

Understanding Corruption in India: Promoting Transparency



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Overview of Current Situation

"Corruption threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust and undermines the rule of law".

– G-20 Summit, Seoul



Since 1991, economic liberalization in India has reduced red tape and bureaucracy, supported the transition towards a market economy and transformed the economy, with high growth rate. However, although the Indian economy has become the 4th largest in the world, the growth has been uneven across social and economic groups, and poverty is still an issue. Endemic and deep rooted corruption is a major factor for most social and political ills. It is a serious threat not just to sustainable economic growth, but

also to the socio-political fabric of the country.

Recent major scandals – such as the 2G spectrum scam, Commonwealth Games misappropriations, Adarsh housing scandal, and the cash for vote scam – have badly dented the credibility of the political class. Public dissatisfaction with the current inefficient and arbitrary decision making system of the nation appears to be at all time high after independence. This is symbolizes by the massive public support Anna Hazare, a noted Gandian social worker received in his recent campaign against corruption. Never before, in the history of independent India, the anti-corruption sentiment has been so high. Anna's crusade appears to have emboldened even the weakest and the most voiceless groups of the society. His appeal to raise voice against the petty corruption of the lower bureaucracy has particularly gone well with the ordinary people.

For the first time after independence, the RTI act of 2005 gave some teeth to anti-corruption activists and empowered the public to probe the activities of government officials and expose corruption. But it does not address the root causes of widespread corruption in the country and a major overhaul of the legislative system is required. It implies change in the system of governance of the nation so that the ruling class is made more accountable to the people electing them.

What is Governance?

Governance consists of the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

The current system of governance is so rotten that honest people appear to have no place in it. It was prominently highlighted in the media few years ago in 2003 when Satyendra Dubey was murdered for exposing the National Highway Authority corruption scandal. A prominent RTI activist, Shehla Masood, in Bhopal was murdered on 16 August, the day when Anna Hazare was to start his second round of "hunger strike". Harassment and killing of people raising their voice against corruption has been going on for a long time. Unfortunately, the political class has lost will power to address this serious issue at the root level.

People are now hoping that Anna Hazare's efforts will change the rotten ways of running the country, of which corruption is just a byproduct. There is optimism in the country that a strong Lokpal Bill will be soon passed by the law makers and then they will address the other basic issues such as the "right to recall" and the "right to reject" so that criminals don't get elected.

Brief History of Corruption after Independence



Probably the first high profile scandal after independence was the Jeep scam in 1948, when jeeps were required for the army operation in Kashmir. V. K. Krishna Menon, the then High Commissioner for India in London entered into a deal with a foreign firm without following the normal procedure. Rather than initiating a judicial inquiry, as suggested by the Inquiry Committee led by Ananthsayanam Ayyangar, the then Government announced in 1955 that the Jeep scandal case was closed. Union Minister G.B.Pant made a funny announcement "that as far as Government was concerned it has made up its mind to close the matter. If the opposition was not satisfied they can make it an election issue." Soon there after in 1956, Krishna Menon was inducted into the Nehru cabinet as minister without portfolio.

Other notable scandals include the Mudgal case (1951), Mundra deals (1957-58), Malaviya-Sirajuddin scandal (1963). The governing climate in those days can be gauged from the following observations:

A one man committee of A. D. Gorwala, set up to suggest ways to improve the system of governance, observed that quite a few of Nehru's ministers were corrupt and this was common knowledge and that the government goes out of its way to shield its ministers.

The Santhanam Committee, which was appointed in 1962 to examine the problem of corruption, observed in 1964 that: "There is widespread impression that failure of integrity is not uncommon among ministers and that some ministers, who have held office during the last sixteen years have enriched themselves illegitimately, obtained good jobs for their sons and relations through nepotism and have reaped other advantages inconsistent with any notion of purity in public life."

In later years, corruption gradually became almost institutionalized when power got concentrated in just one person – Indira Gandhi. Nagarwala case (or V K Malhotra) was a most bizarre scandal when the Chief Cashier of State Bank of India, V.P.Malhotra paid Rs 60 lakhs to one Nagarwala supposedly on telephonic instructions from Indira Gandhi. Nagarwala died in jail but the mystery was never really resolved.

Later, the Bofor's deal and the kickback charges led to Rajiv Gandhi losing power. Then Narsimha Rao became the first Prime Minister to be prosecuted in corruption charges in the JMM bribery case. Of course, he was later acquitted.

What is surprising is that despite the knowledge of widespread corruption no effective measures have yet been installed that curb the menace. The Lokpal Bill could not be passed in last decades; it speaks for the utter lack of political will in the country.

What is Corruption?

Corruption is an age-old phenomenon. The word corruption means destruction, ruining or spoiling – a society or nation. Selfishness and greed are at the root of it; it also implies lack of integrity and honesty. A corrupt society is characterized by immorality and lack of fear or respect for the law. When it stops valuing integrity, virtue or moral principles it starts decaying. Corruption is the abuse of public power for private gain. Corruption comes under many different guises: bribery, misappropriations of public goods, nepotism (favoring family members for jobs and contracts), and influencing the formulation of laws or regulations for private gain.

Corruption is not just the clearly "bad" cases of government officials skimming off money for their own benefit. It also includes cases where the systems don't work well, and ordinary people are left in a bind, needing to give a bribe to get a work done or the licenses they need.

The state of economy also plays an important role in corruption. Inequality of wealth distribution, exploitation by employers, and low wages and salaries provide ideal breeding ground for corruption. A license-permit regime or scarcity of basic commodities adds fuel to the fire. India is a textbook example of how license-permit Raj can vitiate political as well as economic atmosphere of the nation.

Broadly speaking, there are two forms of corruption:

Administrative Corruption: Corruption that alters the implementation of policies, such as getting a license even if you don't qualify for it.

Political Corruption: Corruption that influences the formulation of laws, regulations, and policies, such as revoking all licenses, and gaining the sole right to operate some public utility with monopoly.

Root Cause of Corruption

Corruption is always contextual and rooted in a country's policies, bureaucratic traditions, political development, and its social and cultural history. Still, corruption tends to flourish when policies are complicated, their implementation is weak, and the general public has no redressal mechanism. Klitgaard has modeled the dynamics of corruption (**C**) in the public sector in the following equation:

$$C = M + D - A$$

Corruption tends to increase when an organization or person has **monopoly (M)** power over a good or service, which generates income, has the **discretion (D)** on its allocation, and is **not accountable (A)**.

Why should We Care?

*Average income is about three times lower than in less corrupt countries (the difference between, say, **Ukraine** and **Czech Republic**, **Indonesia** and **South Korea**, or **Chad** and **Namibia**).*

When the ruling elite fail to curb the activities of the corrupt and the selfish within it, the governance begins to rot and the ordinary people begin to lose faith in the ruling class. Such a society begins to decay and sets itself on the road to self-destruction. A state of unchecked political corruption is known as kleptocracy, which literally means "rule by thieves".

According to World Bank estimates, between \$1 trillion and \$1.6 trillion dollars are lost globally to illegal activities each year. Corruption decreases the amount of wealth in a country and lowers the standard of living. Corruption affects you even if you don't come into direct contact with it. For example, corruption:

- Vitiates the business atmosphere and discourages businesses from operating freely; thus, acts as a demotivating force, which reduces opportunities for all.
- Reduces the amount of money government has and degrades the quality of government services; for example education, healthcare, infrastructure, welfare programs, police, etc
- Is an important factor behind the widespread poverty in India. A large chunk of funds meant for the welfare programs for the poor is siphoned off by the corrupt officials and the intermediate agencies.
- Allows criminal activities such as money laundering, extortion and drug trafficking to thrive.
- Allows those with money or connections to bend the law or government rules in their favor. This is how rich businessmen and politicians are always hand in gloves.
- Puts weaker section of the society to disadvantage because those with less power are particularly disadvantaged in corrupt systems, which typically reinforce gender discrimination.
- Distorts national and international trade.
- Jeopardizes sound governance and ethics in the private sector.
- Undermines democracy and the rule of law.

The conclusion - Corruption hurts everyone.

Impact on the Poor

There is considerable evidence to show that although rich people are more likely to pay bribes, the poor bear a disproportionately high burden of corruption if measured as the fraction of income paid in bribes. They often face outright exclusion when access to public goods and services require bribing, given their powerlessness due to lack of voice or political influence. Moreover, when corruption results in shoddy public services, the poor have no other options but to live with sub-standard services.

