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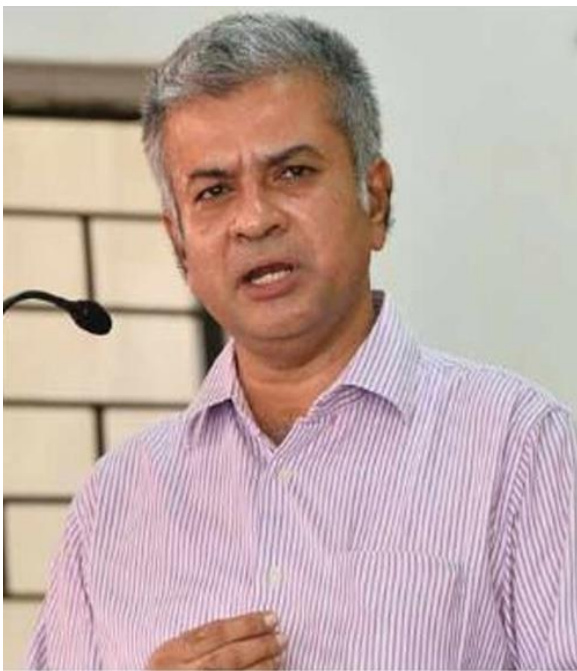
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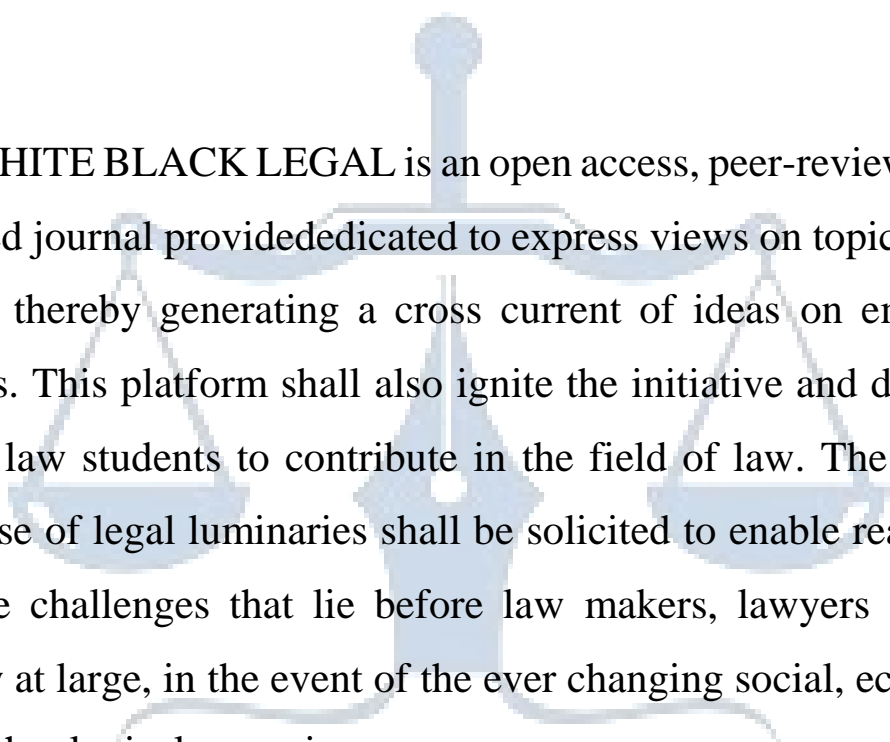


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With this thought, we hereby present to you

W H I T E B L A C K  
L E G A L

# **INDIA'S WAR ON CORRUPTION: A BATTLE OF EPIC PROPORTION**

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## **ABSTRACT**

Corruption has become an increasingly prominent issue in India today and a topic of huge debate among the public. It has become an important part of our public life and a major threat to society. It hinders the nation's governance, socio-economic progress and poverty alleviation. The manifestation of corruption in India from the grass-root level is as diverse as the country itself. Concerted efforts need to be taken to eradicate this evil from the society.

The paper delves into the multifaceted nature of corruption in the Indian context, exploring its various manifestations and root causes. It analyses the diverse forms in which corruption is manifested as well as its far reaching-consequences. It examines the impact of corruption on the growth of the nation as well as the public trust in government institutions. Furthermore, the paper evaluates the effectiveness of existing anti-corruption laws shedding lights on their areas of improvement. Insights from anti-corruption initiatives within India are incorporated to emphasise the urgency to mitigate the corrosive influence of corruption. The paper advocates for a comprehensive approach that addresses all aspects of corruption in India, emphasizing the importance of public and government collaboration.

