

Anti-Corruption Laws in India



Political Science

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ABSTRACT

In 2015, India was ranked 85th out of 175 countries in Transparency International's corruption perceptions index compared to its neighbors Bhutan (30th), Bangladesh (145th), Myanmar (156th), China (100th), Nepal (126th), Pakistan (126th) and Sri Lanka (75th). This is the second least corruption rank for India in the whole of South Asia. In 2013, India was ranked 94th out of 175 countries. The causes of corruption in India include excessive regulations, complicated taxes and licensing systems, numerous government departments each with bureaucracy and discretionary powers, monopoly by government controlled institutions on certain goods and services delivery, and the lack of transparent laws and processes. The Indian media is mainly owned by corrupt politicians and industrialists who also play a major role in most of these scams, misleading public with wrong information. The desire to pay lower taxes than those demanded by the state explains the demand side of corruption. The net result is that the corrupt officials collect bribes, the government fails to collect taxes for its own budget, and corruption grows.

Corruption in india is a major issue that adversely affects its economy. Public servants in India can be penalised for corruption under the

1. **Benami Transactions (Prohibition) Act, 1988**
2. **The Prevention of Corruption Act, 1988**
3. **Prevention of Money Laundering Act, 2002**
4. **The Right to Information Act 2005**

At present there are no legal provisions to check graft in the private sector in India. Government has proposed amendments in existing acts and certain new bills for checking corruption in private sector. Big-ticket corruption is mainly witnessed in the operations of large commercial or corporate entities. In order to prevent bribery on supply side, it is proposed that key managerial personnel of companies' and also the company shall be held liable for offering bribes to gain undue benefits

Benami Transactions (Prohibition) Act, 1988 is an act that prohibits benami transactions and the right to recover property held benami. It came into force on 5 September 1988. Benami is a Persian language word that means "without name" or "no name". In this Act, the word is used to define a transaction in which the real beneficiary is not the one in whose name the property is purchased. As a result, the person in whose name the property is purchased is just a mask of the real beneficiary. Aadhaar card is a technological help to Benami law enforcement. It is capable of preventing benami transactions in retail-corruption areas.

The **Prevention of Corruption Act, 1988** (No. 49 of 1988) enacted to combat corruption in government agencies and public sector businesses in india. The following are the offences under the PCA along with their punishments:- Taking gratification other than legal remuneration in respect of an official act, and if the public servant is found guilty shall be punishable with imprisonment which shall be not less than 6 months but which may extend to 5 years and shall also be liable to fine.

Taking gratification in order to influence public servant, by corrupt or illegal means, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Taking gratification, for exercise of personal influence with public servant shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Abetment by public servant of offences defined in Section 8 or 9,

shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Punishment for abetment of offences defined in Section 7 or 11 shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Prevention of Money Laundering Act, 2002 This act prescribes that any person found guilty of money-laundering shall be punishable with rigorous imprisonment from three years to seven years. He could also be liable to fine of up to 500000. However, vide amendment of PMLA, 2002 in 2012, the upper ceiling on the quantum of fine has been done away with. The main objectives of this act are to prevent money-laundering as well as to provide for confiscation of property either derived from or involved in, money-laundering

The **Right to Information Act 2005** is an Act "to provide for setting out the practical regime of right to information for citizens" The Act applies to all States and Union Territories of India except jammu and Kashmir Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. The first application was given to a Pune police station. The RTI process involves reactive (as opposed to proactive) disclosure of information by the authorities. An RTI request initiates the process. Each authority covered by the RTI Act must appoint their **Public Information Officer**. Any person may submit a written request to the PIO for information. It is the PIO's obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority, it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other authority within 5 working days.

The Act specifies time limits for replying to the request.

If the request has been made to the PIO, the reply is to be given within **30 days** of receipt.

If the request has been made to an APIO, the reply is to be given within **35 days** of receipt.

If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is **30 days** but computed from the day after it is received by the PIO of the transferee authority.

Information concerning corruption and Human Rights violations by scheduled Security agencies (those listed in the Second Schedule to the Act) is to be provided within **45 days** but with the prior approval of the Central Information Commission.

However, if life or liberty of any person is involved, the PIO is expected to reply within **48 hours**.

If information is not provided within this period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the times prescribed is to be provided free of charge.

Conclusion :-All the anti-corruption wings are under direct control of Government. Hence, ministers and politicians get an easy way to escape from the charges by pressurizing the Investigation agency. In India, the election is not state funded. Now days cost of winning elections are beyond imagination. This is one of the major reasons behind political corruptions. In active use of Right to information Act by Indian citizens is encouraging politicians to do corruption in a fearless manner. Pressure of coalition government is preventing the Prime Minister or Chief Minister to take any stern action against a corrupted politician or minister. To root out the evil of corruption from society, we need to make a comprehensive code of conduct for politicians, legislatures, bureaucrats, and such code should be strictly enforced. Judiciary should be given more independence and initiatives on issues related to corruption. Special courts should be set-up to take up such issues and speedy trial is to be promoted. Law and order machinery should be allowed to work without political interference. NGOs and media should come forward to create awareness against corruption in society and educate people to combat this evil.

REFERENCE

- Mukerjee, Sandeep (1990) commentaries on the prevention of corruption Act Hind Publishing House | The Benami Transaction Prohibition Act 1998 Universal law Publishing | Subrahmaniam, Vidya (12 August 2013) first -ever amendment to historic Rti Act tabled in lok sabha the hindu
 Dhamija, Dr. Ashok (2009) Prevention of corruption Act | The Right to information act ,2005 :an exhaustive, critical and analytical commentary of act N0.22 of 2005 by Prof S.R.Bhansali |