Corruption also unfairly weighs heavily on trade and service activities of small enterprises not only for the added cost but also as a discouraging factor. Corruption allows already influential individuals or groups of individuals to take advantage of state activities at the cost of the rest of the population; it hurts the poor disproportionately and increases income inequality.

A study of recent economies in transition indicates that the changes in income distribution have been partly the result of corrupt actions of non-transparent privatizations.

How to Stop Corruption

Accountability and transparency are two great antidotes to corruption. If the legal system is quick, fair and uncomplicated, it makes the task of fighting corruption easier. Free and strong press is the third facilitating factor. Therefore, laws fixing accountability and encouraging transparency combined with efficient judiciary and free press provide ideal atmosphere to tackle the menace of corruption.

Anna Hazare's crusade for an effective Janlokal Bill and reforms of election and judicial system, if implemented properly, will go a long way in curbing corruption in India.

Financial Scams in India

Almost all major scams of last six decades are a direct result of deficit in Governance by our corrupt Politicians and Bureaucrats. Following is a partial list of financial scandals since the economic liberalization of 1991-92. The total monetary worth of the Scam committed since 1992 in India is worth more than around Rs 1,00,00,000 crores (One Crore Crores!). Needless to say, a lot of other scandals of probably smaller magnitude must have also taken place, but have gone unnoticed or unreported.

- 1992 — Harshad Mehta Scam was worth Rs 5000 Crores.
- 1994 — Sugar Import Scam was worth Rs 650 Crores.
- 1995 — Preferential Allotment Scam was worth Rs 5000 Crores.
- 1995 — Yugoslav Dinar scam was worth Rs 400 Crores.
- 1995 — Meghalay Forest Scam was worth Rs 300 Crores.
- 1996 — Fertilisers Import Scam was worth 1300 Crores.
- 1996 — Bihar fodder Scam was worth 950 Crores
- 1997 — Sukhram telecom Scam was worth Rs 400 Crores.
- 1997 — Lavalin Power project Scam was worth Rs 374 Crores.
- 1997 — Bihar Land Scam was worth 1200 Crores
- 1997 — C R Bhansali stock scam was worth Rs 1200 Crores.
- 1998 — Teak Plantation Scam was worth rs 8000 Crores.
- 2001 — UTI Scam was Rs 4800 Crores.
- 2001 — Dinesh Dalmia Stock Scam was worth Rs 596 Crores.
- 2001 — Ketan Parekh security scam was worth Rs 1250 Crores.
- 2002 — Sanjay Agarwal Home Trade Scam was worth Rs 600 Crores.
- 2003 — Telgi Stamp paper Scam was worth Rs 172 Crores.
- 2005 — IPO Demat Scam was worth Rs 146 Crores.
- 2005 — Scorpene submarine Scam was worth Rs 18,978 crores.
- 2006 — Punjab's city centre project scam
- 2006 — Taj Corridor Scam was worth 175 Crores.
- 2008 — Pune Billionaire Hasan Ali tax default scam was worth Rs 50,000 crores.
- 2008 — Satyam Scam was worth Rs 10.000 Crores.
- 2008 — Army Ration Pilferage Scam was worth Rs 5000 crores.
- 2008 — 2G Spectrum Scam was worth Rs 60.000 Crores.
- 2008 — State Bank of Saurashtra Scam was worth Rs 95 crores.

2008 — Illegal money in Swiss Bank is worth Rs 71,00,000 Crores.
2009 — Jharkhand Medical equipment scam was worth Rs 130 Crores.
2009 — Rice export scam was worth Rs 2500 crores.
2009 — Orissa Mine scam was worth Rs 7000 crores.
2009 — Madhu Koda scam was worth Rs 4000 crores.
2010 — IPL fraud involving swine called Lalit Modi option yet to be fixed.
2010 — Commonwealth Games scam. Quantum of loot yet to be fixed.
2011 — Reddy brothers illegal mining activity. Recently arrested by CBI on High Courts directive. Quantum of loot yet to be fixed.

15 High Profile Major Scandals

Major scandals involving high level public officials have shaken the Indian public service in recent years, with politicians and public servants regularly caught accepting bribes or mismanaging public resources. Except for the Satyam Computers scandal which was largely a creation of its chairman, the following major scams testify to it. This suggests corruption has become a pervasive aspect of Indian politics and bureaucracy.

1. Mega Black Money Laundering Scam

Cost: **Rs. 70,000 Crores**

Face of the Scam: **Hassan Ali Khan**



This scam of ultra high magnitude came into lime light when Indian businessman was arrested on money laundering charges which was to the tune of Rs. 39,120 crores. The revelation about the huge sums of money being stashed away in Swiss banks underscored and exposed the problem that has been the focus of Baba Ramdev's activities in recent years. The government is only now appear to acknowledge that money laundering is a real problem.

2. CWG Scam

Cost: **Rs. 70,000 crores**

Face of the Scam: **Suresh Kalmadi**

Allegations of corruption over the 2010 Commonwealth games in Delhi are being investigated by several bodies including the CBI and a special committee set up by the Prime Minister. Allegations of corruption spanned a broad spectrum including issuing of contracts and purchase of equipment – from treadmills to toilet rolls. The preparation for the sporting extravaganza consumed a huge sum of about Rs 70,000 crore. It was always in lime light for various allegations such as child labor, nepotism and favoritism, payment to non-existent parties, willful delays in execution of contracts, besides the highly inflated financial costs.



Just imagine - liquid soap dispensors were rented for Rs 9,379 a piece , operating expenses escalated from Rs 399 crore in December 2002 to Rs 1,628 crore; finally, medical equipment including tread mills were brought or rented at way past the asking rate. Like any other scams in the past, the games scam involved a large network of politicians, bureaucrats and corporates acting in collusion.

The chairman of the organizing committee, Suresh Kalmadi, and his aides are in jail and the investigation is going on. Delhi CM is also facing heat of adverse remarks in Shunglu committee's report.

3. 2G Spectrum Scam

Cost: Rs 176,000 crore

Face of the Scam: A. Raja & M. K. Kanimozhi



Telecoms Minister Andimuthu Raja was sacked after a report by India's state auditor said his ministry sold licenses and spectrum below market prices, depriving the government of up to USD 39 billion in revenues. The Comptroller and Auditor General of India (CAG) said rules were flouted in spectrum allocation in order to give benefits to several ineligible in 2007-08. The heat of the investigation reached even the PMO which had to explain to the Supreme Court why PM sat on a request for permission to charge Raja with corruption. The CBI launched an investigation into alleged corruption at the ministry and arrested A Raja. The investigation is being carried out under direct supervision of the Supreme Court.

Several telecom companies are also under CBI's scanner. DMK MP Kanimozhi is also in Tihar jail and another DMK minister Dayanidhi Maran had to resign recently. Maran was under pressure to quit after CBI accused him of forcing the promoter of Chennai-based telecom company Aircel to sell his firm to a Malaysian company in 2006, when he was Telecom minister.

The scam became bigger with new revelations of the involvement of politicians, bureaucrats, corporate personalities, media persons and lobbyists.

4. Adarsh Housing Scam

Cost: Rs 18,978 crores

Face of the Scam: Ashok Chavan and Politicians

Adarsh Housing society scam is a typical example of nexus among politicians and bureaucrats, this time for land grab. Congress party politicians, bureaucrats and military officials have been accused of taking over land meant for building apartments for war widows. The CBI began investigating the case when pressure was mounted by opposition parties in Parliament.



Local media say apartments with a value of USD 1.8 million were sold for as little as USD 130,000 each in the apartment block, which faces the Arabian Sea in one of the world's most expensive stretches of real estate in Mumbai.

So far only Maharashtra CM, Ashok Chavan, has been sacked and the CBI is probing for several violations of norms, including environmental laws and land-use rules. Some vital files related to the case have gone missing – typical of cases involving ruling politicians.