Keywords: India, Corruption, Government, Anti-corruption laws

“Corruption is the grease that makes the wheels of society turn”

-William E. Gladstone

## **INTRODUCTION**

Corruption, a pervasive and insidious phenomenon, has long been a global challenge that transcends geographical, cultural, and political boundaries. India is the largest democracy in the world with a population of over one billion people and is one of the fastest growing economies globally. In spite of healthy growth indices a large proportion of the population still lives in poverty. Corruption has permeated every aspect of life in India. In India the fight against corruption takes on heightened significance as it grapples with the complexities of a rapidly changing global landscape. It stifles the country’s growth in all areas including political, economic and social fronts.

With a history spanning centuries and changes coinciding with shifts in social, political, and economic structures, corruption is a long-standing problem in India. Ancient Indian texts, such as Chanakya's Arthashastra, acknowledge the existence of corruption and prescribe measures to prevent it. The introduction of bureaucratic system by the colonial administration in many instances fuelled corruption. After gaining independence, the nascent government faced a series of challenges after inheriting the same system. The digitisation of several public services has given rise to newer forms of fraud and corruption.<sup>1</sup>

## **WHAT IS CORRUPTION?**

The term corruption has been defined a number of times throughout the years and has become a topic of massive debate. However, no fixed definition is attributed to it. The simplest and widely popular definition of corruption was given by World Bank as “the abuse of public power for private benefit”. Joe Biden stated that, ‘Corruption is just another form of tyranny’. According to Mahatma Gandhi, “Corruption and hypocrisy ought not to be inevitable products of democracy, as they undoubtedly are today”. Nelson Mandela used the metaphor of cancer to describe the destructive nature of corruption. Corruption refers to misusing public power for personal gain.<sup>2</sup> It can be done by an elected politician, civil servant, journalist, administrator of

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<sup>1</sup> Rahman, Kaunain. “Overview of Corruption and Anti-Corruption Developments in India.” Transparency International, 2022. <http://www.jstor.org/stable/resrep39425>.

<sup>2</sup> What is Corruption? Definition of Corruption, Corruption Meaning, The Economic Times (Apr. 5, 2023), <https://economictimes.indiatimes.com/definition/corruption>.



a school, or anyone in authority.<sup>3</sup> Apart from public corruption, we also have private corruption between individuals and businesses.<sup>4</sup> For instance, education, heritage, marriage, etc.<sup>5</sup> Thus, it encompasses a wide spectrum of illicit activities which includes bribery, fraud, nepotism, money laundering, extortion, cronyism etc. It is a relevant fact that corruption goes far beyond being mere under-the-table transactions and so its consequences extend far beyond the realm of ethics.

Corruption happens in shadow and adapts to changing circumstances. It stifles a country's growth in all areas including political, economic and social fronts. Socially it exacerbates inequality which adversely affects the poor and the marginalised. Politically it diminishes the trust of citizens in the government and the weakening of rule of law. Economically it stifles the growth of nation by diverting resources thereby discouraging innovation.

### **CORRUPTION IN INDIA: A MULTIFACETED CHALLENGE**

Corruption is often described as a multi-faceted challenge as it is not simply a matter of individual wrongdoing. It is a product of a variety of factors. Corruption is an aspect of great significance in our public life. The 2022 Corruption Perception Index (CPI) by Transparency International ranks India 85th out of 180 countries, with a score of 40.<sup>6</sup> This score indicates a perceived high level of corruption in the country. While India's ranking has improved in recent years, it still has a long way from being a corruption-free country. India's economy is currently the fifth largest in the world by nominal GDP which is expected to rise in the following years and with a growth rate of 6.1% it will be one of the fastest-growing trillion-dollar economies in the world in 2023.<sup>7</sup> Despite India's economic progress, corruption remains a persistent challenge that hinders its full potential. It remains a complex and multifaceted issue that requires on-going efforts from the government, civil society, and the public. As Muhammad Ali Jinnah famously said "One of the biggest curses that India is suffering from—I am not saying that other countries are free of it, but I believe our situation is much worse—is bribery and corruption." Addressing corruption is crucial for India to achieve sustainable and inclusive economic growth and social development.

