

**Corruption in India and Anti-Corruption Measures****Corruption:**

- Corruption refers to the act of misuse and abuse of power especially by those in the government for personal gains either pecuniary or a favor.
- The menace of corruption is pervasive in India, from petty bribes demand by the policemen to multi-crore scams at the highest political level like 2G scam.
- It is not only limited to government authorities but can be seen within the private sector as well, for instance, the Satyam scandal.
- In the Corruption perception index of 2016 India stands at 79th place out of 176 countries.
- It not only hampers the economic growth but also undermines the rule of law in the country.
- More than 50% people in India have accepted giving bribes while accessing public services.
- Though recently held protest under the banner of 'India against corruption' brought corruption at the center stage of the political discourse and led to passage of Lokpal Act, it ended up merely as a political gimmick with little progress seen in reforms on the other fronts such as electoral and administrative.

**Reason for corruption in India:****Political:**

- Use of black money in elections: According to various studies, a Lok Sabha election candidate ends up spending at least 30 Cr. as against the legal limit of only Rs. 70 lakh.
- In the last 10 year the declared expenditure has increased by more than 400% for the LS elections while 69% of their income came from unknown sources.

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- This rising expenditure is rather seen as investment by the candidates who then misuse their power to amass the illegal wealth.
- Assets some MPs have even seen a jump of more than 1000% between successive elections
- **Criminalization of politics:** More than 30% of the legislators in the country have pending criminal cases against them.
- When law breakers become the law makers, rule of law is the first casualty.
- **Crony capitalism:** With the economic reforms undertaken in the aftermath of the BoP crisis of 1991, private sector has become a prominent player in the market earlier monopolized by the state.
- This has led to growth of unholy nexus between Politicians and businessmen.
- The recent amendment in to RPA that allow the corporates to keep their donation secret further strengthen the veil of secrecy around such a nexus.

**Economic:**

- **High share of informal sector:** In India more than 80% of the workforce is in the informal sector and therefore do not come under the ambit of tax or labor laws. Such enterprises usually bribe the officials to keep out of the ambit of laws where the compliance is costly and complex
- **Ease of doing business:** The plethora of approvals required to start and run a business with no transparency and legal accountability related to matters such as time limits force the entrepreneurs to overcome the red tapism through bribery.
- **High inequalities:** In India 1% of the rich hold about 60% of the total wealth. At the upper income levels it leads to crony capitalism, at lower income levels it forces people to bribe the officials even to get their basic needs fulfilled.

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- This is so because poor lacks the purchasing power to buy the services from the market and therefore depends mostly on public provisioning of the basic services such as food from PDS shops.

**Administrative:**

- Criminalization of politics and politicization of bureaucracy presents the perfect cocktail for the misuse of state power.
- Example of honest officers being witch-hunted like Ashok Khemka and Amitabh Thakur are the indicators of the bigger malaise.
- Misuse and lack of autonomy for enforcement authorities like CBI, ED, IT-Dept, ACB also undermines the deterrence value of the law
- **Colonial bureaucracy:** The bureaucracy essentially remains colonial in nature characterized by 19th century laws e.g. Police Act 1861, complex rules, wide discretion, secrecy, moral responsibility devoid of legal accountability and the ivory tower attitude
- **Failed reforms:** Lack of political will and resistance from within the bureaucracy has led to failure of major reforms like citizen charter, RTI and e-governance.
- **Low wages:** The remuneration in the public sector remains below par with the private sector along with poor career growth opportunities for those working at the lower levels and harsher working conditions.
- **Judicial failure:** The judiciary has failed to bring to book the corrupt officials including politicians.
- The excess protection provided under Article 309 and 310 of the constitution to the civil servants and need of taking the government permission before the prosecution of civil servants further compounds the problem



### Social and Ethical:

- **Changes in lifestyle:** Increasing shift towards individualization and materialism has led to increased penchant for a luxurious lifestyle.
- To earn more money people are willing to adopt even the unethical means with no consideration of others.
- **Social discrimination:** The poor and marginalized due to their lack of awareness and high dependence on the state become the easy target of exploitation by corrupt officials
- **Failure of education system:** The value education has failed miserably in India to inculcate the value of empathy, compassion, integrity, equity etc. in the young generation.
- The lifestyle changes induced by the globalization have further degraded the moral fabric of the society.