5. Scorpene Submarine Scam

Cost: Rs 18,978 crores

Face of the Scam: Ravi Shankaran



Exposed in 2005, the Scorpene deal scam has gone down in history as one of India's largest bribery corruption scandals, in which Rs 500 crore is alleged to have been paid to government decision makers by Thales, the makers of the Scorpene submarine. The amount was channeled via middlemen such as Abhishek Verma. In the scandal, the prime accused, Ravi Shankaran was selling secret Navy documents to Thales. In 2005, the Indian government had approved the 19,000 crore submarine deal with the French company. The purchase of six Scorpene submarines cost the Indian

government a lot more than its actual price. Scorpene submarines are now being built in India under a technology transfer agreement that was part of that contract.

6. Stamp Paper Scam

Cost: Rs 20,000 crores

Face of the Scam: Abdul Karim Telgi

The Stamp Paper scam was perhaps the most unusual scam in modern India. Abdul Karim Telgi, a former fruits and vegetables seller, duped the nation of crores of rupees by printing fake stamp papers. His counterfeiting career began with fabrication of fake passports after which he ventured into selling fake stamp papers to banks, insurance companies, foreign investors, share broking firms and bulk purchasers. His accomplices included police officers, government employees, and politicians.

The swindle exceeded Rs 20,000 crore and covered 12 states. The Telgi scandal had political implications; a narco test allegedly revealed the involvement of Maharashtra's political heavy weights like Sharad Pawar and Chhagan Bhujbal.

Telgi was convicted in 2007 and sentenced to 13 years of rigorous imprisonment and fined Rs 202 crore. Forty-two of his accomplices were also sentenced to six years rigorous imprisonment.

7. Bofors Scam

Cost: **Rs. 400 million**

Face of the Scam: **Ottavio Quattrocchi**



The Bofors case has been one of the highest-profile and longest-running criminal investigation in India. In the 1980's, the then Prime Minister Rajiv Gandhi and several other officials were accused of receiving kickbacks from Swedish arms manufacturer AB Bofors for winning a bid to supply India with 400 howitzers. The scale of the corruption was far worse than any that India had seen before, and directly led to the defeat of Gandhi's ruling Congress party in the November 1989 general elections. Top politicians like Rajiv Gandhi and S.K. Bhatnagar and high profile names like Win Chadha and the Hinduja family were accused of "receiving kickbacks. Italian

businessman Ottavio Quattrocchi, was the prime accused in the scandal and was chased by the CBI for years.

Its fallout stymied India's defense expansion for years, with officials unwilling to take decisions on purchases for fear of later being probed for corruption.

8. Fodder Scam

Cost: **Rs. 950 crores**

Face of the Scam: **Lalu Prasad Yadav**

Popularly known as "Chara Ghotala", this is Bihar's most famous scam in recent years. For over two decades, the officials and politicians of the state colluded to embezzle funds worth Rs. 950 crores by fabricating vast herds of fictitious livestock for which fodder, medicines and animal husbandry equipment were acquired. The swindle allegedly involved chief ministers Jagannath Mishra and Lalu Prasad Yadav; the later also spent some time in jail. The case is still going on.



9. Hawala Scam

Cost: **Rs. 80 crores**

Face of the Scam: **L K Advani / P V Narsimha Rao**

The Hawala scam was a \$18 million bribery scandal and came in the open in 1996. It involved payments allegedly received by country's leading politicians through hawala brokers. It was probably the first scam that gave the public an idea of the loot of national treasure at the hands of the top politicians. The scam revolved around the payments politicians received from hawala brokers, who fund drugs and terrorism around the globe. Many prominent politicians like LK Advani, Arjun Singh, Yashwant Sinha, Kalpnath Roy, VC Shukla, Madhavrao Scindia, Sharad Yadav, Buta Singh, Natwar Singh and Madan Lal Khurana were indicted in this case, but no action was taken against them due to lack of hard evidence.

List of the accused included Lal Krishna Advani who was then the Leader of Opposition.

10. Satyam Scam

Cost: Rs. 14,000 crores

Face of the Scam: B. Ramalinga Raju

Exposure of the biggest corporate scam (at about USD 1 billion) led the founder Chairman of Satyam Computers, Ramalinga Raju to resign in Jan 2009 after admitting profits were falsely inflated for years. Raju admitted about \$1 billion, or 94 percent of the cash on the company's books was fictitious. "What started as a marginal gap between actual operating profits and the one reflected in the books of accounts continued to grow over the years," said Raju. "It was like riding a tiger, not knowing how to get off without being eaten."



It was dubbed "India's Enron". With clients abandoning it, shares were hammered down to near-penny-stock levels. The government stepped in to save the firm by appointing a new board of directors and orchestrated its sale to Mahindra group. The firm is now called Mahindra Satyam. Several officials were arrested along with Raju under various charges including fraud. The cases continue in court.

11. Stock Market Scam

Cost: Rs. 3,500 crores

Face of the Scam: Harshad Mehta ("Big Bull")



Several Indian stockbrokers were accused of siphoning off over Rs 3,500 crore of funds, mostly from inter-bank transactions, to fuel a rise in the Mumbai stock market in 1992. It involved top officers of state-run and foreign banks and financial institutions, bureaucrats and politicians.

Market crashed when the news of the scam broke out, wiping millions of dollars from market value. Harshad Mehta, the main accused, died in 2002. He was convicted in only one of the many cases filed against him, for misappropriation of funds. Several bank executives were convicted for fraud in allowing bank funds to be used for trading stocks.

12. Madhu Koda Scam

Cost: Rs. 4,000 crores

Face of the Scam: Madhu Koda

In October 2009, the Enforcement Directorate (ED) charged former Jharkhand CM Madhu Koda with money laundering to the tune of over Rs 4,000 crore. Koda is accused of possessing assets disproportionate with his income and for alleged money laundering. Koda's declared assets in 2005 when he became Chief Minister of Jharkhand was just 12 lakhs. In less than four years he established a business empire that reached beyond India, to Thailand, Indonesia, Singapore and Dubai. His assets included hotels, three companies in Mumbai, property in Kolkata, a hotel in Thailand and a coal mine in Liberia.



This one-time labourer has 1,800 bank accounts all over the globe. Investigators said that most of Koda's assets were held in the name of his main associates: Vinod Sinha of Chaibasa (Jharkhand) and Sanjay Chaudhary of Jamshedpur. Presently, Madu Koda is spending his time at the Birsa Munda Central Jail at Hotwar.

13. Cement Scam

Cost: Rs. 30 crores

Face of the Scam: A R Antulay

A R Antulay, the Chief Minister of Maharashtra was convicted of money extortion from the Mumbai builders in the form of donations to Indira Gandhi Prasthan trust, one of several trust funds he had established and controlled, in exchange for receiving more cement than the quota allotted to them by the Government.

14. Nagarwala Scam**Cost:** Rs. 67 Lakhs**Face of the Scam:** R S Nagarwala

This probably is the most dramatic scandal – voice of the then PM Indira Gandhi was mimicked to withdraw funds from bank. In March 1971, the former army captain, Rustom Sohrab Nagarwala, then attached to Indian intelligence or R&AW, mimicked the voice of Indira and defrauded the State Bank of India, Parliament Street branch, New Delhi, for 60 lakhs presumably to be given to the Mukti Bahini in its guerrilla-liberation campaign from East Pakistan.

The fraud was discovered when the chief cashier, Ved Prakash Malhotra went to the PMO for a receipt of the withdrawal. Nagarwala was nabbed for “mimicking the voice” of the PM and the money was recovered on the same day. The opposition parties tried implicating Indira Gandhi and alleged that it was not an isolated case. The case took a mysterious angle when the investigating officer, D. K. Kashyap, of the case was killed in a car attack in 1973. Nagarwala was sentenced to four years and died in prison in the same year – likely due to deliberate neglect of his ill-health, as pointed out later in an official enquiry.

The inquiry commission set up by Janata Party in 1977 raised more questions than solving the mystery. Incidentally, Indira Gandhi did not have an account in the said SBI branch.

15. Mundhra Scam (1957)**Cost:** Rs. 1.2 crores**Face of the Scam:** Mundhra

This was the first high profile scandal where in 1957 a highly ambitious business, Haridas Mundhra got the government-owned Life Insurance Corporation (LIC) to invest Rs. 1.24 crores in the shares of his six troubled companies: Richardson Cruddas, Jessops & Company, Smith Stanistreet, Osler Lamps, Agnelo Brothers and British India Corporation. The investment decision had bypassed the LIC’s investment committee, which was informed of this decision only after the deal had gone through. In the event, LIC lost most of the money.