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> 2022 Corruption Perceptions Index: Explore the results, Transparency.org (Jan. 31, 2023), <https://www.transparency.org/en/cpi/2022>.

<sup>7</sup> Mayashree Acharya, World GDP Ranking 2023 List, (Mar. 3, 2023), <https://cleartax.in/s/world-gdp-ranking-list>.

A variety of factors contribute to India's high rate of corruption including lack of transparency, accountability, effective management and implementation and unemployment. There is corruption in every sphere of society. Corruption is prevalent in every sphere of society hindering the country's development and eroding public trust in its institutions. Corruption is deeply rooted in India's public administration, affecting various government departments and services. This leads to a distortion of decision-making processes and resource allocation. Corruption within the police force undermines law enforcement and justice. While the Indian judiciary is considered relatively independent, corruption has not entirely bypassed it. In the education sector the manipulation of exam results and the influence on grading practices undermines the meritocratic principles of education. Corruption in the healthcare sector can have serious consequences for patients' well-being. Corruption in infrastructure projects is widespread, leading to cost overruns, substandard construction quality, and delays in completion. Corruption can distort the business environment, creating an uneven playing field for honest enterprises. This hampers economic growth and discourages investment. Addressing corruption across these sectors requires a multi-pronged approach that combines institutional reforms, legal frameworks, and public awareness campaigns. In a survey conducted in 20 states across the country by Transparency International, it was reported that 51% of the citizens had paid bribes with Property registration and land issues as a top area of corruption.<sup>8</sup>

Corruption in India is a complex issue with deep-rooted causes that span various aspects of society, governance, and economic structures. It can be attributed to various factors such as lack of transparency among bureaucrats, unemployment, absence of strict and fast punishments, lack of Fundamental Rights awareness among the people, ineffective implementation and management, low pay scales and wages, complicated tax and licensing systems and more. The decision-making processes within bureaucracy are often opaque, with limited public participation or consultation. This often erodes public trust in government and its institutions. India's government and political parties are notorious for their corruption.<sup>9</sup> The politicians attempt to get unfair advantages from public resources rather than leading by example and cooperating to free the nation from the corruption curse. The primary cause of this is the deficiency of knowledgeable elected officials. There is no set educational requirement in India to join a political party. Corruption is inevitable when individuals like

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<sup>8</sup> India Corruption Survey.Cdr, (Nov. 25, 2019), <https://transparencyindia.org/wp-content/uploads/2019/11/India-Corruption-Survey-2019.pdf>.

<sup>9</sup> Suchismita Debnath, Corruption in India, (Jan. 14, 2022), <https://timesofindia.indiatimes.com/readersblog/corruption-of-india/corruption-in-india-40567/>

these, who have no prior understanding of how the Indian political system functions, come to power. A considerable proportion of youth in India are either unemployed or are working in positions far below their qualifications. People often get away with offences like giving and receiving bribes, not paying income taxes and more as there are no stringent laws to keep such activities in check. Whistle blowers who expose corruption or wrongdoing within the bureaucracy often face retaliation, intimidation, or even transfers to less favourable positions. This lack of protection discourages individuals from reporting wrongdoing and perpetuates a culture of silence.

Several major scams involving high-level government officials have been reported in recent years. For instance, one of the most significant scams in India is the 2G spectrum scam, a major political and economic scandal in India that involved the allocation of 2G spectrum licenses to telecom companies at below-market prices. The scam was estimated to have cost the Indian government ₹1.76 trillion. Another major scam was the Commonwealth Games (CWG) Scam of 2010, in which officials from the organising committee were accused of inflating project costs, awarding contracts to unqualified companies, and accepting bribes in exchange for favours. The scam damaged the country's image as a host nation and deterred foreign investment. In the case of Coalgate scam, the UPA government was accused of allocating coal blocks without the process of competitive bidding. It was alleged that the government had allocated coal blocks to favour certain companies, including companies with close ties to politicians. The coal allocation scam had a significant impact on India's economy and politics also caused political turmoil. Other incidents are the Bofors Scam, Nirav Modi PNB Bank Fraud, Chopper Scam, Hawala Scam, Vijay Malaya Scam, Satyam Scam and Stock Market Scam.

