

The Political Corruption in India and Rule of Law

Dr. Ashu Maharshi Vyas, Assistant Professor, Amity Law School, Amity University, Jaipur, Rajasthan

ABSTRACT

Democracy is characterized by a system in which competing political parties are freely elected by the citizenry to carry out programs, policies and plans that they have announced in advance: democracy is also considered to exist when the institutions of government are set up within a system of law and practice that is answerable to a constitution that has been freely agreed upon by elected representatives of the people. Democracy implies rule of law and holding of free elections to ascertain the will of the people. But in quite recent times this peaceful process of social change has been much vitiated. Violence, rigging, booth capturing etc. has become the order of the day. Political corruption affects us all. We elect politicians and political parties expecting them to act in the public interest. By electing them we give them access to public resources and the power to take decisions that impact on our lives. The biggest cause of corruption in today's India is undoubtedly the political leadership at the helm of affairs in the country. From the fountainhead of corruption flow various streams of corrupt practices which plague the political, economic and social activities in the country. Corruption is an intractable problem. It may not be possible to root out corruption completely at all levels but it is possible to contain it within tolerable limits. Firm and strong steps are needed to curb the menace and an atmosphere has to be created where the good, patriotic, intellectuals come forward to serve the country with pride, virtue, and honesty for the welfare of the people of India.

Keywords

Corruption, Civil Society, Scandals, Democracy

INTRODUCTION

“All luxury corrupts either the morals or the state.”

- Joubert [1]

Democracy is characterized by a system in which competing political parties are freely elected by the citizenry to carry out programs, policies and plans that

they have announced in advance: democracy is also considered to exist when the institutions of government are set up within a system of law and practice that is answerable to a constitution that has been freely agreed upon by elected representatives of the people.

Democracy implies rule of law and holding of free elections to ascertain the will of the people. But in quite recent times this peaceful process of social change has been much vitiated. Violence, rigging, booth capturing etc. has become the order of the day. [2]

Political corruption affects us all. We elect politicians and political parties expecting them to act in the public interest. By electing them we give them access to public resources and the power to take decisions that impact on our lives. Given this privileged position, immense damage can be inflicted by politicians or parties acting out of greed, or in the service of those who bankroll their ascent to power.

Political corruption means that money that would otherwise have been available for spending on the public good by government is siphoned off into the pockets of individuals, and money that would otherwise have been available for productive investment is diverted and skewed into schemes that provide the most illicit income for corrupt people. [3]

Corruption erodes each aspect of democracy. With corruption, political parties are financed by interests to whom they are then beholden, whatever their promises to the people. Political parties in turn often try to bribe the electorate to give them their votes, or intimidate them by promising them government goods and services if elected, or that they will be shut out of government services if they back the wrong party. In some cases political parties (particularly parties that are in power) are able to skew the electoral process itself by buying off those who manage it. [4]

Corrupt politicians, once in power, systematically weaken those democratic systems that give the citizenry some power over them. They increasingly control the executive, the legislature, and the judiciary by buying them off, or by

neutralizing them through the use of financial power that has accrued to them from corruptly generated income.

Corruption will destroy peoples' acceptance of the authority of governing institutions if they know that all such institutions can be bought. Corruption will eliminate respect for the representatives of governing institutions and the acceptance of their right to govern the more those representatives are shown to be on the take. It makes a mockery of elections, political parties, parliament, the executive and the law courts when it is widely known that the principal interest of the holders of public office is self-enrichment. [5]

Unfortunately, there are many indications that corruption continues to be not only a serious problem, but also an increasing one. All over the world, including those places where neo-liberal economics and liberal-democratic politics have been institutionalised, there has grown up a "new corruption" that has become a part of these new institutions and is carried out by greedy and rapacious elites.

The biggest cause of corruption in today's India is undoubtedly the political leadership at the helm of affairs in the country. From the fountainhead of corruption flow various streams of corrupt practices which plague the political, economic and social activities in the country.

THE TOP SCAMS IN INDIA [6]

1. Indian Coal Allocation Scam (2012)

While many think that 2G scam remains the biggest one in size in India. But this coal allocation scam dwarfs it by the amount involved. This scam is in regards to Indian Government's allocation of nation's coal deposit to PSU's and private companies. The scam happened under Manmohan Singh government and came out in 2012.

