
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

AN ANALYSIS OF JUDICIAL CORRUPTION- Sohair Ahmed Shaikh¹**Abstract:-**

The legal profession has a collective obligation to maintain and self-patrol the profession's ethics, primarily through their regulating authorities, and it should be considered to what extent these authorities are promoting anti-corruption standards or reprimanding lawyers who are complicit in corrupt acts. The economic study of corrupt practices has already made important theoretical contributions to the literature. However, the empirical literature has failed to capture or objectively examine the root causes of systemic corruption inside court systems. Recent survey-based investigations of corrupt practices, which rely solely on subjective evaluations of governance issues, are an excellent example of these inadequacies. A scientific approach to the study of public sector corruption must be empirically verifiable using objective and subjective indicators in order to provide accurate anticorruption recommendations. This article contains empirical findings that fill in the gaps left by prior research. Six objective explanatory factors are suggested in the article as a way to quantify the influence on corrupt activities. Through the use of surveys of litigants, judges, and attorneys, the compatible subjective probability of corrupt activities are used to measure this dependent variable. Later in the paper, an empirical model incorporating organizational, market-related, and substantive also the term procedural explanatory variables evaluated in the judicial sectors is proposed.

Keywords:-

Corruption, Judicial Officers, Politicians, Bribe, Civil Society, Justice.

Introduction:-

¹ Student at L.R. Tiwari College of Law

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

There are the two quotes,² “Power tends to corrupt, and absolute power corrupts absolutely.” And the another one is ³ “With great power comes great responsibility. “It expresses that if you have the ability to do something, make sure you’re doing it for the good of others. When a person is provided with absolute powers it is been misused and misrepresented towards the society and on the common public who believes mainly on the judiciary of the country for getting justice in their cases.

A noncorrupt court is a necessary condition for the establishment of the rule of law and the ability to protect basic human rights in society. The judiciary must thus be an independent and unbiased institution that combats corruption, not the other way around. There are numerous definitions of corruption; this essay is based on the term of "abuse of office for personal or private gain," which is broad but widely recognized. The elements that contribute to judicial corruption are numerous and frequently overlap, but they differ from state to state and must thus be examined separately in order to determine the underlying causes of corruption. The consequences are negative and undermine the basic foundation of the rule of law, since corrupt judges disregard key norms such as equality, impartiality, propriety, and integrity. Corruption in the Indian court is deemed ubiquitous; over 45% of Indians believe that judiciary is corrupt, a view shared by external assessments. Article 11 of the United Nations Convention against Corruption, a fundamental international treaty, emphasizes the judicial branch's critical role in the fight against corruption and states that in order to carry out this role effectively, the judicial branch must be free of corruption and maintain its integrity.

History of the Judiciary / Courts:-

⁴Some have claimed that corruption extends to the highest echelons of the judiciary. In 2010, a former Law Minister stated that eight of sixteen former Chief Justices of India (CJI) were corrupt, and in 2014, a former Supreme Court judge claimed that three former CJIs made "improper compromises" to allow a corrupt High Court judge to remain in office. Unfortunately, the Indian judiciary has a tendency to see every call from the government or legislature for increased judicial responsibility as an attack on the court's independence. That anxiety is not entirely irrational given the brief history of power struggles among the three branches, but it is be

² by Lord Acton, British historian in late nineteenth centuries.

³ by Voltaire, French author into American folklore.

⁴<https://www.google.co.in/url?sa=t&source=web&rct=j&opi=89978449&url=http://www.diva-portal.org/smash/get/diva2:321290/FULLTEXT01.pdf&ved=2ahUKewii-bWoupuFAxVIyDgGHQGS4sQFnoECBsQAAQ&usg=AOvVaw2KY0XDBpRPOecofHtgBCII>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

coming increasingly hollow in light of escalating claims of corruption inside the court. Indian judges may not be as corrupt as its politicians, but the Indian judiciary, like its equivalents worldwide, is built on a reputation for justice, impartiality, and incorruptibility. The courts cannot afford any erosion of public trust. As a result, the judiciary's loss of public support in its confrontation with the government and legislative must have served as a wake-up call.