The irregularity was highlighted in 1958 by the son-in-law of Nehru, Feroze Gandhi of the Indian National Congress party, who represented the Rae Bareilly seat in the Parliament of India. It was a matter Nehru wished to handle quietly so that the government would not be shown in poor light.

Incidentally, it was Feroze Gandhi’s initiatives that led to the formation of LIC through the Life Insurance of India Act of 1956, under which 245 firms were nationalized and consolidated into LIC. The scandal also became high profile due to tense relation between Nehru and Feroze Gandhi. Mundhra was sentenced to 22 years in prison. The case also compelled T.T. Krishnamachari to resign as finance minister.

Nature of Corruption in India

Under Indian constitution, the government consists of three branches: the legislative, the executive, and the judiciary with clear mandate for independent functioning of each branch. Therefore, for good governance each of these units must function with integrity and efficiency – this is the bottom line. The legislators or law makers are elected representatives of the people – their prime job is to frame clear, simple and effective laws. The executive branch consisting of ministers, bureaucrats, and the whole government machinery is expected to implement the laws framed the legislative assemblies. The

ultimate responsibility for running the administration rests with the elected representatives of the people which are the ministers. These ministers are accountable to the legislatures which are also elected by the people

The third segment, the judiciary, acts as an impartial watchdog to see if the people are governed as per the law. It lacks the power to frame any law; it can only interpret the laws passed by the law-makers under the constitutional framework and give its verdicts accordingly.

But when corruption invades, governance begins to degrade – implying loss of integrity and efficiency both. Situation in India is obviously far from ideal.

Corruption in the Legislative Branch



The behavior of Indian legislators both at the Center and in the States leaves a lot to be desired. Every time they act motivated by personal gain (unfortunately, it is more common than it should be), they betray their constituencies that elected them. Corruption in the assemblies as seen from this perspective implies floor crossing, cash-for-vote, taking money or other benefits to ask questions, framing rules under the influence of big corporate houses at the cost of common people, etc.

When the government is running on thin majority, potential defectors can take the government to ransom. The collapse of the Janata Party Government (1977-80), fall of V. P. Singh and Chandrashekhar Government (1990-91), turning his minority Government into majority by Narsimha Rao by buying JMM MPs, split in Telugu Desam Party (1994), defection of Ajit Singh with his supporters to Congress (1993), defection of S. S. Vaghela from BJP, maneuvering defection by Kalyan Singh to keep the BJP led Government in power in UP are some of examples to prove that a sizeable number of our politicians are not immune to corruption. The most recent example is the 2008 case of cash for vote scandal where some BJP MPs claimed to have been offered cash to vote Manmohan Singh's government. The supposed mastermind, Amar Singh, and two BJP MPs are in Jail and case is being investigated.

Criminalization of politics is yet another facet of corruption. In the current parliament, there are over a quarter MPs with criminal records, many with serious charges, against them. It also highlights an area where electoral reform is urgently needed so that criminals don't enter in the parliament or state assemblies.

Corruption in the Executive Branch

Ministers are at the top of the hierarchy of the executive branch. The most blatant recent case of corruption at the highest level is the 2G spectrum scam which forced telecom minister, A. Raja to resign and is now in jail along with another DMK law-maker. Sukhram was another minister in the nineties in the same ministry to go to jail. Fodder scan in Bihar is another scandal for which Laloo Yadav is being tried; however, few people expect conviction. But such exposures and trials are rare; often only the smaller fishes get caught. Collision between the top bureaucrats and ministers is unfortunately not rare in India.

The report card of the rest of the bureaucracy is also not very flattering. Bureaucratic corruption thrives on red-tape, complicated procedures, and discretionary power. Governance in India is characterized by a lack of transparency in rules, complicated procedures and a bureaucracy that enjoys broad discretionary power. There is an exclusivist process of decision-making, overly centralized government, and the absence of effective internal control mechanisms.

A recent analysis of reports of bribery demands in India conducted by Trace International was published in January 2009. It provides an overview of the general pattern of corruption in the country. 90% demand for bribe came from government officials, of which over 65% for avoiding harassment. 50% bribery was for timely delivery of services to which the individuals were already entitled; only about 10% were meant to provide any advantage.

These findings confirm the prevalence of the bureaucratic and administrative corruption when the public and public officials interact. Bureaucratic corruption pervades the Indian administrative system with widespread practices of bribery, nepotism, and misuse of official positions and resources. **The Bertelsmann Foundation 2008** report states that India is characterized by a deeply rooted patronage system and pervasive corruption at all levels of the polity and administration.

The 2006 World Bank Enterprise Survey also confirms the prevalence of bureaucratic and administrative corruption in the country. Red tape and wide ranging administrative discretion serve as a pretext for extortion and almost 50% of the firms surveyed expected to pay informal payments to public officials to get things done. 26% respondents identified corruption as a major constraint for doing business in the country.

Corruption in the Judiciary

HIS OBJECTION

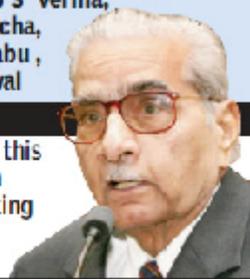
Shanti Bhushan submits list of 16 ex-CJIs in sealed cover to SC. Says 8 were "definitely corrupt", 6 "definitely honest" and "definite opinion can't be expressed about other 2"

THE 16 EX-CHIEF JUSTICES MENTIONED IN THE AFFIDAVIT:

Ranganath Mishra, K N Singh, M H Kania, L M Sharma, M N Venkatachalliah, A M Ahmadi, J S Verma, M M Punchhi, A S Anand, S P Bharucha, B N Kirpal, G B Patnaik, Rajendra Babu, R C Lahoti, V N Khare, Y K Sabharwal

In affidavit, Bhushan says

Should be suitably punished for this contempt... would consider it an honour to spend time in jail for making an effort to get people of India an honest and clean judiciary



Independence of the judiciary is guaranteed by the Constitution. India is ranked at 26th of 131 countries on indicators of judicial independence in the **Global Competitiveness Report 2007-2008**. However, political interference in judicial decisions involving powerful individuals, just as in investigation, is a sure possibility. In spite of the various legal provisions in place, the appointment of judges is not always free from political interference. Recent **Global Integrity Report** also rates judicial accountability as weak.

High court and Supreme Court judges can only be removed through impeachment in the parliament; this makes fighting corruption in higher judiciary rather impractical. Recent impeachment of Justice Saumitra Sen in the Rajya Sabha is a rare event. There are other cases of corruption at higher level such as that of Justice Dinakaran of Sikkim High Court and justice Nirmal Yadav of the Uttarakhand High Court. The Judges (Inquiry) Act, 1968, prescribes judicial inquiry followed by impeachment. In the case involving Supreme Court Judge Justice V. Ramaswamy, the inquiry indicted him but the impeachment motion fell through in Parliament in 1992.

There has been a wide-spread corruption scandal – Rs 23 crore Ghaziabad PF scam – involving a Supreme Court judge (now retired), 7 Allahabad High Court Judges, 12 judges from the subordinate courts, and 6 retired high Court judges. The key accused died in jail mysteriously in October 2009. The recent charge of Supreme Court lawyer, Shanti Bhusan that many former Chief Justices of India were corrupt has given a new twist to judicial corruption. The Supreme Court is seized of the matter (see image).

The huge backlog of cases (there are over 3 crore pending cases), slow and complicated court procedures are another course of corruption in the judiciary.

Political Corruption

People's trust in democratic processes is seriously undermined by opaque financing of electoral processes, various forms of corrupt practices, and misuse of power. Although politicians are regularly involved in major corruption scandals, investigations of their activities are rare and conviction of politicians and civil servants are rarer. Circumstantial evidences of buying votes of legislators with bribe or promises of "lucrative positions" are fairly common in Indian politics.

According to the [2007 Global Corruption Barometer](#), Indian citizens perceive the political parties as amongst the most corrupt in the country – India got a score of 4.6 on a 5 point scale. [Freedom House 2008](#) reports that the electoral system relies on black money obtained by dubious means, including tax evasion. According to a [2009 Global Integrity report](#), the country struggles with promoting transparency and accountability in the financing of political parties and candidates. For instance, there are currently no regulations that require parties or candidates to disclose donations.

Lack of transparency in electoral funding and entry of criminals into the electoral process are two major sources of political corruption that is at the root of several other corrupt practices in the country.

