Corruption hurts the poor disproportionately-by diverting funds intended for developments, undermining government’s ability to provide basic services, feeding inequality and injustice, discouraging foreign investment and aid.

- Kofi Annan

Abstract

India is a big democratic country. It is well known for its value based constitutional text. Commendable concern has been given to the concept of justice under the Constitution. Social justice enshrined under the Indian Constitution is one of the basic structures of the Constitution. It was deep hearted view of framers of the constitution. On account of this, they expressed their inclination towards social justice in the form of directive principles of State policies. This part of the Constitution sets out guiding principles for the States which are to be followed by them in their governmental business. In addition, by enumerating protective discriminatory provisions for the marginalized sections of the society, founding fathers of constitution have made prompt attempt to cement the concept of social justice in concrete terms. Paradoxically, Corruption emerges as one of the gravest threat and serious obstacle to State in achieving its constitutional goals and statutory obligations. The ability of the weaker section of the society to avail basic goods such as education, health, employment is severely distorted due to this cancerous corruption. The concern is further aggravated on account of the Criminal Laws (Rajasthan Amendment) Ordinance, 2017 which makes it mandatory to obtain a prior sanction before investigating corruption case against judges, magistrates and public servants and curbs the media reporting. In addition, inordinate delay in giving force to Lokpal and Lokayuktas Act, 2013 is proved lethargic attitude of government in addressing corrupt practices. In this context of these recent development, the present paper intents to explore the implications of corruption in respect of the social justice and focus on efforts made by the government in curbing this menace.
**Key Words:** corruption, social justice, laws, India.

**Introduction**

Justice is the fundamental virtue of the society.\(^1\) In the context of its contemporary relevance, States across the globe have provided adequate space for this virtue in their political system.\(^2\) In India, as the compliance of constitutional mandate and spirit of various laws, considerable attention has been given by the constitutional as well statutory authorities of the country to the structural development of the nation. It requires government to invoke numerous promotional and protective programs. It signifies the concretization of social justice of the nation. On the other hand negligible attention has been given to the question that how State machineries are to manage such development processes and addressing public grievances in establishing socialistic State.

In fact, a deep and committed bureaucracy has a prominent role to play in nation building.\(^3\) To catch up with the times to achieve greater result for government and the people by way of improved efficiency, quick action and decision making, bureaucracy role is quit essential. In the wake of this motto, the assembly constituted to engrave the ideal and principled Constitution, decided to adopt a permanent civil service which will be selected on competitive merit. This regime works in tune with principle of political neutrality and impartiality. During constitutional debates there were certain strong view and cry against confection of

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constitutional status for Indian bureaucracy. In spite of such claims the constitutional status was given to public servants with the noble intention that they should serve for the basic objectives laid down under the preamble of Indian Constitution without any fear and apprehension.

But their bright dream is drastically deviated from its reality. It is because of incapable and inefficient administration of Indians. Least productivity, no accountability miles and miles of red tape that work as noose to seal the fate of human beings cry for justice from the corridors of power and well-conceived projects awaiting completion characterize India’s bureaucracy. Indian administration which already breathing by this polluted weather is plagued not only by these drawbacks but by one more serious social evil called cancerous corruption. Corruption is the virus which attacking all valuable enforceable legal data of which purpose is to strengthen the neck of social justice and to improve the society at large. It is one of the serious drawbacks of our Indian administration and nation governance. It becomes serious obstacle for the State in constructing welfare State. The central theme of this article is to analyze the way in which corrupt practices can affect the fundamentals of social justice. Whereas, this paper provides a brief explanatory note to understand the existing anti-corruption laws and drawbacks associated with these laws. This article is going to summarize the discussion with potent ironic strategies against corruption which could sensitize the Indian administration in setting up of socialist nation.