### Consequences of corruption:

#### Negative impacts:

- It degrades the social and moral fabric of the society, erodes the credibility of the government and leads to exploitation and violation of fundamental rights of the poor and marginalized by the state.
- For instance, diversion of PDS ration deprives poor violate their right to food.
- Frauds in conducting EIAs and collusion with the illegal miners militates against the right to clean environment.
- It hamper ease of doing business.
- As the recently released Global Competitiveness Index has pointed out “The private sector still considers corruption to be the most problematic factor for doing business in India”.
- This obstructs private investments which creates jobs and hampers innovation leading to brain drain from India.

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- The rising inequality due to poor outcomes of the welfare schemes such as ICDS, NRHM (scams have been unearthed in many states like UP), NREGA etc. is another result of the leakages and diversion of the resources to ghost beneficiaries.
- Poor education and health especially in the backward region helps in perpetuating the historical inequalities.
- Corruption in the tax administration leads to high tax evasion generating black money – an offspring and food of corruption.
- According to various estimates the size of parallel economy in India is as much as 50% of GDP
- As many CAG reports which were instrumental in unearthing major scams like 2G and coal mines have pointed out, state bears huge losses due to the nepotism and corruption – money which could have been used in social sector or infrastructure creation
- Corruption increase the cost of production which ultimately has to be borne by the consumer.
- In the project execution such as roads and bridges it leads to adoption of poor quality of material claiming the lives of many due to the collapse
- Illegal lobbying has led to elite bias in the state policies.
- For instance, tertiary healthcare and higher education receive more political and policy attention than the primary health and education.
- Various research have pointed out direct correlation between corruption, poor quality of public services and criminalization of politics.
- Poor efficiency of the government in executing major developmental projects is another shortfall of the corruption.

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- Corruption in the defence deals in the past has led to delays in the modernization of the armed forces in the era of increasing hostility in the neighbourhood.
- It does not augur well from the perspective of the national security
- Corruption in the past has led to encroachment of the ecologically sensitive areas such as wetlands in the urban areas for real estate projects increasing the vulnerability to disasters such as floods and droughts
- Corruption in the law enforcement agencies such as police undermines rule of law and leads to growth of an unholy nexus between the state and criminals.
- The corrupt administration willingly submits itself to the whims of the ruling party in violation of their duty of public service
- Corruption in police leads to under-reporting of crime encouraging the criminals and judicial corruption compels people of adopt extra-legal methods to get the justice

**Positive impacts:**

- It helps in overcoming the red-tapism in the overburdened and lethargic government machinery especially for the businesses which cannot wait for long to get the approvals thus avoiding the opportunity cost of waiting
- The 'gift culture' helps officials build the networking which can help overcome the long drawn processes involving tenders thus expediting the work.
- It reduces the cost of compliance for many industries especially the MSME sector which would have rather struggled to survive in competition with the larger industry and also for the individuals e.g. a person caught for violation of traffic rule can escape by paying Rs.100 rather than a fine worth 500.

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- Corruption has helped many refugees from being deported to the places where they are persecuted.
- Horse trading in the politics has helped bring the stability in the government especially during the coalition era of government e.g. JMM bribery helped PV Narsimha Rao government to survive.
- It helps people at the lower level of the bureaucracy to survive in their job.
- However, these positive effects in no way match the negative cost of corruption to the society and economy.
- It leads to inequality, discontent and resentment in the society which promote lawlessness and fuels the growth of negative tendencies like communalism and regionalism.

### Legal Steps

#### 1. Prevention of corruption Act 1988

- Provides a definition for corruption and lists out the acts which would amount to as corruption such as bribes, gifts for favors etc.
- Seeks to create a balance between need to bring corrupt to the books and protect honest officers. Prosecution of an officer requires sanction from the government
- Includes employees of the central government and the union territories, the employees of public undertakings, nationalized banks etc.
- Special judges are appointed for trial under the act who can order a summary trial in appropriate cases

#### 2. Benami property Act 1988

- Recent amendments have widened the definition of the benami property and allow the government to confiscate such properties without any hassles of court approvals



### 3. Central Vigilance commission Act 2003

- Gives statutory status to CVC. Central Vigilance Commissioner shall be appointed by President on recommendation of a Committee consisting of the PM, MHA and LoP in LS
- Covers AIS officers, Gazetted officers of center, senior members of the PSB banks etc.
- Commission, while conducting the inquiry has all the powers of a Civil Court

### 4. Right to Information Act 2005

- Makes disclosure of information a legal right of the public to promote transparency
- Section 4 mandates proactive disclosure of the information and digitization of the records
- Many RTI activists have used it to bring out the irregularities in the functioning of the public authorities e.g. Vyapam scam of MP

