following a resolute refusal to yield to the desire for an Ombudsperson, or Lokpal, to tackle corruption, the administration was ultimately forced to the verge of dissolution.

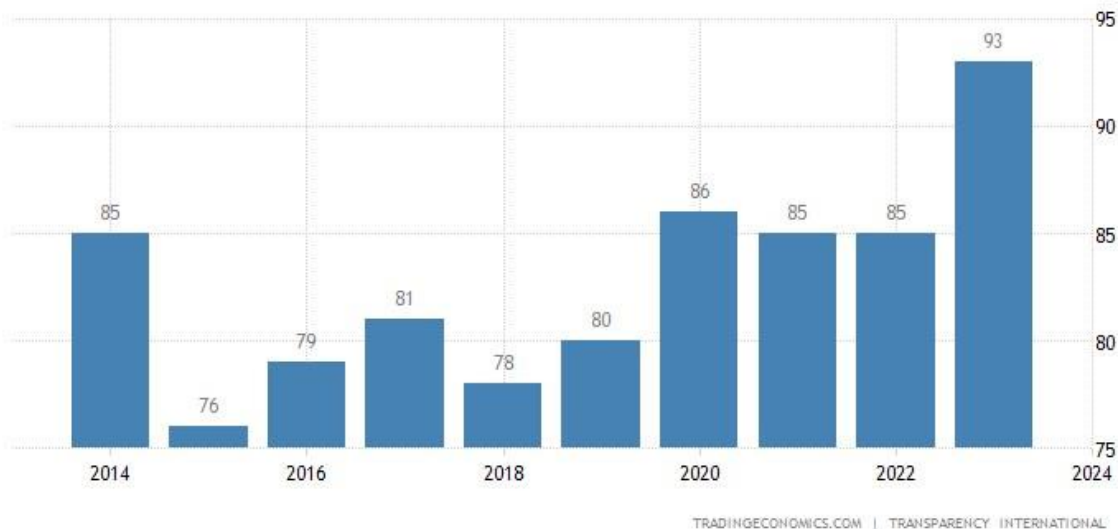
The World Bank provides the most widely accepted and straightforward definition of corruption. The "abuse of public power for private benefit" is the definition of corruption given here. It should not be inferred from this definition that corruption is impossible to occur in private sector operations. This phenomena is seen, for example, in employment and procurement, especially in large private firms. It is also present in commercial endeavors subject to governmental regulation.

"Whoever being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain gratification whatsoever, other than legal remuneration as a motive or a reward or for bearing to do any official act or for showing or for bearing to show, in the exercise of his official functions, favor or disfavor to any person with the Central or State Government or Parliament or Legislature of any State or with any public servant as such," is considered corrupt, according to Section 7 of the Prevention of Corruption Act, 1988.¹

Every element of Indian society is permeated with a culture of corruption, which is brought about by persons who support a system of deception and the people who are compelled to live this way. The social structure that both creates and upholds the law is a contributing factor to this corrupt culture. The definition of social order as it is used is as follows: It is the interaction between the individual and the elements that uphold and impose control. This speaks about the external structures that control an individual's behavior by acting as a force on them.

In his 76th Independence Day speech, India's prime minister addressed the twin problems of nepotism and corruption, emphasizing the pressing need to stop them. Additionally, Transparency International issued the Corruption Perception Index (CPI) 2023.ⁱⁱ

According to the indicator, during the past ten years, most countries have either seen a stagnation or worsening of corruption control. 2023 saw 40 index points on the India Corruption Perceptions Index.



Types of Corruption

Just like anything that is good or evil, corruption cases take many different shapes. So that we can identify them if and when we encounter them, let's talk about their various varieties. Through the following points, let's accomplish so:

- **Bribery**- is the practice of giving or receiving gifts, cash, or other favors in exchange for preferential treatment when it comes to financial transactions or judgments made by regulators.
- **Embezzlement** is the misuse of money or property by those who are entrusted with managing it, including financial advisors, executives, and staff.
- **Insider trading** is the illegal trading of stocks based on substantial, non-public knowledge that may have an impact on the securities' market value.
- **Money laundering** is the practice of disguising the source of funds obtained illegally and making them appear genuine by transferring them through banks.
- **Fraud**: Deceptive tactics, such as accounting, securities, and mortgage fraud, that aim to mislead investors or obtain an unfair advantage.
- **Kickbacks**- Payments given to people or organizations in return for directing business or contract negotiations to particular parties are known as "kickbacks."
- **Tax evasion** is the illegal act of evading or underreporting taxes owed to the government through the falsification of income or financial records.ⁱⁱⁱ

What are the Reasons Behind Corruption in India?