Conceptual analysis

Though the justice was the concern since ancient period, the discussion on societal perspective of justice was meager. The concept of justice was dealt with in the backdrop of virtue and conduct of human being. In this context it is viewed that “The concept of social justice and its relevance and application within the present context require a more detailed explanation. None of history’s great philosophers—not Plato or Aristotle, or Confucius

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4 Constituent Assembly Debates, dated 22.August, 1949, VOL.IX.
5 See Art.308 to 313 of Constitution of India, 1950.
6 The sequence of the words for justice used the Constitution is at the first instance Social, next to it Economic and finally Political. This is the indication of the magnitude of importance given to social justice instead of Political and Economic. See ibid. preamble.
or Averroes, or even Rousseau or Kant—saw the need to consider justice or the redress of injustices from a social perspective.”

Social justice is a progressive dimension of the society which intent to rectify the injustice by eliminating forces responsible for such unjust facet of the society. It seeks to structure the classes and communities of the society on fundamental principles such as equality of rights, equality of opportunity and equality for living conditions. This rectification process strives to balance the social, economic and political conditions of the society on egalitarian principles.

Social justice being a core value of the Indian Constitution wishes to invigorate socio-economic conditions of the downtrodden. It challenges the uneven distribution and irrational enjoyment of public goods. In the backdrop of the historical as well as socio-economic background of countries, the concept of social justice act as panacea against man made and nature created inequalities. In its comprehensive sense, the social justice encompasses affirmative actions, social security measures and fair opportunities in public offices.

Corruption is multifaceted concept. The concept of corruption is cemented with different colours and contours. It has different meanings under different societies. In its constitutional sense it contrasts constitutional morality. It distorts constitutional values and deforms the core inherent goals of the Constitution. The corrupt traits of persons of different organs of the State, who are at the helm of the constitutional as well as administrative affairs, are key grease for this aggravated situation. The unbecoming attitude, on the part of persons manning political, administrative and judicial organs, drains the public resources to their private pockets. From the public interest perspective the term corruption can be used to indicate strategically used ill motive to distort the schemes and programs meant for public. From political corruption perspective, it contradicts the oath of his office. From the administrative corruption perspective, this would be the condition in which public servant vehemently abridges his legal duty and inner morality. From the judicial corruption point of view, it enhances the private gain of judicial officer at the cost of scared public post.

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Though the vast literature on corruption based on different disciplines and spheres try to set out a clear theoretical framework to figure out exactness of corruption, the literatures on corruption vary from the authors to authors. It is evident from the extensive literature on corruption and the allied topic that the perceptions, application and interpretation of the corrupt practices develop indifferent understanding on corruption practices. However, the moral dimension of the corruption could be generalized as these practices are inconsistent with generally accepted principles standards and beliefs.

However may be the good the academic literature on corruption is. If the law enforcement authorities fail to slot in a corrupt act within statutory framework, criminals would escape from the clutch of the punishment. Accordingly, the term corruption has been given legal metal under various legislations in India.\(^9\) It is evident from these statutory definitions that prevention of corruption law intent to prevent abuse of authority of State for unfair, illogical and unconventional gains. This branch of law wishes to legitimatize entitlements of public goods for legitimate beneficiaries without any illegal payment on it.

**Impact of corruption on social justice**

Good governance is the corner stone of the politically organized society. The existence and continuation of the just society strongly depends upon the level of governance ensured by the government. Public-sector management, accountability, legal framework for development, transparency and information are the hallmark of good governance.\(^10\) This is a manner in which power is exercised in the management of a country’s economic and social resources for development.\(^11\)

Practice of corruption and existence of corrupt official in the society is undemocratic culture. It contrasts fundamental traits of good governance. It is menace to the democratic form of governance. It is a serious threat for the proper functioning of the government and implementation of laws. Social services like free and compulsory education, grant of scholarship and improved conditions of health, sanitation, water supply and housing are also expected to play major role in ensuring greater equalities of

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\(^9\) See Sec.171 of IPC, Sec.123 (1) of Representation of Peoples Act, 191 and Sec. 5 of Prevention of Corruption Act 1988.