Corruption in lower courts :-

India's judicial corruption spreads like a disease from the bottom up. The diverse lower judiciary, which includes 600 district courts and hundreds of subordinate courts, serves as the principal interaction between the Indian judiciary and the common inhabitants. In 2013, 36% of residents reported paying bribes to the judiciary, a sad truth confirmed by many senior judges themselves. A 2007 survey that disaggregated bribe receivers found that 59% of respondents paid bribes to lawyers, 5% to judges, and 30% to court officials in exchange for quick and favorable decisions. The pendency of cases, cooperation between defense and prosecution counsel, manipulation of an opaque judicial system by court officials, and political involvement in appointments of lower court judges have produced a toxic environment at lower levels of justice system.

Corruption in higher courts:-

The prevalence of corruption in the lower courts is closely related to another issue. In a judicial system like India's, where higher court judges are chosen from among lower court judges and lawyers, there is always the prospect of corrupt justices ascending to higher courts. This is especially plausible in India, where seniority has become the key 'de facto' criterion for promotion. Once elevated to higher courts, judges can use their broad "contempt of court" powers to conceal claims of corruption. Indeed, the Indian judiciary's employment of contempt of court procedures against its critics is frequently accused for turning a democratic debate on judicial corruption to a hushed whisper. For example, people who accused the former CJIs of corruption are currently facing contempt of court charges.

Causes of corruption in Indian Judiciary :-

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

⁵**A | Inaccessibility** : The Judicial system is highly tardy. The cost is prohibitively expensive for the average person. Litigation can be costly and timeconsuming, making it difficult for average individuals to obtain remedy. Access to justice in India can be difficult and expensive for many people, particularly those from marginalized communities and low income families. The Indian legal system is noted for its slow pace and case backlog, making it difficult for individuals to seek and get justice on time. Furthermore, the expense of legal representation and court fees might be extremely high for many people, limiting their access to the justice system. Despite these problems, there are efforts to increase access to justice in India, such as legal aid programs and steps to resolve case backlogs.

B | Misuse of power :

Our judicial system has served as the nation's moral conscience, speaking truth to political power, protecting citizens' rights, settling interstate conflicts, bringing justice to both rich and poor, and, on multiple instances, saving democracy itself. Despite its accomplishments, a gap between the ideal and reality has become apparent over time. A judge is expected to make a decision based on the facts presented to him, yet most judges today are swayed by media disputes about crime investigation. It has been shown that 70% of judges are mediaphobic and follow the media out of fear of public criticism. This is the greatest risk of a media trial. The judiciary is not held publicly accountable for big decisions or lengthy court proceedings. Nobody can question the court. There is no provision in the constitution for registering a case against a judge who has accepted a bribe since it is impractical for a poor guy to go see the Chief Justice of India and then file a FIR. Judges are rarely questioned on the nature of justice since they do what they believe is appropriate based on their legal understanding. When an average man questions the court, a contempt of court is issued against him; nevertheless, when three Supreme Court judges questioned the Chief Justice, no contempt of court was issued against them.

⁵<https://www.google.co.in/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.thehindu.com/opinion/op-ed/indias-judiciary-and-the-slackening-cog-of-trust/article65394817.ece/amp/&ved=2ahUKewjKzqLOupuFAxXO2TgGH9wBf8QFnoECEsQAQ&usg=AOvVaw0NrTiC1QXsXpPLSaf7arMM>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

C | Slow and long process :- India has the largest legal system all over the globe in respect the world's highest backlog of pending cases is estimated to be 30 million. There are more than four million High Court cases and 65,000 Supreme Court cases. This figure is constantly increasing, demonstrating the inadequacies of the legal system. There have always been discussions about increasing the number of always late or inadequate. Due to the backlog, the majority of convicts in India's prisons are still awaiting trial. Simply raising the number of judges will not suffice because adjournments are permitted in our court system. These promote delaying tactics, consume judicial time, impede effective case management, and impoverish plaintiffs. They dissuade many people from seeking formal justice. Aside from the lawyers, who frequently charge per hearing, nobody benefits.