Lack of Transparency: Corrupt activities thrive in an environment where decision-making, public administration, and government processes are opaque. When choices and actions are hidden from the public eye, officials may act corruptly with less risk of being caught.

Ineffective legal frameworks and feeble institutions: A large number of India's institutions in charge of upholding laws and regulations are either compromised or feeble. This covers the court, oversight bodies, and law enforcement authorities. Weak institutions may even encourage corruption by failing to hold dishonest people accountable.

Insufficient Remuneration and Incentives: Public servants, particularly those in lower-level roles, may receive inadequate compensation, which may lead them to view corruption as a way to augment their earnings.

Bureaucratic Red Tape: Protracted and complex bureaucratic procedures, along with an abundance of regulations, may encourage people and companies to participate in corrupt activities in order to expedite or get around obstacles.

Political Interference: The independence of governmental institutions may be jeopardized by political meddling in administrative affairs. Politicians may use their influence to persuade public servants to commit crimes for their own or their parties' benefit.

Cultural Factors: Under some circumstances, there may be a cultural acceptance of corrupt behavior, which encourages corruption. The idea that "everyone does it" can encourage people to commit corrupt acts without feeling ethically violated.

Lack of Whistleblower Protection: People may be discouraged from disclosing corruption if they feel they are not receiving enough protection. The possibility of retaliation can deter potential informants and foster corruption.

Social Inequality: Disparities in income and status can lead to people abusing their influence to get special treatment and do corrupt acts without facing consequences. This is one way that social inequality and economic inequality feed corruption. **What are the Reasons for the Prevalence of Corruption in Civil Services?**

Politicization of Civil Services: There is a marked rise in the likelihood of high levels of corruption when posts in the civil service are exchanged for bribes or utilized as rewards for political support.

Reduced Wages: The pay gap between civil servants and private sector workers is closing. Some workers can turn to accepting bribes as a way to make up for the pay gap.

Administrative Delays: The main source of corruption is the slow pace at which files are cleared out, since ordinary people are forced to appease corrupt individuals and authorities in order to get their files cleared more quickly.

Colonial Legacy of Unchallenged Authority: It is simple for public leaders to stray from moral behavior in a society that worships power.

Weak Law Enforcement: Even though several laws have been created to combat corruption, their lax application has made it more difficult to do so.^{iv}

Breaking Down the Effects of Corruption

Corruption has wide-ranging effects that go beyond the those involved directly. It's a scourge that rips at society's core fabric, damaging the economy and undermining public confidence-

Economic Impact: Market systems are severely distorted by corruption, which results in inefficiency and inefficient resource distribution. Corruption erodes fair competition and stifles innovation by encouraging cronyism and nepotism. Additionally, as investors frequently take a country's level of corruption into account before making an investment, it deters international investment. These elements work together to impede economic growth and advancement.

Social Impact: The impoverished and marginalized groups in society are disproportionately impacted by corruption, which is a regressive tax. It sustains injustice and inequality by taking funds away from vital public services like healthcare and education. Furthermore, societal cohesiveness is weakened and governmental institutions' credibility is called into question by the widespread corruption. It may cause people to become disillusioned, reduce public engagement in civic affairs, and cultivate a mistrust of government agencies.

Political Impact: Corruption has the potential to cause great unrest and instability on a political level. It can damage the nation's reputation, spark political unrest and war, and in the worst circumstances, result in the overthrow of the government. Furthermore, by encouraging a climate of lawlessness and impunity, corruption can erode democratic processes and institutions.^{iv}

Corruption Prevention

If corruption goes unchecked, it can lead to a rise in organized crime and criminal activity inside the community. However, there are certain actions that can assist in handling it. A list of potential actions that can be taken to stop corruption is shown below.

Education: Best business procedures should be reinforced, and managers and staff should be made aware of where to search for corruption. This can be accomplished by making certain types of education, such anti-money laundering (AML) classes, required. Senior managers and executives need to lead by example in order to establish a strong culture of integrity and honesty.

Environment: Extensive background checks conducted prior to recruiting or promoting individuals, together with a strong control environment, help to lower the danger of corruption.

Accountability: Having systems in place increases the chance of promoting a culture that values high moral behavior and holding those who transgress the rules accountable.

Regulation: Establishing ethics and conduct codes can aid in preventing circumstances that may lead to conflicts of interest. This is typical in fields such as finance, where professionals such as chartered financial analysts are subject to penalties for breaking these standards.