opportunities to different section of the population. Entry of corruption in to these basic services is serious obstacle to democratic foundation. It certainly leads the State towards disrepute and disregard. Unlike new emphasis on social sector there is still lack of efforts and want of sufficient resource in reforming and strengthening of transparency and accountability in India. That’s what India ranked 131st out of 188 countries in the World Human Development Report, 2016 with a Human Development Index value of 0.624.12 The HRD (Human Resource Development) indexes focuses on the various measurable dimensions of Human Development such as education quality, health care quality, standard of living, ideal job, feeling safe, freedom of choice, overall life satisfaction, index local labour market, volunteered time community, confidence in judicial system, actions to preserve the environment and trust in national government.13

Basic services such as health, education, housing and poverty alleviation are subjected to dominant role of government. These are the services which could ensure decent human conditions. These public goods are severely deteriorated on account of corruption in India. This research article tries to bring light on impact of corruption on these basic provisions by analyzing the way in which these provisions are entangled with corruption.

**Health:** Health is the fundamental life and limb of the human being. It can substantially enhance quality of life and personal growth of the individual. On account of this, every person wishes to maximize his health and wellness to live long, full and healthy lives. The promotion of health is of fundamental value in and of itself. It is a vital public good and a basic human right.14 International15 as well as regional documents and constitutional

13 *Ibid* at 250.
provisions of the various countries\textsuperscript{16} on human rights reflect impressive and vibrant scope of this right. Unwavering commitment of the State to Right to Health is further buttressed by judiciary through various verdicts in India.\textsuperscript{17}

In spite of spending significant percent of the State budget on health, the poor have benefited very little because of this cancerous corruption. Doctors and medicines are not available in government hospital and Primary Health Centers (PHCs) on which there is large dependence of the poor for health service. They have to pay bribe at various stages starting from entry into hospital to their discharge. Corruption is playing pivotal role in allowing substandard medicines to market, non-control of essential drugs and issuing license to the manufacturer. Those who are paying bribes are getting royal treatments by the authorities in the hospital, and those refusing to bribe are being harassed. Ultimately and unfortunately beneficiaries of all these activities are last man of the main stream who targeted by the Constitution for the betterment.

\textbf{Education:} The complete development of human potentiality and sense of dignity lies with education of the individual. It is bedrock for social justice.\textsuperscript{18} It is an integral part of human right law.\textsuperscript{19} It could work as instrument in strengthening human rights of the individual and establishment of the just society. It is coming to occupy an ever larger place in people’s lives as its role among the forces at work in modern society’s increases.\textsuperscript{20} Corruption is the major drain on the effective use of resource to ensure education


\textsuperscript{19} Art. 26 (1) of UDHR; Art.5 (d) (v) of CEARD; Art. 13 (1) of ICESCR; Art.10 (a) of CEDAW: Art.28 (1) of the CRC; Art.30 of CPRMWF; Art.24 of the CRPWD.

as inherent right of the citizen.\textsuperscript{21} A cursory review of the literature shows that there is very few documents available dealing in with the various aspects of the corruption that exist in the field of education. Yet it is clear that the fight against corruption in the specific sphere of education should be regarded as major issue as it affects not only the volume of the services, but also their efficiency, equity in education and public confidence in educational system.\textsuperscript{22} High rate of teacher absenteeism, private tutoring practices, cheating in examinations; these are various facets of corrupt practices which considerably affects the concept of social justice in India.

**Housing:** One of the core public goods distorted by the problem of corruption is right to housing. This fundamental need of the human society require State intervention if the population of the nation unable afford it. In that too, the developing country like India, wherein remarkable amount of the population comes under below poverty line, the interventionist approach of the government to assure dignified stay of its citizen is inevitably needed. Having close affinity to other human rights such as health, safety, food, privacy, this right is necessarily determined by the financial ability of the individual. In the context of immense importance of right to house as inherent right,\textsuperscript{23} in spite of its limited sources, the Central as well as State governments have paid much attention to ensure roof to weaker sections.

