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EVALUATING THE EFFECTIVENESS OF LOKPAL IN COMBATING CORRUPTION: AN ANALYSIS OF ANTI-CORRUPTION LAWS IN INDIA

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ABSTRACT

This paper undertakes a thorough examination of India's anti-corruption framework, encompassing the concept, causes, and consequences of corruption, as well as the legislative measures aimed at combating it. The paper begins by explaining the meaning of corruption, setting the stage for a deeper analysis of the issue. It subsequently delves into the underlying factors contributing to corruption and its far-reaching impact on the economy, politics, and societal structure. Furthermore, this research conducts an exhaustive examination of India's anti-corruption laws, with a specific focus on the Lokpal institution. A detailed data analysis of Lokpal's operational framework and case management processes is presented, offering actionable insights into the institution's effectiveness and areas for improvement.

Keywords: Corruption causes, Corruption consequences, Anti-corruption laws, Institutional framework, Case management processes, good governance, Transparency, Accountability.

MEANING OF CORRUPTION

Corruption constitutes an egregious breach of faith, violating the moral and legal obligations of those entrusted with power and authority. Throughout history, corruption has been universally condemned as a moral and ethical transgression, with ancient texts, including the Bible, Quran, and other sacred scriptures, denouncing its practice. Meaning of corruption varies nation to nation. While some practice may be termed as illegal and corrupt in one nation and valid and legal in other nation. Basically, those activities are considered as corrupt in which there is involvement of a public office and that office and power is used for giving favor to someone in return of money, person or anything. The phenomenon of corruption can take many forms. Rather, corruption can be bureaucratic, as with corruption by the administration, or

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political, as with corruption by the leadership; cost cutting or cost increasing; bribe giver or bribe taker; coercive or collusive; in the extreme, centralized or decentralized; predictable or arbitrary; payment in cash or payment in kind; and many others. Without a doubt, other forms of classification could be included to this list.³

Corruption is a big hindrance in the development of a nation. It is root cause of all social and economic problems. It leads to poverty, crimes, unemployment, and chaos in the society. Every democratic country is duty bound to provide its citizens good governance but if public officers and Ministers which are responsible for governance become corrupt then there will be no possibility of good governance. People lose their faith in such a government and as such revolt starts. Therefore, every country tries their level best to provide answerable and accountable governance. India being democratic country always takes care of welfare of people. Directive Principles of State Policy under Constitution of India directs government to follow certain principles while making its policies. These principles provide for good governance. If these principles are not followed by the states, then people are at liberty to discard such Government and vote for other party in the election. Every political party in India therefore in their election manifestos promises to its people welfare, equality, liberty and employment. All these promises can be kept only by honest officials. If there is corruption in the system then all the grants which are sanctioned for welfare of people are embezzled by such corrupt officials. Unfortunately, India has witnessed lot of corruption cases. Corruption has become a threat to development of the nation. The report titled Corruption Perceptions Index 2024 has observed corruption in India to be 38 out of 100. Global corruption is flourishing, according to the 2024 CPI. It rates 180 nations worldwide in terms of perceived public sector corruption. The scale goes from 0 (highly corrupt) to 100 (very clean).⁴ Corruption is a pervasive issue in India, with the country being ranked among the most corrupt globally. Report shows that corruption has reached alarming levels and requires immediate action. The government's integrity has been compromised by numerous corruption scandals.

FACTORS LEADING TO CORRUPTION:

- 1) **Low Wages:** India's low wage culture can foster an environment where employees feel pressured to engage in corrupt activities to make up for their financial shortfall.

³ Vito Tanzi, "Corruption Around the World: Causes, Consequences, Scope, and Cures" *IMF Staff Papers* 565 (1998).

⁴ Transparency International, "Corruption Perceptions Index 2024" 5 (2024).