## **VARIOUS FACETS OF INDIA'S ANTI-CORRUPTION LAWS:** **AN ANALYSIS**

India's legislation relating to corruption and corrupt practices includes a web of legislations and Government regulations.<sup>10</sup> Fundamental rights, enshrined in the Indian Constitution, serve as a powerful tool for citizens to hold authorities accountable, demand transparency, and participate actively in the democratic process. The IPC criminalized a variety of activities,

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<sup>10</sup> An-Overview-of-Anti-Corruption-Laws-in-India-A5.pdf, (Mar. 20, 2020), [http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research\\_Papers/Overview-of-Anti-Corruption-Laws-in-India-Web1.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/Overview-of-Anti-Corruption-Laws-in-India-Web1.pdf).

including unlawful buying of property by a public servant<sup>11</sup> and criminal breach of trust by a public servant.<sup>12</sup> The Prevention of Corruption Act, 1988 is a significant piece of Indian legislation that addresses corruption-related offences. It defines public official bribery offences and establishes legal measures to prevent corruption and prosecute those who commit it. However, the Act primarily addresses corruption involving public officials and there may be limitations in dealing with corruption in the private sector, particularly when it involves individuals who are not public servants. The Criminal Law (Amendment) Act, 2018 extended the scope of the Act to include offences of bribery in the private sector. Handling cases of cross-border corruption could be challenging, and the Act's extraterritorial reach may be limited.

The Prevention of Money Laundering Act, 2002 (PMLA), is a comprehensive legislation enacted to combat money laundering and related offenses. The PMLA attempts to stop money laundering, limit its operations, and seize any assets that are obtained from them. There have been worries that the Act could be abused for political or private gain, with authorities using the law against people or organizations for purposes other than stopping money laundering. The PMLA needs to be updated and modified on a regular basis to effectively handle new challenges given the evolving nature of money laundering techniques. The Act was last amended in 2023 with significant modifications such as the addition of clauses pertaining to property confiscation and seizure.

Another important piece of legislation in India that deals with issues pertaining to illegal activity, terrorist activity, and the prevention of their financing is the Unlawful Activities (Prevention) Act, 1967. In order to prevent and combat unlawful activities, the Act established legal procedures for the proclamation of unlawful associations, the management of terrorist activities, the seizure of property, and the promotion of international collaboration in order to protect India's sovereignty and integrity. The 2019 UAPA amendment stiffened the penalty for violating the law and increased the government's authority. Debates exist, meanwhile, regarding how it affects the right to free speech and association.

The purpose of the Benami Transactions (Prohibition) Act, 1988 was to stop people from

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<sup>11</sup> Section 169. Public servant unlawfully buying or bidding for property

<sup>12</sup> Section 409. Criminal breach of trust by public servant, or by banker, merchant or agent

holding real estate in other people's names, which is frequently done to hide the true owner and avoid breaking property transfer regulations. When whistle blowers reveal corruption or abuse of authority in the public good, the Whistle Blowers Protection Act, 2014 protects them legally, maintains anonymity, and provides protection from victimization. The Right to Information (Amendment) Act, 2019, originally passed in 2005 is a key tool in curbing corruption. It allows citizens to request information from public authorities, making government processes more transparent. Individuals in power are not held accountable in the majority of cases, despite the existence of a wide range of laws. It would be interesting to check how many corruption cases were finally heard in the Supreme Court, and how many Class I senior officers and Ministers landed in jail to serve terms.<sup>13</sup>

Anti-corruption movements play a crucial role in raising public awareness about the prevalence and consequences of corruption. Anti-corruption movement in India has come a long way since 2011 from the demand of 'Jan Lok Pal' to the centre's continuous crackdown on black money through demonetization, amendment of Benami transaction Act in 2016, etc.<sup>14</sup> Demonetization was a grand endeavour to reduce black money to scraps of paper, but it failed miserably since the illegal money was eventually made legitimate by unethical means that severely damaged the Indian economy. The Indian public's concerns about corruption at different levels of administration are reflected in these movements.