Vulnerable Sectors and Institutions

Public procurement

Public procurement is especially vulnerable to corruption in most developing countries. In India, there is a reasonably good framework of rules and procedures for public procurement without discrimination. However, implementation of these regulations is poor which provides enough scope to the rich and the powerful to manipulate things in their favor.

Companies are expected to make gifts or payment to secure any government contract – it is a common knowledge in the business community. Moreover, companies face different laws in different states, which complicate their operation throughout the country. Corruption is perceived to be worse at the state level than at the federal level, due to lack of qualified staff and widespread political interference in state administration. The average bribe amount was estimated at 15% of the contract's value in the World Bank Country Procurement Assessment Report 2003.

Tax and customs administration

In a recent World Bank Enterprise survey, 52% of the firms reported being expected to give gifts in meetings with tax officials. In this sector, rules and procedures are extremely cumbersome; giving tax officials wide discretionary powers to interpret the rules. Some are suspected of deliberately stalling procedures to extract money. Bribes serve well for underassessment of income, for penalty reductions or for tax refunds.

The Police Force

Various surveys report the police force, particularly at its lower end, to be among the most corruption prone sectors in India. Deliberate procedural delays and non-registration of cases are two common tactics to extract bribe from the ordinary people. Traffic police is particularly notorious for extracting money from truckers; say for granting permits, document checking, or traffic violations. According to truck drivers, 60% of the checkpoints and forced stoppages on roads are to extort money.

Police recruitment is also compromised by practices of nepotism, bribery and political interference. Until the apex court granted the Indian Police Service (IPS) autonomy from political control in 2006, the Ministers had power of transfers and promotions over police chiefs' careers. In 2007, in Uttar-Pradesh, an inquiry into of recruitment led to the dismissal of 10,000 police officers due to irregularities in their recruitment processes

As the police - along with the courts - are the public institutions most directly involved in sanctioning and punishing corrupt practices, police corruption seriously undermines the government's anti-corruption efforts.

Regional Patterns

India has a decentralized federal system of government in which state governments possess broad regulatory power. Although corruption is found to be pervasive across all states and public services, several reports indicate important regional variations in the level and impact of corruption.

Various global reports cite corruption and excessive regulations as major obstacles to business across all India, but there are notable regional differences. Several studies indicate that states like Himachal Pradesh, Andhra Pradesh and Maharashtra are perceived to experience moderate levels of corruption while states such as Bihar, Jammu and Kashmir and Madhya Pradesh have alarmingly corrupt system.

There are interesting regional observations on corruption are summarized here:

- In Gujarat, the judiciary, the police and land administration are ranked as the most corrupt services in the state.
- In Maharashtra, municipal services are perceived as most corrupt.
- In Punjab, the police, the judiciary and municipal services are perceived to be most affected by corruption.
- In Bihar, all public services are ranked among the most corrupt in India.
- According to Freedom House 2008, rebel groups operate extensive extortion networks in the North East of the country, compounding the impact of corruption in the various affected states.

Corruption and Money Laundering

*Black money in Swiss banks is estimated to be about 13 times India's foreign debt of about 1500 billion dollars. It comes to about **USD 20,000 billion**.*



Corruption and money laundering are intrinsically linked. Bribery and misappropriation of public funds lead to money laundering – it is defined as the process of concealing illicit gains that were generated from criminal activity. Through successfully laundering the proceeds of a corruption offence, the illicit gains may be enjoyed without fear of being confiscated.

Money laundering broadly means conversion or "laundering" of money that is illegally obtained, so as to make it appear to originate from a legitimate source. It was originally used in the context of terrorist, criminal, smuggling and drug-dealing activities, however, in a wider context it also covers the money obtained through tax-evasion.

Combating money laundering is crucial for the broader agenda of fighting organized crimes such as terrorism or drug trafficking. It involves plugging loopholes in the laws on the one side and prosecuting those involved in the process of laundering.

In India, The Prevention of Money Laundering Act, 2002 (PMLA) was created as a principal weapon against money laundering. It forms the core of the legal framework to combat money laundering and was initially focused on banking companies, financial institutions and intermediaries by administering KYC and other reporting requirements such as suspicious transactions reporting, etc. Later it was amended to cover non profit organizations also.

Under the PMLA, the Financial Intelligence Unit (FIU) scrutinizes the records to spot suspicious transactions and then the Enforcement Directorate (ED) goes ahead with investigation and prosecution. As on March 2011, the Ed was investigating 1269 cases of money laundering, of which 11 fell under the Unlawful Activities (prevention) Act.

The PMLA was created under the aegis of Financial Action Task Force (FATF) which is an inter-governmental "policy making body" designed to develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. Further amendments to PMLA are expected to bring it closer to FATF's recommendations. A special unit, called Financial Intelligence Unit (FIU), aids India's ant-money laundering efforts.

Financial Intelligence Unit (FIU)

India also established a Financial Intelligence Unit India (FIU-IND), which included a system of reporting suspicious financial transactions. It is also responsible for coordinating and strengthening efforts of national and international intelligence and enforcement agencies in pursuing the global efforts against money laundering and related crimes. It reports directly to the Economic Intelligence Council (EIC) headed by the Finance Minister.

It is not a regulatory authority. Its prime responsibility is to gather and share financial intelligence in close cooperation with the regulatory authorities including Reserve Bank of

India (RBI), Securities and Exchange Board of India (SEBI) and Insurance Regulatory and Development Authority (IRDA). The FIU-IND processes and analyses financial information received by it and disseminates actionable intelligence in appropriate cases to relevant enforcement agencies.

Besides FATF, India is also a member of the Asia/Pacific Group on money laundering set up in 1997, the Egmont Group of FIUs, which was set up in 1995, and the Eurasian group on combating money laundering.

Anti-Corruption Framework in India



Certain public sector anti-corruption safeguards in India perform very well while others do not. India's performance on the *2009 Global Integrity Index* indicates a huge gap between anti-corruption policies and practice. The legal and institutional framework to curb corruption is well developed and the country receives high scores in terms of anti-corruption law and institutions. This was testified by an analysis conducted by *Transparency India* in 2007 to identify possible gaps between the *UN Convention against Corruption (UNCAC)* and the legal and institutional framework of India. The biggest substantial gap identified by the report was in the area of whistleblower protection. Thus, the law enforcement is significantly weak, suggesting a lack of political will to effectively address corruption challenges in the country.

The Legal Framework

Prevention of Corruption Act, 1988 (POCA) is India's principal legislation against corruption. Its main thrust is to prohibit public servants from accepting or soliciting illegal gratification in the discharge of their official functions. In addition, bribe-givers and intermediaries may be held liable under POCA for bribing public officials. However, prosecution under POCA requires prior approval of high authorities which severely limits its usefulness particularly where there is collusive activity within government branches.

[The term "Public servant" under POCA (section 2) is quite broad, and includes central and state government employees, employees of government-owned corporations, judges, arbitrators, elected officials, and anyone authorized or required to perform a "public duty".]

In addition to POCA's prohibitions, various sections of the Indian Penal Code (IPC) provide criminal punishment for public servants who disobey relevant laws or procedures, frame incorrect or improper documents, unlawfully engage in trade, or abuse their position or discretion.

The Prevention of Money Laundering Act 2002 seeks to prevent money laundering including laundering of property through corruption and provides for confiscation of such a property. It mainly targets banks, financial institutions and intermediaries such stock market intermediaries. They must maintain records of all transactions exceeding Rs 10 lakhs. Later amendment has also brought non-profit organizations under PMLA. They have been the typical conduits for terror organizations. The Enforcement Directorate recently began action

to attach properties of DMK-controlled Kalaingar TV under the PMLA to recover Rs 215 crore in connection with the 2G scam for which DMK MP kanimozhi is in jail along with A Raja.

The 2005 Right to Information (RTI) Act represents one of the country's most critical achievements in the fight against corruption. Under the provisions of the Act, any citizen may request information from a "public authority" which is required to reply within 30 days. The Act also requires every public authority to computerize its records for wide dissemination and to proactively publish certain categories of information for easy citizen access. This act provides citizens with a mechanism to control public spending. Many anti-corruption activists have been using the RTI to expose corruption. Lack of legal protection against whistleblowers, however, puts them in risky situation and many RTI activists have lost their lives in last six years.