- 2) **Job Opportunity:** Scarce job opportunities lead some individuals to offer bribes to secure employment, while recruiters exploit desperation by offering jobs for payment. This corrupt practice overlooks talented candidates, undermining meritocracy and perpetuating inequality.
- 3) **High tax rates and excessive regulation bodies:** India's tax regime, marked by high marginal tax rates, is compounded by a complex regulatory framework. This environment creates opportunities for corrupt officials to solicit bribes from citizens and businesses.
- 4) **Cultural and historical cause:** Complying to various regulations sets out expectations to those around the person to do so, while the person who contravenes engages to the expectations to get caught. A legacy of ruthless autocracy increases the propensity to transgress the law. In the same way, the propensity to engage in corrupt activities can also increase.
- 5) **Education:** India's education system lacks a strong focus on moral and spiritual growth. As a result, the country is facing a decline in social values and ethics, which can have long-term consequences for its citizens and society as a whole.
- 6) **Lack of strict and fast punishment:** The current punishment system for corruption is inadequate, often resulting in lenient penalties such as temporary suspension or relocation. This encourages wrongdoers to repeat their offenses.
- 7) **Lack of fear:** Corrupt individuals act with reckless abandon, unencumbered by fear of reprisal, as they believe they'll face no consequences. This lack of accountability emboldens them to commit offenses freely. Unchecked corruption perpetuates a culture of entitlement among wrongdoers, who should be boycotted but instead roam freely.
- 8) **Lack of transparent system:** The right to information, a dimension of Article 21, is often denied, forcing citizens to pay hefty sums for information on public transactions. Moreover, the appointment and removal processes of public servants lack transparency, consequently corruption cases go undetected.
- 9) **Lack of stringent mechanism to combat with corruption:** India lacks a strong mechanism to tackle corruption, discouraging people from filing cases due to the lengthy and arduous process, ultimately allowing corrupt individuals to evade accountability.
- 10) **Lack of accountability:** Various high-profile officials like public servants are not answerable to people. apart from that it is not an easy task to file a suit against erring public servant you need a sanction from a respecting government to initiate proceeding

against them. Thus, it is evident that nobody would like to take that much burden. As a result, system becomes more corrupt.

REPERCUSSIONS OF CORRUPTION:

- 1) **Poverty and backwardness:** Despite 77 years of independence, India remains a developing economy, hindered by rampant corruption. This curse has exacerbated poverty, with many citizens struggling below the poverty line.
- 2) **Loss of talent:** Corruption fuels nepotism, where jobs are awarded based on bribes, not talent. This leads to unskilled individuals being employed, while skilled youth are overlooked, prompting many to seek opportunities abroad, resulting in a brain drain that hinders India's development.
- 3) **Black money:** Due to excessive tax rate people use illegal way to escape from liability of paying tax. In documents they show transaction/business of a very low level to evade tax. But in reality, they have a much-flourished business, some time they manipulate their balance sheet to hide their profits.
- 4) **Loss of faith in judicial system:** When the affluent and influential engage in corruption, they often exploit their power to intimidate witnesses, evading accountability with ease. This impunity leads to public mistrust, weakening faith in the justice system.
- 5) **Hatred towards officials and government:** Corruption has eroded public trust in government and public servants, who are perceived as complicit in the problem. As the government holds the power to implement anti-corruption measures, its failure to do so raises questions about its accountability.
- 6) **Threat to Sovereignty and Integrity of India:** Corruption in India's administrative and defense services threatens national sovereignty and integrity, as corrupt employees compromise the system's integrity and hinder the country's progress.
- 7) **Brain Drain:** Rampant corruption in India denies job opportunities to deserving, educated, and talented individuals, who are instead being overtaken by those with power and willingness to bribe, prompting many to seek better prospects abroad.
- 8) **Young people are becoming drug addicted:** Corruption inflicts immense hardship on people, leading to unemployment, humiliation, and stress, which in turn drives many young Indians to substance abuse, ultimately causing the nation to lose its most precious asset: its youth.

- 9) **Reason of Shame for India at International level:** Corruption is a curse that stifles a nation's development. According to Transparency International's 2024 Corruption Perception Index (CPI) study, India had a very low score. It is a matter of shame for India because India has miserably failed in controlling the corruption.
- 10) **Loss to Tourism Industry in India:** Corruption and rising crime rates in India are deterring foreign tourists, resulting in significant revenue losses for the country's tourism industry.

PROMINENT ANTI-CORRUPTION LAWS:

1. Public Servants (Enquiries) Act, 1850:

Public servants' vast powers led to abuse, making citizens reluctant to challenge them. Historically, societal factors like limited education and social hierarchies exacerbated this issue. To combat this, the act was constituted to oversee public servants' conduct and ensure accountability. In terms of this act, whenever the government thinks there are good reasons to hold an official and open investigation into the truth of any allegations of misconduct by a public servant who cannot be dismissed from office without government approval, they may have the imputations constituting the allegations prepared as specific articles of charge and may direct a formal public inquiry as to the truth of the allegations made against the public servant.⁵ It provided for a transparent mode of inquiry into accusation by committing the inquiry to competent authorities. Authorities were vested with various powers to conduct the investigation in a fair and equitable manner. This act provided for charges to be made in writing and penalty in case of false accusation. Following the inquiry, the authorities were empowered to issue orders and take actions as warranted by evidence.

