

Major Causes of Corruption in India and Problems of Indian Judicial System

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Abstract – *“Without strong watchdog institutions, impunity becomes the very foundation upon which systems of corruption are built. And if impunity is not demolished, all efforts to bring an end to corruption are in vain.” Corruption in India itself is big issue or a challenge that each party has to face in order to establish good governance. Corruption is not easy to vanish as it has been a part and parcel of life style and way working of almost all the Indians. Actually the basic reason behind this malpractice is that now people are not afraid of any social stigma or criticism. Moreover the level of moral values and professional is zero now days. To combat with corruptions in India is like battling with a cancerous disease with no surety or security of recovery. This Article by the researcher is a sincere attempt with great honesty to highlight the major causes of corruption in India and the problems faced by Indian Judiciary in the way of eliminating corruption completely.*

Key Words – Corruption, Indian Judiciary, Indian Constitution, Regulatory Law, Statutory Law

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INTRODUCTION

One of the oldest legal systems in the world today is the Indian Judicial System and it still incorporates certain features inherited from the British Judicial System during their Centuries of Colonial rule in India. The Indian Constitution, which is the Supreme law of the country, provides the framework of the present legal and judicial system of the country. India's Judicial System follows a “Common Law System” along with the Regulatory law and the Statutory law. Another important feature of our legal system is that it is based on the adversarial system, in which two sides of the story is presented in every case to a neutral judge, who would then give a judgment based on the arguments and evidence of the case. However, our judicial system faces certain inherent problems, which show the weaknesses and defects of the system, and which requires immediate reforms and accountability. There is a need for a strong system.

Corruption has come up as a thematic constituent of this renewed paradigm, in which development necessitates economic reform, which is again dependent on Political and Administrative reforms like good governance and Civil Service Reforms (CRS), accountability, human rights, multiparty-ism and democratization. Besides, very high levels of corruption has been observed where the government is regarded as illegitimate in the eyes of the population (implying widespread disrespect for legal procedures), and in countries where the state plays an

interventionist role in the economy. The role of the state and of politics is therefore essential to understand corruption. Corruption weakens the State and its ability to promote development and social justice. It is regressive in the sense that its costs and negative economic impact tend to fall more heavily on small enterprises and an on individuals in a weak economic position. The World Bank suggests: “Corruption is a double jeopardy for the poor and unprotected. They pay a high share of monopoly rents and bribes, while they are often deprived of essential government services.” It pushes firms into the black market, which effectively reduces the State's ability to raise capital and thus leads to ever-higher taxation on fewer and fewer taxpayers. This in turn reduces the State's ability to provide essential public goods, including the rule of law.

Corruption undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends. The harmful effects of corruption are especially severe on the poor, who are hardest hit by economic decline, are most reliant on the provision of public services, and are least capable of paying the extra costs associated with bribery, fraud, and the misappropriation of economic privileges. Thus corruption can be seen to be “...one of the greatest enemies of development.” The problem of corruption is very complex since it has its roots and ramifications in society as a whole. We however, are aware that man is not corrupt, by nature and there

are people in every society who can hardly be corrupted. They are the real gems of mankind and there can be no disregard to their services towards the society to which they belong. Yet, when we talk of corruption, we have those in mind who accept gratification and amass wealth by unfair means and out of the way obligations to undesirable elements that pay them off in lieu of such favours in cash and kind.

Though greediness of human being is the sole cause for all the miseries and evils, Corruption is the final product in the process of administration and proceeded by mal-administration, the factors which are responsible for the rampant growth of corruption can be classified under different heads such as social, political, economic, administrative and psychological factors. These objections have been amalgamated from a number of sources but largely Gray C. & Kaufmann, D. Corruption is a term whose meaning shifts with the speaker. So also causes of corruption vary from place to place, situation to situation, and society to society. However, some of the factors that prompt the existence of corruption are given below:

SOCIAL CAUSES OF CORRUPTION

Nepotism: It arises, perhaps from the extreme attachment of people to their families. Nepotism is a natural with most of the people and a person in an office feels that he should earn enough not only for himself and perhaps seven generations. That is probably the basis motive behind the enormous accumulation of wealth by the corruption in our country today.¹

