

CORRUPTION IN GOVERNANCE: HUMAN RIGHTS DIMENSIONS

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INTRODUCTION:

“Corruption threatens the rule of law, democracy and human rights; undermines good Governance, fairness and social justice; distorts competition, hinders economic development, and endangers the stability of democratic institutions and moral foundations of society.” –*The Preamble of the Council of Europe Criminal Convention on Corruption.*

“Ignorance, forgetfulness or contempt for human Rights are the only causes of public misfortune and the corruption of Governments.” - *The Preamble of the Declaration of Human and Citizens Rights, 1789.*

Corruption has been in human society since the beginning of time and is an unavoidable evil in government. However, in recent years, corruption has developed such a foothold that it has had a negative impact on nation-building initiatives and processes. The purpose of this research is to investigate the negative relationship between corruption and human rights violations. The importance of tying human rights to corruption is also discussed in the paper. The study looks at how corruption affects human rights and how human rights instruments might work together to fight corruption.

MEANING AND DEFINITION OF CORRUPTION

The word corruption comes from a Latin word that denotes "moral decay, wicked behaviour, putridity, or rottenness." In common language, corruption is defined as giving and taking some type of remuneration in the form of money, an office, or a position in exchange for a service done in an illegal manner, or by exceeding one's legal authority. To link corruption to human rights, however, a legal definition is required. In the legal sense, the term corruption usually refers to a variety of illegal crimes like as bribery and embezzlement, influence trading, money laundering, and so on, all of which conform to the overall concept of an abuse of entrusted power. International conventions against corruption, such as the United Nations Convention Against Transnational Organized Crime and the Council of Europe Civil Law Convention on Corruption, reflect this. They don't define corruption; instead, they list the criminal behaviours that constitute it.

MAJOR CAUSES OF CORRUPTION

The Santhanam Committee, established by the Indian government, has highlighted a number of procedural causes of corruption, including red tape and administrative delays, needless regulations, personal discretion, lengthy procedures, scarcity of products and services, and a lack of openness. There are two types of corruption in India. One type of corruption is exploitative corruption, in which a governmental officer or a private entity entrusted with certain tasks takes advantage of the vulnerable poor citizen. The second type is collusive corruption, in which a citizen bribes a public servant in exchange for higher benefits. In fact both perpetuates inequality

thus striking at the very concept of rule of law-the bed rock of democracy, which is acknowledged as the best system of governance to ensure respect for human rights

IMPACT OF CORRUPTION ON HUMAN RIGHTS

The modern state, based on the premise of general public welfare, is obligated to offer governance that can ensure basic human rights to all people without discrimination. As a result, the state has three degrees of human rights obligations: respect, protection, and fulfilment. The commitment to respect compels the state to refrain from taking any action that could deprive people of their rights or their ability to exercise those rights through their own efforts. The state's commitment to protect requires it to prevent third-party abuses of human rights. The obligation to fulfilment compels the state to take steps to ensure that persons under its jurisdiction can meet basic requirements that they cannot meet on their own (as defined by human rights agreements). As a result, human rights violations occur when a state's action or omission fails to comply with its commitment to respect, protect, and fulfil recognized human rights of its citizens. There are three factors to consider when examining the link between corruption and human rights violations. When the state or an official act or omits in a way that prohibits individuals from exercising that right, corruption can be considered a direct violation of human rights. It may be an indirect violation if, despite the lack of a direct link, corruption is an important contributing component (a required condition) in a sequence of events that leads to human rights violations. For example, corruption may be an indirect cause in which corrupt authorities aim to prevent corruption from being exposed or turn a blind eye to corruption. When corruption is one element among many contributing to human rights violations, it may seem far away.