Notwithstanding these efforts, the government of India has recorded very poor success in housing schemes. Among various miserable reasons for the failure of the housing schemes of nation, corruption constitutes a significant cause for this failure. Even though government introduced lot many programs for allotment of plots and financial assistance for construction of the houses, these schemes are working under the clutch of middle man and corrupt officials. Wide spread corruption, nepotism and maladministration have deprived the genuine beneficiaries of the


\textsuperscript{23} See Art. 25 (1) of UDHR; art. 11 (1) of ICESCR; Art. 17 of International Covenant on Civil and Political Rights, 1966, 999 UNTS 171; Art.27 (3) CRC; CEARD; Art. 14 (2) (h) of CEDAW; Art. 43 (1) of CPRMWF; A/RES/45/158; Art. 28 (1) of CRPWD.
housing scheme from their entitlements. The corruption could make the a person above the poverty line to get the houses meant for the person of below poverty line and manipulate the documents to suit the claim of the rich people.

**Poverty:** one more intensive crisis which India facing in accessing social justice is poverty. The pedestrian nature of Indian economy has deformed the status of nation at global politics. The destructive poverty further thinned out the image of the nation in emerging as one of the super power of the globe. Though it is 68 years for its independence, large amount of population is still struggling to obtain basic needs such as food, cloth, shelter and sanitation. It is true that its inadequate resources are prime reason for the nation to sluggish this poverty. Notwithstanding, a little constructive efforts of the government within its limited resources to root out poor condition of the society is further exacerbated due to the problem of corruption. The cancerous corruption is figuratively flooded with all most all the programs devised to weed out poverty.\(^{24}\) The employment schemes, public distribution system, poverty alleviation programs have parallel groomed the corrupt assets. The amount earmarked for poverty alleviation has cropped up ill-gotten gains for officials and middleman, rather dismantling the decades old poverty.

The develop report of the various agencies categorically indicate the deep fallen of poverty related programs in India. The rank of the country according to Human Development Report 2016 also seconded the position of the country. The reason for the existence of this situation in India is that, at every level of poverty alleviation programs, corruption is interfering and diverting government funds to the pocket of politicians, officials and middle man thereby it reduces the per capita income of the individual. It is common practice in India that so as to avail benefit under the respective scheme of the government kickback is to be paid to politicians, bureaucrat and middle man.

**Anti-corruption laws as means of social justice**

Law being a well weapon and fit instrument for achieving justice plays a vital role in constructing social justice oriented society and improving the socialistic values. It embraces all governmental

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\(^{24}\) Integrated Rural Development Program/Swarnajayanthi Gram Swarozgar Yojana, National Rural Employment Program; Rural Landless Employment Guarantee Program, Jawahar Rozgar Yojana, Jawahar Gram Samridhi Yojana, Employment Assurance Scheme, Food for Work Programe, Sampoorana Gramin Rozgar Yojana are some of the important program of government of India devised to alleviate poverty in India.
machinery for carrying out governmental programs.\textsuperscript{25} It safeguards the interest of such classes which poorer and also as those of support them.\textsuperscript{26} Stone has rightly pointed out that “Law is neither formal logic, nor the embodiment of in exorable scientific laws. It is the human institution created by human agents to serve human end”.\textsuperscript{27} It is opined that “Amid the cross currents and shifting sands of public life, the law is great rock upon which a man may set his feet and be safe, inevitable inequalities of private life are not so dangerous in a country where every citizens knows that in the law court, at any he can get justice.”\textsuperscript{28}

In order to cope up with various social impediments which are posed serious threat to social justice, the Central and State government have devised and adopted number of legislations by using their sovereign law making power. Among such social problems which targeted by Central and State law makers to root out them from Indian context, corruption is dangerous social sin in India. In the context and in the pretext of raising corruption our Central and State governments have been openly flouting the absolute ban on corruption and other incidental activities.