Communalism and Religion: One of the social roots of corruption in India can be traced to our Indian culture of tolerance. Our religious faith redeemed every sinner on mere chanting the name of God i.e., Narayana and accepted into social life as a prodigal son, otherwise such a person was not accorded a respectable and dignified status and not considered as a desirable person. La Porta et al, investigated the relationship between religion and corruption.² They suggested that hierarchical religious structures, such as the Catholic, Eastern Orthodox, and Muslim faiths, which often act in symbiosis with the government, discourage the formation of trust. Treisman also obtained a strong association between religion and corruption.³ In another study, Paldam provided a more in-depth analysis of the impact of religion.⁴ While in countries with a large fraction of Reform Christianity and Tribal religion, corruption is lower, higher levels of corruption can be found in countries with a large influence of Pre-Reform Christianity, Islam, Buddhism

and Hinduism. However, the impact is only significant for Reform Christians (Protestants and Anglicans). In line with the argument of La Porta et al., the idea that hierarchies contribute to corruption has been supported by Husted (1999), who used a totally different set of data.⁵

Based on the surveys by Husted, he employs the resulting data on cultural values. One variable defined there is called "power distance" which measures "the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally". This variable is shown to have a positive impact on the level of corruption in a sample of 44 countries in various regressions, while controlling for other explanatory variables.⁶

Illiteracy: The most significant factor promoting corruption is the low level of literacy and citizens' awareness. In India, like in many other developing countries, the permissive attitude of the society, low rate of literacy and the low level of citizens' awareness, promote corruption.

Social change - Evil Social Practices: Evil social practices also promote corruption. One major social cause that promotes corruption is the dowry system. Dowry system is definitely one of the social roots of corruption in our country.⁷

Modernization: Intense modernization with development brought with it the highest rates of corruption because it creates or accentuates the political defects. As evidence, Huntington observes that the United States and Britain were comparatively corrupt during their respective industrial revolutions. Huntington gives three reasons why modernization leads to increases in corruption: 1) modernization leads to changes in the values of a society; therefore some behaviour that was traditionally accepted may become unacceptable and therefore corrupt; 2) modernization creates new sources of wealth to which the political structure has access; therefore opportunities for corruption are created; modernization also increases corruption because as countries modernize their governments tend to expand their authority and as the governments grow the number of bureaucrats also grows, allowing more people access to a situation where they can take bribes. This last reason is why regulations

¹ N. Vittal: "Corruption in India" Academic Foundation, New Delhi, 2003, page No.19

² La Porta, R., F. Lopez-De-Silanes, A. Shleifer and R. Vishny (1997), "The Quality of Government", The Journal of Law, Economics and Organization, Vol. 15 (1), 222-79

³ Treisman, D. (2000) "The Causes of Corruption: A Cross-National Study." Journal of Public Economics 76, 3, 399-457

⁴ Paldam, M. (2002), "The Big Pattern of Corruption. Economics, Culture and the Seesaw Dynamics", European Journal of Political Economy, Vol. 18: 215-240

⁵ Husted, B. (1999), "Wealth, Culture, and Corruption". *Journal of International Business Studies*, XXX (2): 339-60.

⁶ Dr. Johann Graf Lambsdorff, "Corruption in Empirical Research - A Review", 9th International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999

⁷ N. Vittal, Central Vigilance Commissioner, "Support of Vigilance Systems in Government to Citizens" Effort to Fight Corruption", (Paper presented at the Workshop of MKSS, Jaipur on 07.01.2002. <http://www.mkssindia.org/writings/mkssandrti/writings150-2/>, Last visited on 07/12/2015.

aimed at reforming corruption often result in increases in corruption.⁸

Urbanization: Lack of facilities including transportation, education and access to all basic requirements in rural areas made the people to migrate to urban areas where the cost of living is high. Consequently it led to corruption.