2. Indian Penal Code, 1860:

The Indian Penal Code (now replaced with BNS) contains crucial provisions that hold public servants accountable for their actions, ensuring they uphold the law and maintain integrity. These provisions are vital for preventing corruption, misuse of power, and protecting the public interest. Government officials who abuse their authority must face disciplinary action to uphold the rule of law. Public servants have significant authority,

⁵ Public Servants Inquiries Act, 1850 (Act 37 of 1850) s.2

but must conduct investigations within legal parameters. They must provide immediate medical attention to victims of severe crimes. Non-compliance can result in penal repercussions. Public servants are prohibited from engaging in personal business or acquiring prohibited property. Breaches of these provisions can lead to penalties. The Central Vigilance Commission oversees corruption investigations. Cases involving corruption by public servants are prosecuted under the Indian Penal Code. These provisions combat corruption among public servants, ensuring accountability and integrity.

3. Special Police Establishments Act, 1941:

The intention behind this act was to create a unit in Delhi and the other Union Territories to investigate and handle the offences under The Prevention of Corruption Act, 1988. It empowered the officers with investigational powers and with the right of arrest, in order to carry on the investigation without delay. This police force is under the direct supervision of the Central Government. The Central Bureau of Investigation is a descendant of the Special Police Establishment which the government of India set up back in the year 1941. At that time, the purpose of the SPE was to take on cases involving bribery and corruption with the War & Supply Department of India during the 2nd World War. Even with the 2nd World War finished, there was a need for an agency at the center to handle investigations relating to the bribery and other forms of corruption committed by employees of the central government. This is the reason for the Delhi Special Police Establishment Act bearing the year 1946. It serves the purpose of the primary law for the investigative functions of the CBI. The Office of the Chief Vigilance Commissioner ('CVC') deals with cases of misconduct in respect of public servants working in the various ministries of the Central Government, Central Public Sector Undertakings and other financial institutions of the country.

4. Prevention of Corruption Act, 1988:

Enactment of this act has been a remarkable step in legal history of India in fight against corruption. This act contained provisions like appointment of Special Judges to deal with cases of corruption speedily and impartially. This Act provided for Summary Trial of certain cases also. The act of taking gratification aside from what is legally allowed in regard to an official Act is an offense which a Public Servant is obliged to indemnify. Concerning the principals of abettors and habitual offenders, the law has made belt and

braces provisions. During trial judges had the powers to inspect official documents including banker's book. In certain cases, previous sanction of government was made mandatory.

5. Prevention of Money Laundering Act, 2002

Money laundering is a pervasive and insidious crime in India, posing a significant threat to the country's economic stability. If someone participates in or helps with actions involving the proceeds of crime, whether directly or indirectly, they are considered to have committed the crime of money laundering. These acts include: Concealing, possessing, acquiring, using, or projecting tainted property as legitimate.⁶ Considering the severe consequences that this offence can have on the nation certain norms were established by the government and it was mandatory for the banks, financial companies to follow these guidelines. Know your customer (KYC) norms are set for the banks. According to these norms banks must maintain proper details, records and proofs of the customers so that cases of money laundering can be ended.⁷ While the Money Laundering Act has achieved notable successes, the ever-evolving landscape of money laundering reveals new intricacies and defies that require ongoing attention.

6. Foreign Contribution Regulation Act (FCRA), 2010:

The FCRA, 2010 aims to oversee foreign donations or contributions and hospitality (such as air travel, hotel accommodations) provided to Indian organizations and individuals, as well as to prevent such contributions that could harm national interests. This law is intended to control and limit the use of foreign hospitality or donations by businesses, organizations, or people for purposes that would be counterproductive to the interests of the country. To adjust to the changing environment, the act amendments were made in 2020. The revisions were approved by the esteemed Supreme Court, which stated that foreign contributions are considered medicines as long as they are used discreetly and in moderation. However, the uncontrolled and unfettered inflow of foreign contributions might operate as an intoxicant and negatively impact the nation's integrity and sovereignty.⁸

⁶ The Prevention of Money-laundering Act, 2002 (Act 15 of 2003) s.3.