To start with development of anti-corruption laws in India, Indian Penal Code originally enumerated Section 161 to 165-A to deal with corruption. These provisions were specifically related to the offences by or relating to public servant. After Indian Penal Code, the major milestone as to development of anti-corruption laws in India is Special Police Establishment which subsequently merged as the Central Bureau of Investigation. Corruption assumed very vast proportion and become a very big administrative problem during Second World War. The longer period of scarcity during this period spread this virus of bribe and corruption among all the rank of civil servants. To tide over this situation in 1941 the Special Police Establishment was designed to investigate problem of bribe and corruption. The activities of SPE which were initially limited to limited war department, at the end of 1942 its activities were extended to cases of corruption in the Railway department.

\begin{itemize}
\item \textsuperscript{27} Ansari I.A. “Effective and Successful Prosecution of Corruption Cases.”, \textit{CrLJ}, VOL.3, 2000, p.133.
\item \textsuperscript{28} Lord Hewart, \textit{The New Despotism}. Ernest Benn Limited: London, 1929, p.151.
\end{itemize}
because Railway department was strategically concerned with the movement with and supply of war materials.

In 1947 Prevention of Corruption Act\(^{29}\) was brought on the statute book to make more effective provisions on the corruption and bribery.\(^{30}\) It was an amendment to the 1946 Delhi Special Police Establishment Act which authorizes the Special Police Establishment to investigate all departments of corruption in India. In 1955 Administrative Vigilance Units were appointed to investigate charges of corruption against employees of each ministry. 1962 was a stringent stand of Indian government against corruption in India. In spite of various efforts of Indian government corruption was kept on increasing. This alarmed the parliament and insisted upon the appointment of a Committee to look in to the corruption matters. In response to this demand the home ministry announced appointment of the Committee. The Committee comprised of seven members, five being Member of Parliament and two senior officials of the ministry of home affairs. The Committee chaired by Shri. Santhanam, popularly called as ‘Santhanam Committee’. Various recommendations were made by Santhanam Committee after the in detail study of corruption in India.

Even though the Committee recommendations accepted by government halfheartedly some extent certain positive and welcoming steps were taken by Indian government against corruption. Constitution of Central Vigilance Commission was one among such potential and fruitful measure. Contrary to Committee recommendation, instead of setting up of statutory Commission of high officials the government set up a Commission of non-official body. Till 1998, the Commission existed as a body authorized by an administrative order and didn’t have any statutory backing.

The Supreme Court in *Vineeth Narayan* Case\(^{31}\) directed to the Central government that the CVC should be made as an statutory body to strength its teeth against corruption. Accordingly the CVC ordinance 1998 was passed on 25 August 1998. Around the same time in 1963 Central Bureau of Investigation was created and incorporates DSPE as its investigative and anticorruption division. However, the performance of CBI was ineffective as the agency

\(^{29}\) Act 11 of 1947.  
\(^{31}\) Vineet Narain & Ors v. Union of India & Anr, 2 SCC 1996. This case is popularly called as *Hawala Case*. 
was increasingly asked to investigate conventional and economic related crimes. As the result in 1987 the Bureau was divided in to two divisions i.e. Anti-corruption division and Special Crime Division.

The benevolent legislative dictate of Indian legal system to rejuvenate governance of the country is the Prevention of Corruption Act 1988. Sparked from the colonial IPC, this leading criminal law has played a leading role in reenergizing principled governance of the country. This act gave wider definition to the “public servant” compared to the earlier 1947 Act. The Act has substantially brought the transparency and accountability in the public affairs. This special enactment penalizes the corrupt officials ranging from members of the Parliament to least cadre public servants. The democratic stature of this legislation intended to susceptibly infuse lifeblood to various organs of the State against contaminated public affairs. However, this lethetic legislation completely failed to illuminate constitutional goals as conceived by the law makers. Despite this loudish legislation, the cases booked under the Act against corrupt officials and conviction rates of the cases under the Act are inferior in number. Due to hand in glove of politicians and higher rank officials, the bed rock of the good governance is crippled down in India.