CORRUPTION AND SPECIFIC HUMAN RIGHTS

Several human rights agreements, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, all support the idea of reconciling corruption and human rights violations. These instruments demonstrate that the right to corruption-free governance is a fundamental human right, and that corruption is a violation of human rights, particularly the rights to life, liberty, equality, and non-discrimination, right to political participation, right to information, and a number of economic, social, and cultural rights, such as the right to food, water, housing, education, and the environment, as well as the right to law enforcement.

a. Principles of equality and non discrimination

Equality and non-discrimination are important human rights concepts that are acknowledged in all human rights documents as well as the Indian Constitution. This means that discrimination, both direct and indirect, is illegal. The presence of corruption results in discrimination in access to public services, such as health, education, and welfare, favouring those who can sway authorities to act in their own best interests. Corruption disproportionately affects the economically and politically disadvantaged, as well as the marginalised, resulting in discrimination and arbitrariness.

b. Right to political participation

From the standpoint of human rights, this right states that a person has the right to participate in the decision-making process that affects them. The right to vote, the right to run for office, the right to freedom of association and assembly, and the right to equitable access to public services are all included in this right. Bribery, abuse of authority, trading in influence, and other forms of corruption, in fact, contradict the free expression of the electorate's will and, as a result, directly violate the rights of all citizens, whether voters or candidates. The right to life, liberty, security of person, and freedom of expression and association are less likely to be preserved in a restrictive system when political involvement is limited and accountability is low. Furthermore, restricting fundamental rights to political engagement, such as freedom of expression, may enhance potential for corruption.

c. Economic, social and cultural rights

The state also has three obligations in relation to economic, social, and cultural rights such as the right to food, water, shelter, and education, among others: the obligation to respect, the obligation to protect, and the obligation to fulfil. Apart from that, two fundamental requirements should be considered when determining whether an act of corruption breaches economic, social, and cultural rights: a state's duty to take steps to gradually fulfil these rights, and its duty to prioritise human rights when allocating resources. Progressive realisation necessitates prompt action by the state to ensure that economic, social, and cultural rights are gradually made available to all individuals within its authority, as well as the prohibition of retrogressive measures. The government must take intentional, explicit, and targeted actions toward achieving full realisation of the relevant rights. Corruption indicates that the government is not moving in the right path. When monies are misdirected by interested officials in conjunction with interested parties, or when access to health care, education, and housing is contingent on bribery, the state's resources are not being utilised to their full potential to realise socioeconomic and cultural rights. Furthermore, the four conditions of availability, accessibility, acceptability, and adaptability that protect the basic content of Economic, Social, and Cultural Rights must be met.

d. Right to law enforcement and fair trial

Corruption in investigation level and political interference in judiciary will undermine its quality affecting the independence and impartiality of judiciary denying access to justice of the public, which is sine qua non for rule of law, the foundation of all human rights.

e. Right to development

Respect for human rights is the route for human development and realization of the full potential of each individual which in turn leads to augmentation of human resources with the progress of the nation. Corruption tends to skew public expenditure away from the needed and impairs development programs thus hampering economic growth and the right to development of every individual which results in the denial to the people of their legitimate rights.

NEED FOR LINKING HUMAN RIGHTS TO CORRUPTION

Public opinion will be influenced if corruption is perceived as a violation of human rights. Furthermore, establishing concrete ties between corruption and human rights may persuade important stakeholders such as public officials, legislators, judges, prosecutors, lawyers, businesspeople, bankers, accountants, the media, and the general public to take a stronger stance against corruption. A clear understanding of the practical connections between acts of corruption and human rights can help those with legitimate claims to demand their rights in relation to corruption, as well as states and other public authorities respect, protect, and fulfil their human rights responsibilities at all levels. Connecting acts of corruption to violations of human rights opens up additional avenues for action, particularly when acts of corruption can be contested through the many national, regional, and international bodies in place to monitor human rights compliance. When acts of corruption are linked to human rights breaches, all of these institutions may act to compel accountability and provide disincentives to corruption. From a human rights standpoint, policymakers must consider how anticorruption measures may affect those who are marginalised or destitute, face social discrimination, or are disadvantaged in other ways. Analyzing anti-corruption programmes from a human rights perspective may help states create and execute legislation and processes to detect, investigate, and judge corruption cases that adhere to human rights standards.