Costly Education System: Equally important is the social pressure in a competitive society for ensuring that children get the best possible education. Right from kindergarten in every educational institution, there is pressure of competition and education has become commercialized. This has been further accentuated by government policies about affirmative action resulting in a great incentive for self-financing colleges who charge a lot of donation fee and most of it is collected in black. Education pressure and corruption in the education sector is another social factor contributing to corruption in our system.⁹

Lower Expected Punishment: Corruption rapidly spreads when bribes are large and chances of being caught are small. And even penalties and punishments are negligible for both givers and takers. Even just the unfairness of the legal system, conflates cause and effect. An unfair legal system is one of the key detriments of corruption. Legal fairness is not the same thing as corruption, even though they are strongly related. Corruption may be less common in countries with their legal systems.¹⁰

Lack of Morality and Ethics: A man's character is the reality of himself: his reputation, the opinion others has formed about him: character resides in him, reputation in other people, character is the substance and reputation is the shadow image.¹¹The most significant factor promoting a culture of corruption is the discerning erosion of moral and ethical values in public life as a consequence of growing materialism and consumerism in the wake of westernization, industrialization and urbanization. Obviously, the forces of morality, including the Gandhian principles of ethical life, have been too superficial to penetrate the psyche of an Indian so as to influence his conduct in personal and occupational life. Lust for wealth and

power has been instrumental in corrupting public life. In the absence of strong social and cultural deterrents, corruption has accelerated incessantly.¹²

Casteism: Family is the basic unit of society in our Indian tradition, and Joint Family and Caste are nothing but the extension of family concept. In the modern world, joint family withered away, particularly in urban sector, but affinity and kinship among the families and people remained in the form of caste. Casteism gets a continuous boost because this seems to have become the basis of our entire politics, contrary to the ideals of our founding fathers of our Constitution who dreamt for classless and casteless society. We notice „corruption tribalism“. Politics is the route to power in a democracy. So when the politics are based on caste and the voter takes decisions at the emotional level, corruption is probably considered more tolerable.¹³ In the process, they want to promote the welfare of their own castes and without any reason, blindly favour the members of their own castes. This ultimately causes corruption and nepotism in social life.¹³Casteism has become an instrument in the hands of political leaders. Many political leaders, during elections, try to procure votes on communal and caste basis, rather than their own capacities and capabilities. This results in the election of under-serving candidates, who do not hesitate to promote their own caste interest at the cost of the common good. Thus, Casteism proves to be a hindrance to democracy.¹⁴

ECONOMIC CAUSES

Low Salaries: Inadequate salaries constitute an open invitation to corruption. Even those who do not want to besmirch their conscience and who want to adhere to absolute integrity, are compelled by sheer need, compulsive family need, to succumb to dishonesty, on less they have private resources of their own. And once they slide into corruption, their return to integrity becomes a virtual impossibility. However, it can be contended that good salaries are no guarantee of integrity, and that those who wish to be corrupt will always be corrupt. It is of course entirely true that high salaries do not provide any guarantee of integrity. But, appropriate salaries do provide an opportunity for those who wish to be honest, to remain above board.

Bureaucrats extract such payments from ordinary citizens and business people because their salaries are too low. If we pay bureaucrats more, they would not have to extort money. Higher incomes would

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⁸ Political Corruption: Concepts and Contexts edited by Arnold J. Heidenheimer, Michael Johnston, (third printing-1993), Transaction Publications, New Brunswick NJ, 1989; See also Elizabeth Sietsema "The Upside of Corruption: Economic Benefits of Bribery In China" Law of Nation building Fall 2005 <http://www.kentlaw.edu/perritt/courses/seminar/beth-sietsema-Seminar%20Paper-real-final.htm>, Last visited on 07/12/2015.

⁹ N Vittal, Central Vigilance Commissioner, "Corruption in Public Life: Steps to Improve India's Image" (Talk delivered at the BASF Mumbai on 14.2.2002.) <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN0198>, Last Visited on 18/09/2018

¹⁰ Uslander, "The Bulging Pocket and the Rule of Law", Ch. (1) "Corruption: The Basic Story" - <http://www.gvpt.umd.edu/uslander/uslanerbulgingpocketch1.pdf>., Last visited on 21/03/2019.