⁷ Availability at: <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=866> (Last visited on March 17, 2025)

⁸ Availability at: <https://www.drishtias.com/daily-news-analysis/sc-upheld-fcr-amendments> (Last visited on March 19, 2025)

7. Lokpal and Lokayuktas Act, 2013

Lokpal comes from the Sanskrit where 'pala' means 'protector' and 'lok' means 'people'. Unlike the rest of the world, in India, it is akin to the Ombuds-man of Scandinavian origin whose functions are to handle grievances of the people against the government.⁹

This Act is enacted with the view to establish a strong anti-corruption mechanism both at Centre and state level named Lokpal and Lokayukta respectively.

Constitution of Lokpal - Lokpal is referred as a Chairperson who is either a chief justice of the India Supreme Court or a judge, or a person of profound repute, as well as no more than eight members of whom at least half are Judicial Members.¹⁰ Out of these members 4 must be judicial officers.

Jurisdiction of Lokpal - The Lokpal is empowered to investigate accusations of corruption against any person, whether currently or formerly, the Prime Minister, any member of the Union Cabinet, any MP, or any Union Government employees in Group A, B, C, or D. The directors, officers, and chairs of any committee, organization, society, association, or autonomous body that was established by an Act of Parliament or that receives full or partial funding from the Union or a State Government are also included, as are any society, trust, or body that receives foreign contributions exceeding ₹10 lakhs.¹¹ Thus Lokpal is the first institution in independent India who has the power to deal with cases of corruption against such officials.

Complaint – This Act was enacted with the purpose of encouraging people to raise voice against injustice. Consequently, any person can file a complaint without any restriction or limitation. It provides for the conducting Preliminary Inquiry by its agencies or by the agencies as referred by the Lokpal in order to assess validity of the complaint and to ensure that complaint doesn't lack in substance. In case of Lokpal, complaint can be made by post, electronically or in person. If the complaint has been filed electronically then within 15 days, copy of the complaint must be submitted to Lokpal.¹²

Powers of Lokpal - To ensure smooth functioning, Lokpal has broad powers that covers every stage, from receiving complaints to the final disposal of cases. Lokpal can order its institutions i.e., inquiry wing and other agencies to conduct preliminary inquiry. The Lokpal possesses supervisory powers, as well as the authority to order search and seizure operations.

⁹ Lokpal of India, "Annual Report 2021–22" (2021)

¹⁰ Lokpal and Lokayukta Act, 2013 (Act No. 1 of 2013) s.3.

¹¹ Lokpal and Lokayukta Act, 2013 (Act No. 1 of 2013) s.14.

¹² Availability at https://lokpalonline.gov.in/lokpalonline/assets/document/General_Instructions.pdf (Last visited on March 19, 2025)

DISPOSAL AND RECIEPT OF CASES IN THE LOKPAL: A DATA ANALYSIS

Efficiency of any organization can be assessed by thoroughly analyzing how many people reach out to them to get their grievances redressed. Since the appointment of India's first Lokpal in 2019, total 9,462 complaints have been received. The Lokpal of India received 1,427 complaints in 2019-20, 2,355 in 2020-21, and 5,680 in 2021-22.¹³ A notable escalation in complaints received by the Lokpal is observable over the years. A thorough examination of the trend reveals a consistent increase in the volume of complaints lodged with the Lokpal over the years, indicating a growing awareness and confidence among citizens in the institution's ability to address grievances and combat corruption. However, the true test of the institution's effectiveness lies in how efficiently it disposes of cases. So, hereinafter analysis is done of the complaints that were received in 2021-2022.

Type of Complaint	Received	Registered	Disposed off	Pending (Total)	Pending with other Agencies
Format (2021-22)	169	149	121	28	8
Non-format (2021-22)	5,511	410	349	5,162	5
Non-format (2020-21)	2,224	1,699	1,479	220	21

Upon examining the data, it's evident that the Lokpal received two types of complaints: Format Complaints, which adhered to the prescribed format, and Non-Format Complaints, which did not. A notable observation is the significantly high pendency rate of applications, indicating that despite the Lokpal's operational efficiency, the processing pace is sluggish, resulting in a substantial backlog.

¹³ Lokpal of India, "Annual Report 2021–22" (2021).