The basic premise of this scam was that wrongful allocation of Coal deposits by Government without resorting to competitive bidding, which would have made huge amounts to the Government (to tune of 1.86 Lakh crore). However, the coal deposits were allocated arbitrarily. The Supreme Court, on August 25, 2014 ruled that coal blocks allocated by the government between 1993 and 2010 were illegal. [7]

2. Wakf Board Land Scam (2012)

In March of 2012, Anwar Maniappdy, the chairman of Karnataka State Minorities Commission submitted a sensational report which alleged 27,000 acres of land,

which was controlled by Karnataka Wakf Board had been allocated illegally or misappropriated. The value of land which was misappropriated was in tune of 1.5 to 2 lakh crore rupees. The land managed by Wakf board, a Muslim charitable trust, is typically donated to under-privileged and poor people of Muslim community.

However, the report alleged that nearly 50 percent of the land owned by Wakf board was misappropriated by Politicians and Board members in conjunction with real estate mafia at fraction of actual land cost. The investigations for this are currently ongoing.

3. The NRHM Scam (2011)

The CAG probing the NRHM scam in Uttar Pradesh has found anomalies in spending of around Rs 5,000 crore under the scheme in about two dozen districts of the State.

The state health department failed to give proper details of spending worth around Rs 5,000 crore of the Rs 8,657 crore given to the State, highly placed sources said.

The Comptroller and Auditor General submitted a report on its findings to the Governor on Friday, they said, adding that the probe was carried out on the request of the UP Chief Secretary in August last year amidst mounting pressure for a CBI inquiry into the scam.

CBI is investigating the role of former UP Minister Mr. Babu Singh Kushwaha in at least 12 contracts related to the National Rural Health Mission (NRHM) scam. At least five people are said to have been murdered in an attempt to coverup large-scale irregularities. [8]

On 22nd June, 2017 CBI has filed a supplementary charge sheet against former Uttar Pradesh family welfare minister Babu Singh Kushwaha and former principal secretary of the department Pradeep Shukla in the National Rural Health Mission (NRHM) scam case. The sources said over 7,000 pages of documents had been annexed with the charge sheet as evidence. The first charge sheet was filed in the case on February 25, 2013. [9]

4. Commonwealth Games Scam (2010)

Another feather in the cap of Indian scandal list is Commonwealth Games loot. Yes, literally a loot! Even before the long awaited sporting bonanza could see the day of light, the grand event was soaked in the allegations of corruption. It is estimated that out of Rs. 70000 crore spent on the Games, only half the said amount was spent on Indian sportspersons.

The Central Vigilance Commission, involved in probing the alleged corruption in various Commonwealth Games-related projects, has found discrepancies in tenders – like payment to non-existent parties, will-full delays in execution of contracts, over-inflated price and bungling in purchase of equipment through tendering – and misappropriation of funds.

All the accused, including Suresh Kalmadi, the Chairman of the organising committee of the Games, were charged of criminal conspiracy, cheating, forgery for purpose of cheating and were also charged under sections of the Prevention of Corruption Act. [10]

5. Satyam Scam (2009)

The scam at Satyam Computer Services is something that will shatter the peace and tranquillity of Indian investors and shareholder community beyond repair. **Satyam is the biggest fraud in the corporate history to the tune of Rs. 14000 crore.**

The company's disgraced former chairman Ramalinga Raju kept everyone in the dark for a decade by fudging the books of accounts for several years and inflating revenues and profit figures of Satyam. Finally, the company was taken over by the Tech Mahindra which has done wonderfully well to revive the brand Satyam.

6. 2G Spectrum Scam (2008)

We have had a number of scams in India; but none bigger than the scam involving the process of allocating unified access service licenses. At the heart of this Rs.1.76-lakh crore worth of scam is the former Telecom minister A Raja – who according to the CAG, has evaded norms at every level as he carried out the dubious 2G license awards in 2008 at a throw-away price which were pegged at 2001 prices.

But now on 21 December 2017, the lower CBI court headed by Justice Saini has held there was no crime at all, and acquitted all 17 accused including prime accused A Raja and Kanimozhi [11], the verdict was based on the fact that CBI could not find any evidence against the accused in those 7 years. CBI and the Enforcement Directorate will appeal against the Special court acquittal verdict in the Delhi High Court. [12]

7. The Hawala Scandal (1990-1991)

The Hawala case to the tune of \$18 million bribery scandal, which came in the open in 1996, involved payments allegedly received by country's leading

politicians through hawala brokers. From the list of those accused also included Lal Krishna Advani who was then the Leader of Opposition.