R.Vij: "Crime and Corruption in India" Friends Publishing House, New Delhi, 2006,P.No.26

¹² Dr. A. Rangareddy: "Dimensions of Crime and Corruption in India" Serials Publications, New Delhi, 2005, P.No.6

¹³ Corruption in Public Life: Steps to Improve India's Image (Talk delivered at the BASF Mumbai on 14.2.2002), by N. Vittal, Former Central Vigilance Commissioner, <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN019875.pdf>., Last visited on 07/12/2019.

¹⁴ Nitisha, "4 Consequences of Casteism", <http://www.yourarticlelibrary.com/caste/4-consequences-of-casteism-discussed/47352>, Last visited on 07/12/2019.

lead them away from temptation, and the fear of losing their jobs-which are now more valuable-if caught, would deter them from cheating the public.¹⁵ Yet we can find no evidence that higher wages for bureaucrats decrease corruption. "High wages" may not eliminate the greed on the part of some officials. "The total amount of money extorted is not likely to fall even if fewer people demand payments. Rose-Ackerman argues: "Systems that are based on the exchange of narrow political favours cannot be cured by reforms in the civil service and procurement systems. Even if higher wages could stop bureaucrats from acting as bandits, this would have only limited effect on the grand corruption of higher-level politicians and business firms.

Ironically, the correlation between bureaucratic wages and corruption is not a significant factor but may be a relevant factor in the developing countries. The most likely explanations are (1) if a high salary would deter corruption, the increase in wages would have to be substantial to make a bureaucrat unconcerned with "topping up": and (2) there would need to be some real likelihood that a corrupt official would lose her job-and be unable to find alternative employment. Evidence that any country with high levels of corruption could dramatically increase wages or would fire more than a handful of dishonest officials is lacking.¹⁶

Disparity in Economic Status: Economic inequality provides a fertile breeding ground for corruption - and, it leads to further inequalities. The connection between inequality and the honesty of government is not necessarily so simple. Uneven economic development is also very strongly related to all of the other determinants of corruption.¹⁷ Olken (2006) estimated that 18% of the rice that is distributed to the poor in Indonesia as a component of the wealth redistribution program disappears due to the corruption of the civil servants involved in the redistribution programmes. Hellman and Kaufman (2002) addressed the issue of the inequality by introducing the concept of crony bias as the symptom of inequality of influence, assuming that rich are able to convert their greater wealth into greater political influence over both the formation and functioning of institutions.¹⁸ The plight of underdeveloped African countries and developing countries need not be mentioned especially as to how corruption is vitalized on the incessant fertile field of inequality in economic status.

Depreciation in the value of currency (Relatively Low Income Per Capita): A measure of corruption

¹⁵ Puja Mondal, "Casteism: Meaning, Causes, Solution and Suggestions", <http://www.yourarticlelibrary.com/caste/casteism-meaning-causes-solution-and-suggestion/34994/>, Last visited on 07/12/2015.

¹⁶ Eric M. Uslaner: "*Corruption, Inequality and the Rule of Law*" Cambridge University Press, Newyork, 2008, P.No-37

¹⁷ Eric M. Uslaner, "Economic Inequality and the Quality of Government", Department of Government and Politics, University of Maryland-College Park College Park, MD 20742

¹⁸ Boris Begovic, "Economic Inequality and Corruption", <http://danica.popovic.ekof.bg.ac.rs/206.pdf>, Last visited on 07/12/2019.

and poor governance is negatively correlated across countries with income per capita and with scores on the UN Human Development Indicators. That is, richer countries and countries with higher human development ratings tend to have less corruption and better functioning governments. This might lead one to think that marginal improvement in governance are of questionable value in the absence of increased income per capita, and that good governance is a luxury good that citizens will demand once they are rich enough to care. However, evidence also suggests that poor governance is itself one reason why some countries are poor or have stagnant economies. Thus low income may be both a cause and a consequence of corruption.¹⁹

Emergence of Consumerism: This brings us to another important root of corruption, which probably is getting more accentuated in recent times. This is the spreading cult of consumerism. The electronic media have had a tremendous impact in creating a desire in the minds of everyone to have the best of consumer goods even at the beginning of life. Consumerism and desire for an ostentatious lifestyle tempts many to make money by hook or crook. Corruption is the result.²⁰

Poverty and Corruption: It is largely believed that there exist a strong connection between corruption and poverty. Poverty is worsening in many nations and populations. It is an issue that has been of international concern. The corrupt activities of many public officials and private business people contribute significantly to the perpetuation of poverty and the continuation of the underdevelopment of nations.