Lokpal and Lokayuktas Act, 2013 was enacted in the background of the huge hue and cry against corruption in India and same was brought into force on 16th January, 2014 by a notification issued in the Official Gazette by the Government of India. It is almost three and half years for the Lokpal and Lokayuktas Act. Despite the long period of time, the provisions of the Act have not been implemented in India. The Central Government contention is that certain provisions of the Act need to be altered to make the provisions of thereof workable in a meaningful manner. It is evident from the attitude of the Central Government that none of the adequate grounds justify the inordinate delay of the government in taking adequate steps to enforce the Act. In the background of the sever impact of the corruption on social fabric of the country, government should express its willingness to truly implement the Act and should exhibit its commitment for the basic tenets of the Constitution.

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32 Common Cause v. Union of India, Para.6, Writ Petition (Civil) No.245 Of 2014, decided on 27 April, 2017.
Conclusion and suggestions

India had rich history of honesty and integrity in public and private life. To the greater account moral values and ethical principles were glorified and upheld in great epic such as the Vedas, Upanishads, Ramayana, Mahabharath and other religious literature. This heritage and culture turned out as the country of dishonest and corrupt practices. Even though considerable steps have been taken by Indian government all these types of techniques and tools are failed to tackle with this menace. Execution and implementation of all the programs which have designed and drafted for achieving the social justice become wasteful, senseless and do not contributing to people real happiness. Well intentioned and technically sound programs are disfigured in striving the inherent and hidden goals of the Constitution. It is strange to say that one hand our governments shouting slogans against corruption on the other hand the same government promoting this evil by protecting corrupt officials in all means. When Lokpal bill was introduced in parliament it was felt that the proposal was to constructing better minded improvements in the administration and corruption will come to an end. But that real dream and actual aim found its death with the political insecurity in India. A lot has been said in various literatures that the defect of the Lokpal bill is a result of political insurgency in India. But the real reason for the present status of Lokpal bill is halfhearted mind set of our politicians. They should come out from this mind set.

Effective assets recovery provisions will support the efforts of government to redress the worst effect of corruption. For this purpose, anti-corruption mechanism of the country should exercise their power without any influence, apprehension and hesitation. to confiscate ill-gotten property of corrupt public servant. Along with this nationwide ill-gotten assets confiscating programs, majority of various world banks accounts containing huge money of corrupt Indian administrators and politicians which gained by corruptive means are to be dealt with appropriate laws. There is an urgent need political will materialize the process to get the actual assets of officials and freeze their account and return such money to Indian government. It could boost ability of government in setting up of the egalitarian society.

In addition, introduction of information and communication technology would be pioneering step to tackle the issue. It could act as immediate effective means through which the corruption in the department can be brought under the light and control. It
really ensures speedy, transparent, accountable, and quality oriented service to the society and also eliminate unnecessary harassment the citizens in their governmental business. States which are under the clutch of high level of corruption should implement technology reform policies in their day to day administration. Similarly, the anticorruption institutions should use new technological devices for the trapping of corruption cases such as spy camera, ultrasonic recorders and any other technology which can useful in curbing the corruption.

Attitude of the people and tolerance level of the citizens are the ultimate source which can supply kinetic energy for modernization and development of the nation. The primary obstacle to implementing stricter controls over corruption is the mindset of the society. If the society continues to adopt normality of the corruption, eradication of the corruption would really be a distant dream. Moreover, concept of social justice is an arena partly covered and ensured under legal system. Ethical ideas about honor, right, respect, autonomy, claim, share, revenge and shame also play significant role in determining level of social justice and inclusive nature of the society.