Reporting: Encouraging managers, staff members, suppliers, and consumers to report corruption is one way to further eliminate it. Making sure people can report in a secure and safe manner is also crucial.

Moreover, there needs to be a clear legal penalty system in place to discourage individuals and groups from acting corruptly. In addition to monetary fines, this may also result in legal action, prosecution, and possibly even jail time.^{vi}

What are the Legal and Regulatory Frameworks for Fighting Corruption in India?

- **Legal Framework**

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- **The Prevention of Corruption Act of 1988** establishes sanctions for both public personnel who commit acts of corruption and those who assist in such acts.

Both the giving and receiving of bribes by individuals and by public officers are now illegal under the 2018 Amendment.

- **The Prevention of Money Laundering Act, 2002** forbids the use of the "proceeds of crime" in India and attempts to stop money laundering incidents.
- **Companies Act of 2013**-Corporate governance and the avoidance of fraud and corruption in the corporate sector are outlined in the Companies Act of 2013. According to the Companies Act, fraud is defined broadly and is a criminal offense.
- **Provisions of the Indian Penal Code, 1860**, can be construed to encompass offenses related to criminal breach of trust and cheating, as well as bribery and fraud.
- **The Benami Transactions (Prohibition) Act of 1988** prohibits the individual who purchased property under someone else's name from claiming ownership of it.

- **Regulatory Framework:**

- **The 2013 Lokpal and Lokayuktas Act:** It calls for the creation of a state called Lokayuktas and a center called Lokpal. As a sort of "ombudsman," they look into claims of corruption made against specific public servants and other connected issues.
- **Commission for Central Vigilance:** Its duties include supervising the administration of vigilance and counseling and supporting the executive in cases pertaining to corruption.
- **The Criminal Law (Amendment) Act of 1952** increased the two-year sentence under Section 165 of the Indian Penal Code to three years.
- **1964 Amendments:** The Indian Penal Code broadened the meaning of "Public Servant." The term "criminal misconduct" was broadened, and it became illegal for public employees to acquire assets that are out of proportion to their recognized sources of income.

What is the importance of ethics in preventing corruption?

- **Determining Moral Boundaries:** A framework for identifying what is right and wrong is provided by ethical principles. Ethics establish boundaries that clearly define what behavior is permissible and what is immoral or corrupt in the context of corruption.
- **Encouraging Accountability:** Individuals must accept accountability for their choices and behaviors in order to uphold ethics. People are less likely to engage in corrupt behavior that could hurt others when they are led by ethical values. They are also more likely to be open and responsible for their conduct.
- **Promoting Transparency:** One of the fundamental ethical tenets is transparency. Since ethical businesses and people are more likely to conduct themselves honestly and transparently, corruption finds it more difficult to flourish in an atmosphere where decisions and actions are scrutinized.
- **Establishing Trust:** Ethical behavior is based on trust. People and organizations are less inclined to participate in or tolerate corruption when they are seen as trustworthy. A society with a high degree of trust is less likely to be corrupted.
- **Promoting Civic Virtue:** People are encouraged to act in the best interests of society rather than chasing personal wealth at the expense of others by virtue of ethical standards. The virtue of civic life is a potent deterrent to corruption.
- **Encouraging the Rule of Law:** Respect for the law and its legal and regulatory systems is upheld by ethical behavior. Following ethics promotes respect for the law, since corrupt activities frequently entail breaking the law.
- **Protection for Whistleblowers:** Governments and moral organizations place a high priority on shielding those who expose corruption. Reporting unethical behavior is encouraged by ethical values, and this is essential for identifying and combating corruption.
- **Global Reputation:** A country's reputation is greatly impacted by its ethical behavior on a global basis. Foreign investment and cooperation are more appealing to nations with a reputation for moral leadership and low levels of corruption.
- **Extended Durability:** Although they can have short-term benefits, corrupt activities can have long-term negative effects. The prosperity of societies and their ability to flourish sustainably depend on ethical behavior.

Conclusion

Based on the information provided above, we can conclude that corruption is deeply ingrained throughout India. Even though it is impossible to completely eradicate corruption, the Indian government has made a number of steps to reduce it. The Indian government's efforts are demonstrated by the Corruption Index, which has been consistently managed for the past few years. In India today, corruption is ingrained. From top to bottom, almost every official in the public sector has a habit of never doing any work without accepting a bribe, gift, or other payment of some type.

ⁱ www.research.com

The Prevention of Corruption Act, 1988

ⁱⁱ <https://www.drishtiiias.com/to-the-points/paper4/corruption-in-india>
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^{iv} <https://www.drishtiiias.com/to-the-points/paper4/corruption-in-india>

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