No Protection to Whistleblowers



The lack of legal protection to whistleblowers was glaringly highlighted by the 2003 murder of Sri Satyendra Dubey, who exposed corruption in the National Highway Authority. Recent murder of an RTI activist, Shehla Masood in Bhopal is just another painful reminder of vulnerability of whistleblowers in this country.

After Dubey's murder, government issued a resolution known as the Public Interest Disclosure Resolution (PIDR) authorizing the Central Vigilance Commission (CVC) to be the 'Designated Agency' to receive written complaints on any allegation of corruption or misuse of office and to recommend appropriate action. The CVC was also empowered to take action against anyone who leaks the names of whistleblowers and witnesses and may request police to investigate further. 1300 complaints were received by the CVC in next three years, but 30 whistleblowers faced harassed in spite of the confidentiality of PIDR complaints – as reported by the CVC.

The Central Bureau of Investigation (CBI) also has an online complaint mechanism which guarantees the protection of whistleblowers reporting corruption cases. But people want an explicit piece of legislation that protects the honest voice raisers and punishes those who harass them

The Institutional Framework

Note that India endorsed the *ADB-OECD Anti-Corruption Action Plan* in 2001 and ratified the *UN Convention against Corruption (UNCAC)* and the *UN Convention against Transnational Organized Crime (UNTOC)* recently in May 2011. Therefore, it is duty bound to bring its legislative framework closer to the International norms. Significant effort is required not just to strengthen the anti-graft laws but also to provide teeth and freedom to the implementing agencies. Following is a snapshot of current institutional framework that is supposed to prevent corruption.

There are various bodies in place for implementing anti-corruption policies and raising awareness on corruption issues. At the federal level, key institutions include the Supreme Court, the Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI), the Office of the Controller & Auditor General (C&AG), and the Chief Information

Commission (CIC). At the State level, there are local anti-corruption bureaus such as the Anti-corruption Bureau of Maharashtra.



In recent years, the **Supreme Court** has taken a stronger stance against corruption. It has challenged the powers of states in several instances. For example, in 2007 in Uttar Pradesh, it challenged the state governor's powers to pardon politically connected individuals based on arbitrary considerations. In other instances, judges have taken on a stronger role in responding to public interest litigation over official corruption and environmental issues. In December 2006, in a landmark ruling, the Supreme Court ruled that prosecutors do not need prior permission to begin proceedings against politicians facing corruption charges. It has also started addressing corruption in the police by mandating the establishment of a police commission to look into these matters and has ruled that corrupt officers can be prosecuted without government consent.

The Central Vigilance Commission (CVC) is the apex watchdog agency established in 1964.

The CVC can investigate complaints against high level public officials at the central level; not at the state level. In 2005-09, CVC slapped penalties on 13,061 CASES (average 2612 per year).

Mandate: Oversees and supervises vigilance and anticorruption work in all central government ministries, departments and PSUs. All group A officers (joint secretary and above) come under its ambit.

Limitation: Needs prior sanction to prosecute. Cannot probe officials below Jt Secy level until government refers case. Limited staff, normally on deputation.

The Central Bureau of Investigation (CBI) is the prime investigating agency of the central government and is generally referred to as a credible and respected institution in the country. It is placed under the Ministry of Personnel, Pensions & Grievances and consists of three divisions: the Anti-Corruption Division, the Special Crimes Division and the Economic Offences Division. The Supreme and High Courts can instruct the CBI to conduct investigations.

Mandate: Investigates offences by central government and PSU employees. States too can seek help. Also probes criminal cases.

Limitation: Cannot probe or frame charges on its own. Cases have to be referred. Is under government control and not autonomous.

The Office of the Comptroller and Auditor General (C & AG) is the apex auditing body. The C & AG has produced several reports on state departments such as railways, public sector enterprise, and tax administration. These reports have revealed many financial irregularities, suggesting a lack of monitoring of public expenses, poor targeting and corrupt practices in many branches of government. The most recent example is its report on Commonwealth Games that nailed the corrupt organizing committee members.

Mandate: Audits accounts of all government departments/ ministries/PSUs. Look into discrepancies of expenses made by government/departments government controlled companies. Submits reports to Parliament that are then referred to the Public Accounts Committee.

Limitation: Limited to audits and accounts. Cannot probe corruption as defined by the Prevention of Corruption Act; has powers only to recommend; no investigative or prosecution powers.

The Chief Information Commission (CIC) was established in 2005 and came into operation in 2006. It has delivered decisions instructing government, courts, universities, police, and ministries on how to share information of public interest. State information commissions have also been opened, thus giving practical shape to the 2005 Right to Information (RTI) Act. Of India's 28 states, 26 have officially constituted information commissions to implement the RTI Act. Nine pioneered access to information laws before the RTI Act was passed. It is hoped that the CIC will help spread the culture of public seeking information under the RTI and expose wrong doings.

E-Governance has considerably increased the speed of government services in a number of areas and reduced opportunities for bribery. A wide range of public services have been digitized such as obtaining licenses, paying taxes and clearing goods. The National Portal of India (<http://india.gov.in>) was subsequently created and lists all the services that have been digitized.

Pending Anti-Corruption Legislation

Important pieces of anti-corruption legislation have been pending for years, including the **Corrupt Public Servants Bill**, the **Lok Pal Bill**, which is supposed to address corruption in high offices, including the office of the Prime Minister, and the **Judge Inquiry Bill** designed to introduce an inquiry mechanism for allegations and complaints against members of the judiciary. Election Commission's recommendation to debar candidates with a criminal background from parliamentary and assembly elections is also awaiting action by the law makers.

Summary

The assessment of the legal and institutional anticorruption framework points to a combination of robust institutions and lack of accountability in key areas. Some institutions such as the Supreme Court or the Election Commission have taken a stronger stance to combat malpractice in recent years, while key pieces of legislation such as the RTI Act promote greater bureaucratic transparency, granting citizens access to public records.

Despite these emerging trends, however, the institutional anti-corruption framework generally suffers from a lack of coordination, and overlapping and conflicting mandates between institutions addressing corruption. Key institutions often lack the staff and resources to fulfill their mandate adequately and struggle to protect themselves from political interference. Often, they primarily focus on investigating alleged cases of corruption at the expense of preventive activities. Influential politicians and senior officials are rarely convicted for corruption, eroding public confidence in the political will to effectively tackle corruption.

Lokpal Bill vs Jan Lokpal Bill

History of Lokpal Bill



The origin of the Lokpal (anti-corruption ombudsman) dates back to 1963, when Nehru was the prime minister. But it was in 1966 that a Lokpal was proposed at the Centre and Lokayuktas in states. In 1968, a Lokpal Bill was presented for the first time in the fourth Lok Sabha. The House passed it in 1969, but while it was pending, LS was dissolved and the bill lapsed.

The subsequent versions were re-introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, but never passed. The latest Lokpal bill, introduced in the Lok Sabha on August 4, 2011, is the ninth version of the legislation before Parliament.

The impetus for the current demand for a Lokpal Bill came from a series of recent high profile scandals such as the 2G scam, Adarsh Society scam, and the CWG scam, while the government merely watched the events unfold helplessly. Anna Hazare’s recent “fasts” and its extensive media coverage converted it into a mass movement.

The Bill aims to give power to ordinary citizens to sue corrupt officials at all levels. The idea of an ombudsman first came up in Parliament during a discussion on budget allocation for the Law Ministry in 1963. The first administrative reforms committee in 1966 recommended the setting up of two independent authorities at the Central and state level to look into complaints against public functionaries – Lokpal and Lokayukta.

Evolution of the Lokpal Bill in last 42 Years

	1969	1971	1977	1985	1989	1996	1998	2001	2011
	Indira Gandhi	Indira Gandhi	Morarji Desai	Rajiv Gandhi	V P Singh	Deve Gowda	A B Vajpayee	A B Vajpayee	Manmohan Singh
PM	NO	NO	NO	NO	YES	YES	YES	YES	After Leav. Office
Judiciary	NO	NO	NO	NO	NO	NO	NO	NO	NO
MPs	NO	NO	YES	NO	NO	YES	YES	YES	YES
Civil Society									
	Team Anna 2011	PM YES	Judiciary YES	MPs YES		Team Aruna 2011	PM YES, with Riders	Judiciary NO	MPs Yes

What is Jan Lokpal Bill?