Poverty is also a complex phenomenon. It is usually defined in relation to income and often measured in terms of per capita gross domestic product (GDP). A broader definition treats poverty as multidimensional, including (1) low income, (2) low levels of education and health, (3) vulnerability (to health or income loss, natural disaster, crime and violence, and education curtailment) and (4) voicelessness and powerlessness (feeling discrimination, lack income earning possibilities, mistreatment by state institutions, and lack of status under the law).²¹

However, contemporary discussions of poverty have broadened the concept from a narrow income-based definition to a more inclusive notion of "capability"

¹⁹ Dr. Vinay Bhargava, Director, International Affairs, The World Bank Global Issues Seminar Series "The Cancer of Corruption", <http://siteresources.worldbank.org/EXTABOUTUS/Resources/Corruption.Pdf>. Last visited on 07/12/2019.

²⁰ N. Vittal, Former Central Vigilance Commissioner "Support of Vigilance Systems in Government to Citizens" Effort to Fight Corruption" (Paper presented at the Workshop of MKSS, Jaipur on 07.01.2002)

<http://www.mkssindia.org/writings/mkssandrti/writings150-2/>. Last visited on 07/12/2019

²¹ Eric Chetwynd Frances Chetwynd Bertram Spector, "Corruption and Poverty: A Review of Recent Literature", Final Report January 2003. <http://www.eldis.org/vfile/upload/1/document/0708/DOC14285.pdf>. Last visited on 07/12/2019.

poverty, which addresses issues of health, literacy and social exclusion. But whatever definition is used, petty and grand corruption has direct and indirect impact on poverty.²²

Rise in Prices and Scarcity of Goods: This aspect is a text-book testimony for the prevalence and play of corruption. The rise in prices and scarcity of good depict the camaraderie of individual greed and opportunistic self-aggrandizement. Though the „double-evil“ is always described by the rulers as temporary, the present day situation defy that assumption for we witness today that rise in prices has become a part of perpetual phenomenon even in the case of abundance of goods in the market. This is devil-minded human process. Necessity knows no law, ethics or morals; and it drives a person to stoop down to base practices like corruption. State agencies and employees are no exception to this evil. It is also one of the important factors for the rampant growth of the corruption. When there is a scarcity of goods i.e., sufficient enough to meet the demands of the people obviously there will be rise in price. In such circumstances, there is rise in price of goods; monthly salaried employees cannot afford to purchase the goods. Consequently they think of alternative means by which they can fulfill their needs.

ADMINISTRATIVE CAUSES

Even when the distinction between political and bureaucratic corruption is rather ambiguous as it depends on the separation of politics from administration (which is unclear in most political systems), the distinction is important in analytical and in practical terms. Whereas bureaucratic corruption normally can be dealt with through auditing, legislation, and institutional arrangements, the degenerative effects of political corruption cannot be counteracted by an administrative approach alone.

Discretionary Power: Corruption needs only two prerequisites- first, there must be a predisposition on the part of an individual to accept gratification, and second, he must have some discretionary power to affect some sections of the public. When both these factors combine, corruption most prevails. No wonder that the Independent India is a fertile ground for corruption.²³ There has been a strong demand to abolish or curtail the discretionary powers of the ministers which may impact on reduction of corruption in bureaucracy or administrative wings. In recent years, sealed bid open auctions have come to be widely recognized as the most efficient contract awarding procedure. However, Chever and Moore argue that there is no clear empirical data to support the claim that such mechanisms yields more efficient

results than alternatives like auctions with negotiations or less formalized auctions.²⁴

Red-Tapism: Red tapism is the set of rules and regulations that private agents are obliged to comply with in order to engage in entrepreneurial activity. Corruption is the payment of bribes to public officials for the purpose of circumventing red tapism. Capital market imperfections are the asymmetries of information between borrowers and lenders about the returns to entrepreneurship. Thus Red-tapism is one mode of creating or accelerating the corruption. At times, the system actually forces officials to be corrupt, at any rate, connive at corruption. Rules that are supposed to prevent corruption are themselves the cause of this bizarre situation. As is widely known, „working to rule“ implies administrative paralysis. This plethora of rules also promotes Grease money and also causes corruption for genuine work.