Thus, for the first time in Indian politics, it gave a feeling of open loot all around the public, involving all the major political players being accused of having accepted bribes and also alleged connections about payments being channeled to Hizbul Mujahedeen militants in Kashmir.

8. The Fodder Scam (1990)

If you haven't heard of Bihar's fodder scam of 1996, you might still be able to recognize it by the name of "Chara Ghotala," as it is popularly known in the vernacular language.

In this corruption scandal worth Rs.900 crore, an unholy nexus was traced involved in fabrication of "vast herds of fictitious livestock" for which fodder, medicine and animal husbandry equipment was supposedly procured.

The scandal led to the end of Lalu's reign as Chief Minister. On 23rd December, 2017 Lalu Prasad Yadav was convicted by a special CBI court. [13]

9. Bofors Scam (1980-1990)

The Bofors scandal is known as the hallmark of Indian corruption. The Bofors scam was a major corruption scandal in India in the 1980s; when the then PM Rajiv Gandhi and several others including a powerful NRI family named the Hinduja's, were accused of receiving kickbacks from Bofors AB for winning a bid to supply India's 155 mm field howitzer.

The Swedish State Radio had broadcast a startling report about an undercover operation carried out by Bofors, Sweden's biggest arms manufacturer, whereby \$16 million were allegedly paid to members of PM Rajiv Gandhi's Congress.

Most of all, the Bofors scam had a strong emotional appeal because it was a scam related to the defence services and India's security interests.

MEASURES NECESSARY FOR RESTORING THE FAITH IN RULE OF LAW IN INDIA

India's lower house of parliament, the Lok Sabha, has 545 elected lawmakers. As of May 2011, approximately 30 percent have criminal cases pending against them. Current election rules state that politicians may stand in elections

or serve in elected positions while on trial or while appealing convictions. In such cases where the accused chooses to stand trial, the average criminal case in India finishes 15 years after charges are initiated.

Fighting corruption has emerged as a key development issue in India in recent years. More and more policymakers, businessman and civil society organizations have begun to confront the issue openly [14]. At the same time the general level of understanding about corruption has risen markedly. Until recently, it was uncommon to hear someone discuss anti-corruption strictly in law enforcement terms. By contrast, most people working in the field today acknowledge that public education and prevention are equally important.

Efforts to fight corruption include institutional reforms and societal reforms. Institutional reforms include measures to reduce government authority, increase accountability, and align official incentives to public ends. These measures target government institutions and processes in all branches and levels of government. Societal reforms, on the other hand, include measures to change attitudes toward formal political processes and to mobilize political will for anti-corruption reform.

Looking at number of agencies created to tackle corruption, it is apparent that the government has been keen to eradicate corruption. The Prevention of Corruption Act was passed in 1947 and a committee on Prevention of Corruption was appointed in 1962 under K. Santhanam to examine the issue in depth and recommend measures. As a result of its recommendations, the Central Vigilance Commission (CVC), independent of ministerial control was set up in 1964. Another important measure during the early decades was the creation of the Central Bureau of Investigation in 1963, which incorporated Delhi Special Police Establishment (DSPE) as Investigation and Anti-Corruption Division. [15]

Besides this Civil Society Organizations also have a key role in combating corruption. In fact, the task of insuring sustained political commitment, administrative accountability, and procedural simplification can be achieved more quickly if vigilant and active civil society organizations take up the responsibility of interacting with the government organization. Civil society is, in the end, the stakeholder and the ultimate affected party of corruption and thus must be engaged constructively to get the support and buy-in for the necessary reforms. [16]

The civil society could participate in eradicating corruption through the NGOs by bringing corrupt practices to the notice of the powers or informing Central Vigilance Commission (CVC) about the disproportionate assets of the corrupt public persons against whom raids can be undertaken by the Central Bureau of Investigation (CBI) and the Income Tax Department. [17]