The Jan Lokpal Bill (Citizen's ombudsman Bill) is a draft anti-corruption bill that would pave the way for a Jan Lokpal, an independent body like the Election Commission or the Supreme Court, which would have the power to prosecute politicians and bureaucrats without government permission.

The bill proposes institutions of the office of Lokpal (Ombudsman) at center and Lok Ayukta at state level. Jan Lokpal Bill is designed to create an effective anti-corruption and

grievance redressal systems at centre and states and to assure that effective deterrent is created against corruption and to provide effective protection to whistleblowers.

A draft - Jan Lokpal Bill - was prepared by activists of India Against Corruption under the guidance of Karnataka Lokayukta Justice Santosh Hegde and senior lawyer Prashant Bhushan. Renowned Gandhian social worker, Anna Hazare is demanding that the government adopts the Jan Lokpal Bill and pass it in Parliament without delay. To put pressure he sat on hunger strike twice in recent months – April and August.



After the 4 day April “fast” of Anna Hazare a joint drafting committee with 50:50 representation of the civil society and government was set up to negotiate the draft. But the government was hesitant in accepting the key points that give real teeth to the bill and the negotiations failed, forcing Anna to announce “fast unto death” from August 16 which went on for 12 days. In the mean time, forced to act the government introduced its own version of Lokpal Bill in the parliament.

Anna and his team declared the Bill teeth-less and wanted the government to withdraw its bill and introduce the Jan Lokpal Bill instead. But after much drama the parliament debated on three key issues of common men’s concern and adopted those points on “sense of the house” rather than vote and sent the matter to the Parliamentary Standing Committee. A copy of the Jan Lokpal Bill was also sent to the committee. Now people are waiting to see how soon the final draft emerges for the final debate in the parliament and the Bill passed. This is the ninth version; eight versions of the bill have already been junked.

How the Jan Lokpal Bill proposes to tackle corruption will become obvious once the flaws of the current system are acknowledged.

Weaknesses of the Present Anti-corruption Legislation

The present legal mechanism to fight corruption is rather weak and allows powerful people and politicians to get away with crimes. Following are some of the obvious flaws of current anti-corruption legislation:

- The CBI comes under the government, so its functioning is badly compromised. Often appointments are also political.
- The Central Vigilance Commission being only an advisory body is hardly taken seriously.
- Taking against corrupt judges is problematic because permission is required from the Chief Justice of India to even register an FIR against them.
- Ordinary citizens have practically no help when they face harassment in government offices. In order to avoid that they are forced to pay bribes. They can only complain to the senior officers who are generally hand in gloves with their juniors.
- Recovery of wealth accumulated through corruption is currently not feasible. So even if someone is sentenced to prison, he does not lose it.
- Punitive provision for corruption is weak – minimum 6 months and maximum 7 years imprisonment.

- There is no explicit protection to the whistleblowers. Harassment of RTI activists is quite common – many have lost their lives.

Three major features of the Jan Lokpal Bill are

1. Jan Lokpal will be an independent body similar to the Election Commission. Appointments will be made by judges, prominent civil society personalities, and constitutional authorities and by politicians, through a completely transparent and participatory process. So, the government can not influence its activities.
2. The anti-corruption wing of the CBI will be under it and not under government control. In fact, the CVC and departmental vigilance is also proposed to be under Lokpal so that there is just one body to deal with all corruption complaints. So, politicians, MPs and ministers will not be able to influence the investigation or protect the guilty. Lokpal will have complete powers and machinery to independently investigate and prosecute any officer, judge or politician.
3. Time bound investigation and trial. Investigation in any case will have to be completed within one year and the trial in another year. So, the corrupt office holder or politician will be in jail within two years.

Other useful specific features of the Bill are apparent in the following table that compares the proposed Jan Lokpal and government’s Lokpal Bills.

Difference between Jan Lokpal Bill and Draft Bill 2011

Jan Lokpal Bill	Draft Lokpal Bill (2011)
Lokpal and Lokayuktas will be independent bodies like Election Commission or Supreme Court.	Only Lokpal. In practical terms it will be just another advisory body like CVC in government control.
Lokpal will have powers to initiate suo motu action and directly receive complaints from the public. It will not need reference or permission from anyone to initiate investigation in any case.	It can only probe complaints forwarded by the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha. It will enable the ruling party to protect its own.
Lokpal will have the power to initiate prosecution of anyone found guilty. It will also have powers to order disciplinary proceedings against any government servant.	It will be only an Advisory Body. Its role will be limited to forwarding reports to a "Competent Authority" which will have the final say.
Lokpal will have police powers. It will be able to register FIRs, proceed with criminal investigations and launch prosecution.	No police powers and no ability to register an FIR or proceed with criminal investigations. All its probes will tantamount to "preliminary enquiries". Even if its report is accepted, who will file charge sheet?
The anti-corruption wing of the CBI will be merged with Lokpal so that there is just one independent body to act against graft.	The CBI and Lokpal will be unconnected.
Enhanced punishment - minimum 5 years,	Punishment for corruption will be a minimum

maximum life imprisonment.	of 6 months and a maximum of up to 7 years.
Loss caused to the government owing to corruption will be recovered from the accused.	No provision for recovery. After completing the jail term the corrupt person can enjoy the booty
All public servants would be included.	Only senior officers (Group A) will be covered.
Whistleblowers are protected by Lokpal.	No protection granted to whistleblowers
NGOs not within the scope due to their role in exposing corruption.	NGOs are within the scope and can be investigated.

International Efforts to Curb Corruption

Corruption is the most serious issue undermining the efforts of governments across the globe to tackle world’s most pressing problems such as political stability, health and welfare, sustainable economic development, international trade and investment, climate change and poverty. Recognizing this fact, serious efforts are being made by global organizations to help and encourage the developing countries to tone up their system to discourage corruption. Add impetus to anti-corruption was provided by the unfortunate 9/11 event in the US. It brought into lime light the issue of terror financing which goes hand in hand with corruption and money laundering. Therefore, anti-corruption movement has received attention during the last few years.

The United Nations Convention against Corruption (UNCAC)



The United Nations Convention against Corruption (UNCAC) is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The UNCAC covers five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange.

The UNCAC covers many different forms of corruption, such as trading in influence, abuse of power, and various acts of corruption in the private sector. A further significant development is the inclusion of a specific chapter of the Convention dealing with the *recovery of assets*, a major concern for countries that pursue the assets of former leaders and other officials accused or found to have engaged in corruption. The rapidly growing number of States that have become parties to the Convention is further proof of its universal nature and reach.

Background

In its resolution 55/61 of 4 December 2000, the General Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime (UNTOC) (resolution 55/25, annex I) was desirable and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna at the headquarters of the United Nations Office on Drugs and Crime.

The text of the UNCAC was negotiated during 2002 – 03 and the Convention was adopted by the General Assembly in October 2003. It came into force on 14 December 2005. December 9 is being observed as *International Anti-Corruption Day* since 2003.

India Ratifies UNCAC

India ratified the Convention in May 2011, which will help in seeking full cooperation of the signatory countries in investigation of cases, especially with respect to off-shore bank accounts held by Indians. Member-countries are bound by the Convention to render mutual legal assistance towards prosecution of offenders as well in tracing, freezing, and confiscating the proceeds of corruption. Given the political will India will now be able to crackdown on the black money stashed away abroad.

Now Indian laws will also have to be in line with the UNCAC's principles. According to the UN convention, each member country shall "consider adopting appropriate legislative and administrative measures, consistent with the objectives of this convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office". It also prescribes disciplinary or other measures against public officials who violate the codes or established standards.

The convention has already been inked by 140 countries.

Financial Action Task Force (FATF)



The Financial Action Task Force (FATF) is an inter-governmental "policy making body" designed to develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. As part of the global initiative, a Financial Action Task Force (FATF) was created in 1989 to help member countries draw up Anti-Money Laundering (AML) legislation. FATF is also known by its French name, Groupe d'action financière (GAFI). The FATF clearly recognizes the connection between corruption and money laundering.

After the 9/11 attack in US, the FATF became all the more important as an important tool to deprive the terror outfits of their funding sources. The FATF is neither a permanent body nor has a rigidly defined constitution. In 2004, representatives from the 35 FATF members agreed to extend the mandate of the Task Force until 2012 – this clearly speaks for the confidence FATF enjoys as an important instrument in fight against terrorism and international crimes.