### 5. Whistleblower protection Act 2014

- More than 60 RTI activists have been murdered and many more assaulted due to lack of protection
- WPA accords special protection to the people who disclose the acts of wrongdoing in the government.
- Provides anonymity and protection from prosecution under acts such as Official secret act 1923

### 6. Lokpal and Lokayukta Act 2013

- Appoints an independent authority Lokpal at center and Lokayukta at states to probe into the complaints of wrongdoing by the public servants



- Lokpal will be appointed by committee consisting of PM, LoP, CJI, Speaker and an eminent jurist

## Administrative reforms

### 1. E-governance initiatives

- e-gov apart from advancing the good governance objectives of accountability and transparency also seeks to reduce the manual interface between state and citizen thus preventing the incidences of bribery
- Initiatives like service delivery through CSCs, digitization of the land record, JAM, DBT, E-biz (single window system), e-marketplace etc. help prevent corruption

### 2. Citizen Charters and Public Service delivery and Grievance Redress Acts in states

- Many states like Karnataka (SAKLA initiative) and Rajasthan have enacted such acts to make bureaucracy legally accountable for delivering quality service within stipulate time periods.
- Bihar is the only state to have a Grievance Redress Act covering all departments
- These acts also create grievance redress mechanism (GRMs) for the public to ensure effective enforcement of the act. CPGRAMS is another such GRM created under e-gov project

## Economic Reforms

### 1. Liberalization and Privatization

- License-Permit-Quota proved to be a highly potent tool in the hands of bureaucracy to misuse the power of their offices to amass illegal wealth.

- The LPG era proved to be a chink in the armor of bureaucratic discretion.
- The needs of being competitive in the global market also compelled the government to improve the market efficiency by bringing a qualitative change in the government regulations
- Recent efforts in improving the ease of doing business such as FDI liberalization will further erode the power of bureaucracy over the functioning of the market

## 2. GST

- Reduced cost of compliance by simplification and digitization of the tax architecture and e-waybills that remove the need of check posts on the state borders are some of the ways through which GST can help reduce the corruption

## 3. Demonetisation

- Arrest of chief secretary of Tamil Nadu after DeMo will act as a major deterrence for the corrupt officials

## Electoral Reforms

### 1. Cash donations

- Recent amendments have reduced the limit on the cash donation to 2000 from the earlier 20000, thus restricting the inflow of anonymous black money into the funds of political parties.

### 2. Disclosure norms

- As earlier mandated by SC, politicians are required to make disclosure about their financial assets, education and criminal records thus helping the voters to make an informed choice and helping clean the politics of criminals.

### 3. Judicial Interventions

- Recently SC asked courts to complete the cases pending against the legislators within a year.
- In another order it asked the center to create special courts for trials of legislators
- In Lily Thomas verdict, SC cleared the confusion over disqualification of the convicted legislators thus closing the legal gap that was misused by the legislators to stay in their seat even after the conviction

#### Measures have Failed:

- Lack of political willingness to bring serious electoral, administrative and legal reforms.
- For instance recently proposed amendments and prevention of corruption act, RTI, WPA and Lokpal suggest strengthening the government officials at the cost of public interest.
- Lokpal is yet to be appointed. CVC lacks the resources and authority to independently enquire the cases of corruption and initiate the prosecution as government sanction is required
- Laws like PCA 1988 have been used more to protect the corrupt rather than punish them. Conviction rate under the act continues to be almost zero in many states like Goa
- E-gov initiatives have only proved to be a tool for administrative convenience and recentralization of power rather than empowering citizens.
- RTI section 4 continues to be neglected while land records are yet to be digitized in many states

- The electoral reforms have only been nominal and political gimmicks. Until a cap is placed on the total cash donations any limit in individual contribution will be an exercise in futile
- Political executive continues to micro manage the functioning of bureaucracy via suspension, promotion, transfers etc. e.g. recent Panchkula violence
- The administrative structure and attitudes essentially continue to be colonial in nature. Number of ministries and departments have almost tripled since independence.
- Objective performance evaluation with pay and promotion linked are yet to be implemented
- Decentralization which was supposed to bring the government closer to the people has been rendered ineffective by the apathy of the states.
- Potent tools like citizen charter and social audit too have become the victim of government apathy
- Various commissions such as SARC and Santhanam committee have made important and feasible recommendation what is required is a strong political will.
- Following steps are required to empower the citizens and make the government accountable for its performance:

#### **Reforms in bureaucracy:**

- Establishing the Civil Service Board to curb the excessive political control over administration
- Reducing the hierarchy levels in the governments
- Conducting periodic sensitivity training for the civil servants



- Simplifying the disciplinary proceedings and strengthening preventive vigilance within the departments to ensure corrupt civil servant do not occupy the sensitive position
- Objectivity in performance evaluation and linking pay and promotion to it
- Using the new technologies such as AI and big data to automate routine procedures in government such as issuance of certificates

### **Electoral reforms:**

- Barring the criminals from entering the legislatures by amending RPA
- Banning the cash donation to political party and imposing limits on the overall expenditure of the political parties
- Empowering ECI by giving legal force to MCC and making paid news a criminal offence
- Exploring the idea of state funding as recommended by Indrajit Gupta committee

### **Changes in governance**

- Bringing Transparency of the Rules Act (TORA) as recommended by Economic survey to increase transparency and awareness about rules
- Giving citizen charter and social audits a legal force and creating GRMs at all levels to ensure their enforcement
- Empowering the local body so as to make them a potent tool for direct democracy
- Judicial reforms to expedite trials against the corrupt officials so that these laws remain a strong deterrent
- 7-point Police reforms as suggested by SC in Prakash Singh case to establish rule of law and ensure impartial investigation in cases of corruption

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- Amending the anti-defection law to strengthen legislative control over the executive as envisaged under constitution and not the other way round
- Bringing in Code of ethics and code of conduct for the ministers
- Clearly defining the office of profits and bringing all the offices such as on the boards of PSUs under its ambit as recommended by SARC

**Various Legislative Provisions for Fighting Corruption**

- Public servants in India can be penalized for corruption under the Indian Penal Code (IPC), 1860 and the Prevention of Corruption Act, 1988.
- The Benami Transactions (Prohibition) Act, 1988 prohibits benami transactions.
- The Prevention of Money Laundering Act, 2002 penalizes public servants for the offense of money laundering.

**Indian Penal Code, 1860**

- The IPC defines “public servant” as a government employee, officers in the military, navy or air force; police, judges, officers of Court of Justice and any local authority established by a central or state Act.
  - Section 169 pertains to a public servant unlawfully buying or bidding for the property.
  - The public servant shall be punished with imprisonment of up to two years or with fine or both. If the property is purchased, it shall be confiscated.
  - Section 409 pertains to criminal breach of trust by a public servant.
  - The public servant shall be punished with life imprisonment or with imprisonment of up to 10 years and a fine.

**The Prevention of Corruption Act, 1988**

- It encompasses broader definition of “public servant” includes office bearers of cooperative societies receiving financial aid from the government, employees of universities, Public Service Commission and banks.
- If a public servant takes gratification other than his legal remuneration in respect of an official act or to influence public servants is liable to a minimum punishment of six months and maximum punishment of five years and fine.
- The Act also penalizes a public servant for taking gratification to influence the public by illegal means and for exercising his personal influence with a public servant.
- If a public servant accepts a valuable thing without paying for it or paying inadequately from a person with whom he is involved in a business transaction in his official capacity, he shall be penalized with a minimum punishment of six months and maximum punishment of five years and fine.
- It is necessary to obtain prior sanction from the central or state government in order to prosecute a public servant.

**The Benami Transactions (Prohibition) Act, 1988**

- The Act prohibits any benami transaction (purchase of property in the false name of another person who does not pay for the property) except when a person purchases property in his wife’s or unmarried daughter’s name.
- Any person who enters into a benami transaction shall be punishable with imprisonment of up to three years and/or a fine.
- All properties that are held to be benami can be acquired by a prescribed authority and no money shall be paid for such acquisition.



### **The Prevention of Money Laundering Act, 2002**

- The Act states that an offense of money laundering has been committed if a person is a party to any process connected with the proceeds of crime and projects such proceeds as untainted property.
- The penalty for committing the offense of money laundering is rigorous imprisonment for three to seven years and a fine of up to Rs. 5 lakh.
- If a person is convicted of an offense under the Narcotics Drugs and Psychotropic Substances Act, 1985 the term of imprisonment can extend up to 10 years.
- The Adjudicating Authority, appointed by the central government, shall decide whether any of the property attached or seized is involved in money laundering.
- Every banking company, a financial institution and intermediary shall maintain a record of all transactions of a specified nature and value and verify and maintain records of all its customers and furnish such information to the specified authorities.