CONCLUSION

Corruption is an intractable problem. It is like diabetes, can only be controlled, but not totally eliminated. It may not be possible to root out corruption completely at all levels but it is possible to contain it within tolerable limits. Honest and dedicated persons in public life, control over electoral expenses could be the most important prescriptions to combat corruption. Corruption has a corrosive impact on our economy. It worsens our image in international market and leads to loss of overseas opportunities. Corruption is a global problem that all countries of the world have to confront, solutions, however, can only be home grown. We have tolerated corruption for so long. The time has now come to root it out from its roots. [18]

The one thing that needs to be ensured is proper, impartial, and unbiased use of various anti-social regulations to take strong, deterrent, and timely legal action against the offenders, irrespective of their political influences or money power. Firm and strong steps are needed to curb the menace and an atmosphere has to be created where the good, patriotic, intellectuals come forward to serve the country with pride, virtue, and honesty for the welfare of the people of India.

AUTHOR PROFILE



Dr. Ashu Vyas Maharshi is presently working as Assistant Professor, Amity Law School at Amity University, Jaipur (Rajasthan). Prior to this, she was Assistant Professor at Jaipur National University, Jaipur. She did her Ph.D. under the able guidance of Dr. V. K. Sharma, Professor, Faculty of Law, Jai Narain Vyas University, Jodhpur (Rajasthan). She is the master of her subject and always explores the basics for finding the solution of a problem. She is always concerned with the broader vision of the subject and explaining the things to the grass root level. Her way of presenting the topics in a very simple and illustrative manner is outstanding. She holds life membership of All India Law Teachers Congress, Delhi.

REFERENCES

- [1] http://en.wikipedia.org/wiki/Corruption_in_India, Visited on 23rd January, 2016.
- [2] World Conference on Human Rights, Vienna, 14-25 June 1993, 'Vienna Declaration and Programme of Action', UN doc. A/CONF.157/23, 12 July 1993
- [3] Center for Democracy and Governance. "A Handbook in Fighting Corruption". Technical Publication Series. February 1999.
- [4] Sunil Sondhi. "Combating Corruption in India – The Role of Civil Society". July 2017.
- [5] [http://news.in.msn.com/gallery.aspx?cp-documentid=5140159 & page=2](http://news.in.msn.com/gallery.aspx?cp-documentid=5140159&page=2), Visited on 2nd September, 2017.
- [6] <http://trak.in/2010/top-10-corruption-scams-scandals-india/>, Visited on 22nd December, 2017.
- [7] <http://www.thehindu.com/news/national/coal-scam-chronology-of-events/article6350481.ece>, Visited on 22nd December, 2017.
- [8] "Fifth man dead in UP's rural health fund scam". NDTV. 17 February 2012. Retrieved 17 January 2018.
- [9] <http://indianexpress.com/article/india/nrhm-scam-cbi-files-charge-sheet-against-former-up-minister-4717384/>, Visited on 22nd January, 2017.
- [10] <https://timesofindia.indiatimes.com/topic/Common-wealth-Games-Scam>, Visited on 22nd January, 2017.
- [11] <https://blogs.timesofindia.indiatimes.com/Swaminomics/bigger-than-the-2g-scam-is-the-justice-sham/>, Visited on 22nd December, 2017.
- [12] "2G scam verdict: CBI, ED to move HC over acquittal, say special court failed to note evidence". The New Indian Express. 22 December 2017. Retrieved 7 January 2018.
- [13] <http://indianexpress.com/article/what-is/what-is-the-fodder-scam-a-look-at-what-all-has-happened-since-1996-4645719/?abcde>, Visited on 23rd December, 2017.
- [14] http://en.wikipedia.org/wiki/Corruption_in_India, Visited 3rd December, 2017.
- [15] Ramakrishna, P.V., Anti-Corruption Laws in India (Hyderabad: S.Gogia, 1998).
- [16] [http://www.tarj.in/images/download/ajmr/AJMR%20JULY%202012%20\(COMPLETE\)/7.3,%20Yudhvir.pdf](http://www.tarj.in/images/download/ajmr/AJMR%20JULY%202012%20(COMPLETE)/7.3,%20Yudhvir.pdf), Visited on 16th December, 2017.
- [17] Richard Holloway. "NGO Corruption Fighters' Resource Book – How NGOs can use monitoring and advocacy to fight corruption". Geneva 2006.
- [18] <http://essay-ias.blogspot.com/2009/08/essay-corruption-in-india.html>, Visited on 16th December, 2017.