India became the 34th country member of the Financial Action Task Force in June 2010, after preparing itself for membership since 2009 membership by taking necessary steps to meet FATF's requirements. It amended or instituted necessary legislations fulfilling the guidelines of FATF. With this membership India will have an easy access to information on suspicious financial transactions in other countries to trace the black money stashed away in tax havens. This also put India into one of the most critical standards-setting bodies in international finance, and will have far-reaching ramifications both for global capital operating in India, and the ability of Indian firms to undertake exports of financial services.

The FATF has 40 recommendations as a complete set of counter measures against money laundering and another 9 special measures to counter terror financing.

For granting membership FATF considers several wider issues also such as whether the country can demonstrate that it has a solid framework of measures to prevent and combat corruption through respect for transparency, good governance principles, high ethical and professional requirements, and established a reasonably efficient court system to ensure that judicial decisions are properly enforced. These are important considerations because major weaknesses in these areas may impede effective implementation of the FATF recommendations.

The up-gradation of the money-laundering act of 2002 will continue to be guided by the FATF's recommendations through the FIU-IND.

ADB/OECD Anti-Corruption Action Plan

Governments in Asia-Pacific have resolved to cooperate in the fight against corruption as early as 1999, when they launched the Anti-Corruption Action plan for Asia-Pacific under the joint leadership of the Asian Development Bank (ADB) and the Organization for Economic Co-operation and Development (OECD). The Initiative establishes a non-binding framework of action for Asia-Pacific countries in relation to the public sector, private sector and civil society.

Recognizing that corruption is a formidable yet manageable problem affecting social welfare, political stability and economic growth, the action plan defines the participating countries' objectives and describes how reform will be implemented.

Since the Initiative's inception in 1999, international anti-corruption standards have advanced significantly, especially with the advent of the UN Convention against Corruption (UNCAC). In 2010, the Initiative adopted Strategic Principles that guide the Initiative's future activities and strategic direction, and made UNCAC implementation a priority for it.

Stolen Asset Recovery Initiative (SARI)

In September 2007, the World Bank, in partnership with the United Nations Office of Drugs and Crime (UNODC), launched an initiative called the Stolen Asset Recovery Initiative (SARI) to help developing countries recover assets stolen by corrupt leaders, help invest them in effective development programs, and combat safe havens internationally. According to the World Bank Group President, there should be no safe haven for those who steal from the poor. Helping developing countries recover the stolen money will not only facilitate social programs, but also put corrupt leaders on notice that they can't escape the law.

This effort is particularly directed at dictatorial regimes across the world: for example, Libya, Yemen, or Syria.

Transparency International (TI)



Transparency International has been a leading global civil society organization in the fight against corruption since its founding in 1993. It has succeeded in bringing the global community in a powerful worldwide coalition in its

efforts to create a world free of corruption. It has been active in raising awareness and devising and implements practical actions to address this all pervasive phenomenon.

It has a global network including more than 90 locally established national chapters and chapters-in-formation. These bodies fight corruption in the national arena in a number of ways. They bring together relevant players from government, civil society, business and the media to promote transparency in elections, in public administration, in procurement and in business. It advocates stricter implementation of the UN Convention against Corruption (UNCAC), the only global initiative that provides a framework for putting an end to corruption.

Transparency International offers several tools to facilitate the fight against corruption, of which three indices are widely used – the Corruption Perception Index (CPI), the Global Corruption Barometer (GCB), and the Bribe Payers Index (BPI). The CPI ranks countries according to their corruption perception. India was placed at **87th position** in the 2010 CPI ranking of 178 nations. The GCB polls the ordinary citizens, unlike the expert opinion of CPI. The 2010 GCB ranking placed India almost at the tail end – India came out as the **4th worst bribe paying country**, better than only Afghanistan, Cambodia, and Cameroon.

The Bribe Payers Index evaluates firms for their propensity to engage in bribery when doing business abroad. Indian firms are perceived to export corruption outside its borders. Again India was ranked near the end at **19 from 22 countries**.

India and International Anti-corruption Norms

In terms of adopting international norms, India endorsed the ADB-OECD Anti-Corruption Action Plan in 2001, and ratified the UN Convention against Corruption (UNCAC) and the UN Convention against Transnational Organized Crime recently in May 2011.

International Corruption Measures and India

Though India is credited with having made considerable progress in terms of economic reform over the past few years, corruption is perceived to be widespread and entrenched at all levels of the political and administrative system. India ranks 87 from 178 countries surveyed in Transparency International's **2010 Corruption Perception Index (CPI)**, with a score of 3.4. Since the first iterations of the index, India has scored between 2.7 and 3.5, indicating that – despite some progress – corruption continues to be perceived as rampant and endemic by the various CPI sources.

Similarly, the **2009 World Bank Governance Indicators** suggest little change over the years. The country performs consistently above average on indicators of voice and accountability, government effectiveness and the rule of law, but poorly in terms of regulatory quality and control of corruption. Its rating for political stability and regularity quality are particularly weak. With an overall percentile score of just 47, India does not instill much confidence.

Freedom House 2008 comes to similar conclusions, noting that government effectiveness and accountability continue to be undermined by the close connections between crime and politics, weak government institutions and widespread corruption. The latest survey by **Political and Economic Risk Consultancy** ranked India's bureaucracy as the worst in Asia.

According to the [Global Corruption Barometer 2010](#), petty corruption is common in India. Citizens do not expect the situation to change in the short term and expressed skepticism with regard to government political will and/or capacity to curb corruption. 74% people felt that corruption has increased in the last three years.

Indian firms are also perceived to export corruption outside its borders. The country comes at the bottom of Transparency International's [2008 Bribe Payer Index](#), ranking 19 from 22 countries with a score of 6.8. This indicates that Indian firms are perceived by business people as very likely to engage in bribery when doing business abroad.

A corruption survey published in June 2008 by [Transparency International-India and the Centre for Media Studies India](#) confirms these findings. One-third of Below Poverty Line (BPL) households across the 31 states covered by the survey paid bribes to access one or more of 11 public services. The percentage of respondents paying bribes to access services was especially high for the police, land registration and housing.

However, there is some good news too. The "2010 India Corruption Survey" by the [Centre of Media Studies \(CMS\)](#) showed a **decline** in graft over a period of five years in public services. According to the survey, there is an increasing percentage of citizens who said that corruption in public services had declined in the previous one year. Also, the percentage of those who had actually paid bribe during the year had also declined, compared to a similar study in 2005. Those who paid bribes in 2005 stood at 61 percent but only 28 percent in 2010.

The Way Forward

Corruption hurts everyone, whether it is in the form of higher prices, reduced quality, budget deficits, or general distrust of government institutions. In particular, companies that are unwilling to engage in corrupt practices are at a severe disadvantage compared to unscrupulous competitors. In light of the above discussion, weak governance appears to be at the root of all problems in India. The following steps will go a long way in strengthening governance and instill confidence of ordinary people in the system:

- Electoral reforms are urgently needed to eliminate the influence of unaccounted donations and disqualification of people with criminal records from contesting election, along with legislative set up for right-to-recall and right-to-reject.
- A strong Lokpal Bill on the line of Anna Hazare's demands that gives autonomy of functioning and control over the anti-corruption wing of the CBI and merging various teeth-less agencies such as CVC with Lokpal is urgently required. Poor people face harassment at the hands of lower bureaucracy; thus, covering the lower bureaucracy and appointing Lokayukta's in all states is the need of ordinary people of the country.
- Money stashed in the Swiss banks is enormous – of the size of USD 19 – 20 trillion. Not taking immediate steps to bring this money back into the country is unpardonable. If used properly, this money can provide tremendous relief to the poor Indian community and speed up infrastructural and other developments in the country. Baba Ramdev's remarks on this issue have substance and must be heeded by the government.

- An independent judicial commission on the line of the Election Commission and taking steps to attack the backlog of cases will instill confidence in the legal system. It will discourage corruption and money laundering.
- Police reforms is another area which will provide tremendous relief to the common man which no longer sees the police as his friend or protector.
- If the CVC and the CAG are not brought under the Lokpal then they should be given powers to initiate actions based on their findings.
- A separate law is needed to curb corruption in the private sector. Countries like the US and UK have laws that forbid firms from bribing even outside the country.

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