ROLE OF HUMAN RIGHTS MECHANISMS TO COMBAT CORRUPTION

NGOs, trade unions, business organisations, academics, and the media, among others, can play a critical role in efforts to combat corruption and promote and preserve human rights. Anti-corruption organisations can benefit from the support of national human rights institutions. Human rights and anti-corruption organisations can also collaborate to set more stringent professional standards and codes of conduct, ideally in collaboration with law enforcement and the judiciary. They should also seek to raise awareness among journalists and media professionals, as well as other actors such as bankers, accountants, real estate agents, and other professionals, without whose help corruption and its proceeds cannot be hidden. Human rights and anti-corruption organisations could collaborate on a number of fronts. They could work to pass legislation and implement policies that encourage government transaction openness. Giving the public and civil society greater tools and more authority to analyse social programmes in which they have an interest is one effective strategy to limit corruption and promote human rights. In addition to litigation and election voting, communities and civil society organisations have devised a variety of methods for holding governments accountable. Lobbying and advocacy, citizen advisory boards, and budget analysis are among them. Some of these issues have been addressed through public interest litigation.

CONCLUSION AND SUGGESTIONS

Despite the fact that corruption-free government is a basic fundamental right, the country is nonetheless plagued by it. The Bofors fraud, Bihar fodder scandal, Hawala scam, CRB scam, and most recently the 2G Spectrum scam have all been reported in the press in recent years. India

ranks 87th out of 178 nations in Transparency International's 2010 Corruption Perception Index. Corruption in India threatens derailment of its growth and development. World Bank has suspended \$88million worth of loans to India's health sector after detecting corruption in procurement. However, the current tendencies in India are very impressive. India's acceptance of the United Nations Convention against Corruption demonstrates the country's commitment to combating corruption by enacting a series of administrative and legislative measures to enhance the legal and regulatory framework. The Central Government has proposed an anti-corruption plan that specifies a specific time range within which the sanctioning body must notify its judgement. The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011, is also being worked on by the government. Furthermore, the government is working on a strong "Jan LokPal Bill." Apart from that, the country has enacted anti-corruption legislation such as the Prevention of Corruption Act, the Right to Information Act, the Money Laundering Act, the Public Servant (Forfeiture of Property Act), 1999, the Whistle Blowers Bill, 2010, Benami Transactions legislations, the Foreign Exchange Management Act, Customs and Income Tax legislations, and so on. Several anti-corruption institutions, such as the Central Vigilance Commission, the CBI, and the Information Commission, are also in place. The role of the higher judiciary is also commendable. The Supreme Court, while exercising its authority in PIL matters, has exposed corruption in various instances and has overseen the investigation into several scams. In a momentous move, the Supreme Court has ordered all trial courts in the country to rapidly resolve corruption cases, and the High Court to request quarterly reports from all lower courts in this regard.

Another notable trend is the growing complementarity between the Supreme Court and the national human rights commission in terms of human rights enforcement and corruption prevention. The Supreme Court has used the NHRC's better capacity to actively oversee institutional performance in particular conditions in various cases. The NHRC, in collaboration with the national courts, can help the state realise its essential human right to corruption-free government. A vigilant and objective press can also make a significant difference.

To address the problem of corruption, good law and strong institutions are insufficient. We must concentrate on streamlining procedures, decreasing discretion, removing arbitrariness, and boosting transparency in how the government operates. In the recent Indian political landscape, a vibrant civil society has emerged, encompassing a diverse range of freely organised groups working towards the aim of good governance, which has progressed to the level of human governance as entrenched in the Indian Constitution.

The fight against corruption and the advancement of human rights is a long and tough one. The judiciary, the NHRC, civil society, non-governmental organisations, and the media must all work together to influence the national agenda on corruption and human rights. The common man, on the other hand, must be at the forefront of this endeavour. Although an independent judiciary serves as the Constitutional watchdog in our system, the ordinary man bears the ultimate duty for good administration.

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