## **WELFARISM AND GOOD GOVERNANCE: AN ANTITHESIS TO CORRUPTION**

In India, welfarism and good governance is particularly significant in the fight against corruption given the country's diverse population and complex socio-economic landscape. Corruption is indeed a complex problem in India but it is not insurmountable. The first step in curbing corruption is transparency. The proper implementation of RTI Act enables individuals to scrutinize government actions thereby making the process more transparent. It also makes the public officials aware that their actions can be questioned which promote accountability. Challenges like delays in providing information need to be overcome for the effective implementation to its full potential. E-governance initiatives can minimize opportunities for

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<sup>13</sup> Raju, Radha Vinod. "Fighting Corruption: How Serious Is India?" Institute of Peace and Conflict Studies, 2010. <http://www.jstor.org/stable/resrep09068>.

<sup>14</sup> India Corruption Survey.Cdr, (Nov. 25, 2019), <https://transparencyindia.org/wp-content/uploads/2019/11/India-Corruption-Survey-2019.pdf>.

corruption. However, if not managed properly it can facilitate certain forms of corruption. Enforcement of stringent laws and penalties serve as powerful deterrents and contribute to a more ethical governance system. Highly rated national anti-corruption agencies need to be set up. Citizens should be made aware of their fundamental rights so as to build an equipped society to challenge corruption. Public awareness campaigns to inform citizens about the existing legal safeguards helps to muster courage to report instances of corruption. In India community level engagement is more crucial. Local awareness campaigns conducted in regional languages focusing on specific contexts resonate more effectively. Integration of anti-money laundering courses in school curriculum helps to instill a strong ethical foundation from a young age. Ensuring that political parties adhere to ethical standards and reducing the influence of money in politics aid in slowing the rate of corruption in the political system. Adoption of more welfare schemes aimed at marginalized sections of society and involving financial, educational, and health assistance empowers individuals to break free from the vicious cycle of poverty. Regular and independent audits of welfare programs can reveal inconsistencies and ensure that funds are spent as intended.

A critical contributor to transparency and accountability is an independent media. An independent media, free of government control and interference, provides public access to information, can investigate acts of corruption, and reports on the actions of government, thus helping to ensure greater transparency and accountability.<sup>15</sup> Freedom of speech and expression is guaranteed under Part III of the Indian constitution.<sup>16</sup> According to World Press Freedom Index, 2023 published by Reporters without Borders India is ranked 161 out of 180 countries, down from 150th in 2022 indicating a downward trend.<sup>17</sup> Major media outlets in India are owned and operated by wealthy businessmen close to the ruling party, raising concerns about their ability to control media content. *Romesh Thappar v. State of Madras*<sup>18</sup> was a landmark case that invalidated the Madras Maintenance of Public Order Act, 1949, which empowered the state government to impose restrictions on media content. The Supreme Court ruled that such limitations violated the fundamental right to free expression. India can make significant progress towards a more transparent, accountable, and corruption-free society with sustained efforts and a comprehensive approach.

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<sup>15</sup> (Aug. 18, 2010), [https://www.usip.org/sites/default/files/NPEC1011\\_StudyGuide\\_combined.pdf](https://www.usip.org/sites/default/files/NPEC1011_StudyGuide_combined.pdf)

<sup>16</sup> INDIA CONST. art.19(1) cl.(a)

<sup>17</sup> 2023 World Press Freedom Index – journalism threatened by fake content industry, <https://rsf.org/en/2023-world-press-freedom-index-journalism-threatened-fake-content-industry>.

<sup>18</sup> AIR 1950 SC 124

## **CONCLUSION**

India is a signatory to several international treaties targeted at preventing corruption, including the United Nations Convention against Corruption (UNCAC), in addition to its domestic legal frameworks. It addresses a number of issues related to corruption, such as deterrence, legalization, and global collaboration. Though India is not a member of Organization for Economic Co-operation and Development (OECD) it is a party to the OECD Anti-Bribery Convention. The SAARC Convention on Preventing and Combating Corruption was also ratified by India in 2005. India's adherence to these international treaties is indicative of its understanding of the transnational character of corruption and the significance of global collaboration in tackling this issue.

Corruption in India remains a complex issue with far reaching implications on the nation's growth. The consequences of corruption are profound contributing to fall in growth of economy, rise in unemployment and poverty, inequality etc. Despite the existence of various legal frameworks, anti-corruption campaigns and international commitments the issue persists in all spheres of society. Legal proceedings related to corruption cases can be time-consuming. The drawn-out judicial process can be a deterrent for whistle blowers and may contribute to delayed justice. Corruption is an on-going challenge and the concerted efforts of the government and the general public plays a pivotal role in tackling the issue.

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