Post-Retirement Benefits: When the salaries of government servants are not very high and there is hardly anything left to save for life after retirement, there is probability of government servants resorting to decent expectations like a strong temptation among the government officials to grant illegal favours to corrupt politicians and bureaucrats in lieu of re-employment after retirement. The lack of proper social security system or ill equipped welfare measures, just like in India, will further fuel the upsurge of corruption among the public officials while there are in service.

Poor Enforcement of Property Rights and the Rule of Law: Weak enforcement of law and order and insecure property rights encourage corruption. When property rights are weakly defined and poorly enforced, the boundaries between public and private ownership become blurred. The resulting ambiguity of ownership not only discourages domestic investment, but also deters the inflow of foreign capital. Corruption is also more likely to take place when the bureaucratic red tape is excessive and legislative and judicial systems are weak. Ironically, the same economic liberalization policies that are an essential part of reform in transition economies may also facilitate corruption, if the necessary reduction in the size of government also reduces its regulatory capacity.²⁵

²² "Causes & consequences of corruption" <http://www.anti-corruption.org.bt/pdf/FAQS/FAQs1.pdf>, Last visited on 07/12/2019.

²³ Deepak, "Corruption the Deadliest Evil in the Society", p118, <http://www.exposeknowledge.com/kb/8051-curoption-deadliest-evil-society.aspx>. Last visited on 07/12/2019.

²⁴ Lisa Chever; John Moore, "When More Discretionary Power Improves Public Procurement Efficiency: An Empirical Analysis of Auctions with Negotiation and Reduction of Formalism", <http://corruptionresearchnetwork.org/acrn-news/articles/when-more-discretionary-power-improves-public-procurement-efficiency-an-empirical-analysis-of-auctions-with-negotiation-and-reduction-of-formalism>, Last visited on 07/12/2019.

²⁵ Dr. Vinay Bhargava, Director, International Affairs, The Center of Corruption, The World Bank Global Issues - Seminar Series <http://siteresources.worldbank.org/EXTABOUTUS/Resources/Corruption.pdf>, Last visited on 07/12/2015.

PSYCHOLOGICAL FACTORS

Another cause of corruption is psychological. Greediness can be said to be the main psychological factor. Can “Greediness” be eliminated by implementing all “Manmade Laws” - is a million dollar question. Of course at the same time it may be said that since there is failure or since the existing law is unable to eliminate the evil of corruption we cannot sit keeping quiet. Coming to the definition of greediness it may be defined as “excessively desirous of acquiring or possessing, especially wishing to possess more than what one needs or deserves”.²⁶

There are numerous psychological factors that can help to explain some types of corruption. Internally, some people are “naturally evil” and will commit criminal acts, including corrupt ones in any type of system. Pressure and peer comparison can contribute greatly to acts of corruption, especially so where the socially revered are the corrupt ones. This presupposes that in an environment where an individual see others around him/her benefiting from corruption, they may well choose to indulge too. Nepotism can also be related in psychological term. The cliché “blood is thicker than water” is common parlance. This can also be explained in terms of people wanting to entrench themselves or maximize their hold on power.²⁷ Equally important is another psychological factor. Power is never demonstrated in a society unless it is misused. In certain communities being as corrupt as possible and amassing as much wealth as possible is seen as a macho demonstration of “competence”. If this is the attitude, those sectors of society that did not have an opportunity to share the power cake in the past may also rationalize that they must emulate those who had earlier enjoyed misuse of their power and amassed wealth by rampant corruption. Thus a vicious cycle of corruption is launched where a society tolerates amassing of wealth and does not question how that wealth is accumulated.