### **Recent Blows to Fighting Graft**

#### **The Prevention of Corruption (Amendment) Act, 2018**

- The recent amendments to the Prevention of Corruption Act narrows down the definition of corruption, increases the burden of proof necessary for punishing the corrupt and makes things more arduous for whistle-blowers.
- The most grievous blow is the strengthening of the shield available to officials accused of corruption.
- Investigating agencies have been barred from even initiating an inquiry or investigation into allegations of corruption without prior approval from the government.
- Effectively, this empowers political masters to decide whether they wish to allow a corruption inquiry against a government employee or not.



- The amendments have done away with the offence of abuse of position by a public servant, unless the element of bribery is established.
- This frustrates peoples' ability to fight corruption in cases which may not involve the payment of a bribe, as it may be done for other considerations like pleasing political masters for rewards.
- Also, cases involving gratification are often impossible to trace as they may be deferred in the form of post-retirement benefits or paid through clandestine off-shore accounts.

### **Undermining Autonomy of CBI**

- Recent months have witnessed a brazen undermining of the autonomy of the Central Bureau of Investigation (CBI).
- To insulate the organisation from government influence, the selection and transfer of the CBI Director is vested in a committee comprising the Prime Minister, the Leader of the Opposition in the Lok Sabha and the Chief Justice of India.
- However, the whole incident of removal the erstwhile CBI Director Alok Verma by the government, without consulting the selection committee and appointment of an Interim Director, M. Nageswara Rao and later the Supreme Court intervention had seriously eroded the credibility of the institution.

### **Constituting Lokpal**

- The Lokpal law was enacted to set up an independent and empowered anti-corruption ombudsman, who would work without fear or favour to tackle cases of big-ticket corruption involving high-level government functionaries.
- The government failed to take the necessary steps to appoint a Lokpal for nearly five years.
- Feeling the pressure due to deadline given by the Supreme Court, a selection committee without the Leader of the Opposition selected the chairperson and members of the Lokpal hapahazardly.

- The selection of the Lokpal by a committee having a preponderance of government representatives and consequently an inherent bias towards candidates favoured by the ruling party, defeated the purpose of the law and undermined public trust in the institution even before it became functional.

### Whistle Blowers and Right to Information

- Government has failed to promulgate rules and operationalise the Whistle Blowers Protection Act, 2014.
- Whistle-blowers, who speak truth to power by exposing corruption and wrongdoing, continue to be denied protection.
- Many Right to Information (RTI) users who have exposed corruption have been killed.
- The RTI Act is one of the most effective tools to fight corruption and abuse of power.
- As per the provisions of this Act, any citizen may place a request for information from a “public authority”, where the concerned authority needs to reply within 30 days.
- Thus, this act has armed citizens to get complete information on public spending.
- But many a times information is denied by the government officials in the name of Official Secret Act.
- Not a single commissioner was appointed to the Central Information Commission in the last five years without intervention by courts.
- In 2018, the government proposed regressive amendment to undermine the independence of information commissions.
- These were eventually abandoned due to public pressure.

### The Case of Electoral Bond

- The 'electoral bond' Scheme was introduced to promote transparency in funding and donation received by political parties.
- The scheme envisages building a transparent system of acquiring bonds with validated Know Your Customer (KYC) and an audit trail.

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- A limited window and a very short maturity period would make misuse improbable.
- Bonds will prompt donors to take the banking route to donate, with their identity captured by the issuing authority.
- But there are many loopholes like it prevents citizens from finding out who is funding political parties.
- In one stroke it has ensured that donations worth thousands of crores can be made anonymously.
- The largest benefactor of the electoral bonds scheme will be the ruling party.
- Citizens don't know who makes donations and whose interest, therefore, the party will serve.

#### Case of Everyday or Petty Corruption

- Corruption in India is not limited to collusive high-level scams.
- Petty corruption, which affects the delivery of basic services and rights to people, is rampant.
- This especially impacts the poor and marginalised, who are most dependent on public provisioning of rations, pensions, health and education.
- This form of corruption thrives primarily due to lack of effective mechanisms to hold officials accountable.
- A legislation to fix this problem was introduced in Parliament in the form of a Grievance Redress Bill in 2011.
- Unfortunately, it lapsed with the dissolution of the Lok Sabha in 2014, no attempts have been made by the government to reintroduce the Grievance Redress Bill, which would have empowered people to fight everyday corruption.