CHALLENGES FACED BY INDIAN JUDICIARY IN PRESENT SCENARIO

Corruption in Judiciary: Like any other institution of the Government, the Indian judicial system is equally corrupted. The various recent scams like the CWG scam, 2G scam, Adarsh Society scam, including rapes and other atrocities in the society etc. have emphasised both the conduct of politicians and public dignitaries, including the common man, and also on the drawbacks in the functioning of Indian judiciary. There is no system of accountability. The media also

do not give a clear picture on account of the fear of contempt. There is no provision for registering an FIR against a judge taking bribes without taking the permission of the Chief Justice of India.

Backlog of Pending cases: India’s legal system has the largest backlog of pending cases in the world – as many as 30 million pending cases. Of them, over four million are High Court cases, 65,000 Supreme Court cases. This number is continuously increasing and this itself shows the inadequacy of the legal system. It has always been discussed to increase the number of judges, creating more courts, but implementation is always late or inadequate. The victims are the ordinary or poor people, while the rich can afford expensive lawyers and change the course of dispensation of the law in their favour. This also creates a big blockade for international investors and corporations to do business in India. And also due to this backlog, most of the prisoners in India’s prisons are detainees awaiting trial. It is also reported that in Mumbai, India’s financial hub, the courts are burdened with age-old land disputes, which act as a hurdle in the city’s industrial development.

Lack of transparency: Another problem facing the Indian judicial system is the lack of transparency. It is seen that the Right to Information (RTI) Act is totally out of the ambit of the legal system. Thus, in the functioning of the judiciary, the substantial issues like the quality of justice and accountability are not known properly.

Hardships of the under trials: In Indian jails, most of the prisoners are under trials, which are confined to the jails till their case comes to a definite conclusion. In most of the cases, they end up spending more time in the jail than the actual term that might have had been awarded to them had the case been decided on time and, assuming, against them. Plus, the expenses and pain and agony of defending themselves in courts is worse than serving the actual sentence. Under trials are not guilty till convicted. On the other hand, the rich and powerful people can bring the police to their sides, and the police can harass or silence inconvenient and poor persons, during the long ordeals in the courts.

No interaction with the society: It is very essential that the judiciary of any country should be an integral part of the society and its interactions with the society must be made regular and relevant. It is also seen that there is involvement of common citizens in judicial decision-making in several countries. However, in India, the Indian judicial system has no connection with the society, something which it had inherited from the British judicial set-up. But, things should have changed over the last 60 years. Even today, the law officers have not been able to come closer to the ground to meet the common people. We see that in spite of all the advancements in information and communication technologies changing the life of the people of the country dramatically, the India legal system still looks like a

²⁶ Brima Karl Samura, “The Negative Effects of Corruption on Developing Nations”, <http://gnpai.org/researchlibrary/corruption/THE%20EFFECTS%20OF%20CORRUPTION.pdf>. Last visited on 07/12/2019.

²⁷ N. Vittal, Central Vigilance Commissioner, “Support of Vigilance Systems in Government to Citizens: Effort to Fight Corruption”, (Paper presented at the Workshop of MKSS, Jaipur on 07.01.2002) <http://www.mkssindia.org/writings/mkssandrti/writings150-2/>, Last visited on 07/12/2019

domineering and pretentious British vestige appearing to belong to an elite class away from the people and the country. As a matter of fact, the present system of justice is totally out of place and out of time and tune with democratic procedures and norms that please only a certain section of the society with vested interests. Therefore, there is an immediate need to restructure the entire judicial system to make it answerable to the needs of a democratic, progressive society.

CONCLUSION

Among the plethora of reasons for failure to combat corruption, the more important ones are the inadequate and inefficient enforcement mechanisms, insufficient and deficient laws, lack of political will, and more importantly the cultural context of social tolerance and easy forgiveness. Any outrage that is there is largely confined to rhetoric, not action. Despite some helpful developments such as the newly conferred freedom of information, active investigative media and engaged civic groups, reasons for optimism appear to be minimal. The need seems to be a serious effort to develop sound norms by changing the societal culture, which places the premium on the shoulders of political parties.

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