D | Lack of Transparency :-

Along with independence, judicial accountability and transparency are also required. In the absence of judicial accountability, transparency, and independence, the public would perceive justice as an illusion. Justice is one of the most crucial aspects of a democratic system. Justice is a primary purpose of law. Justice is critical for the success of any democratic system since injustice to the public eventually leads to unhappiness, disaffection with the government or ruler, and insurrection against the state. Judicial independence cannot be reduced to accountability for the task that judges performed. Judges are human beings, and they operate within the constraints of human fallibility. Judges cannot be exempt from the institutional supervision process. Judicial independence tries to establish a proper structure for transparency and accountability

E | Illiterate and unaware citizens:

His experience with India's judicial system led him to believe that the courtroom is an alien land where procedures and technicalities reign over truth and morality. It is difficult for an ordinary man to get past the cumbersome procedures or the middleman who exploits their ignorance to gain money. As citizens, we should be informed of our legal rights and the remedies granted by our legislature. Legal illiteracy in India impedes access to justice and comprehension of rights, resulting in a power mismatch between citizens and the legal system. This information gap results in forfeited claims and difficulties in pursuing redress. Despite the availability of legal aid, little awareness limits its usefulness. Addressing this requires a variety of measures

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

ures, including mass education campaigns, simpler legal information transmission, and utilizing technology for accessibility.

F] Weak governance :- From the very beginning , there is always a hidden conflict between the government and judiciary in administering the legal system of country India

.The court has been able to prevent governments from making unlawful choices, indicating that weaker governments may lead to increased judicial corruption. There must be always a check and balance system engaged for the justified and smooth functioning of the trials and relations of the bar and bench is maintained in order to keep a believe of justice in the legal system of the country making citizens believe in the judiciary of India .

Favourism towards corruption in judicial system :-

1]Favorable Judgements : By the way of paying and offering bribes to the judges in the courts where the trial is in process it is possible to secure a favorable judgement in your part or side .Media reports shows that it is easier to do such acts in the lower courts it does conducts but radically it reduces as it reaches to the Higher Courts.

2] Speedy Judgements: In Indian courts which results in delayed judgments'. It is quite common for a case to drag on for years. People often have to pay bribes to speed up the process. Everything gets faster after giving bribe to the officials in the legal system.

3] Manipulating witness: In cases have shown, witnesses are manipulated through money or force into giving favorable testimony. Mainly the witness are the role players for the case to whom the judgement will be in favour of .

4] Influence public prosecutor : The Public Prosecutor is the master of the case's registered on the basis of F.I.R or State cases. It is possible to influence Public prosecutor by offering bribes. It changes the situation and cases of the courts in favor of the person from whom he has taken bribe .

5]Grant of bail : Through the way of bribery the bail is been also granted by the judges in some of the cases were the investigation is carried out and police asks for remands . The judge release the accused due to the bribe he received also, in nonailable offnece charges the bail is been granted from giving bribery . This makes a judiciary worst system.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Suggestions for reducing the corruption in judicial system :-***6A] Advancement in technology:-***

Adhering to international human rights agreements' due process and diligence norms can prevent corruption in the justice system. Where these standards are not met, a variety of anticorruption techniques can help to improve judicial integrity and accountability. To effectively combat corruption in the courts, anticorruption measures should be integrated into overall structural reforms. This integrates anticorruption measures into technological reforms for judicial institutions.

B] Strengthening control or oversight mechanisms:

Control and monitoring methods might be incorporated into the judicial system. Involving civil society or laypersons in judge nominations can lead to increased scrutiny. An electronic case allocation method randomly assigns cases to judges, preventing biased hearings. An electronic case management system can monitor court proceedings and detect irregularities. Court users can file complaints against judges and personnel through established channels. Court user committees can provide comments on the effectiveness, efficiency, and integrity of their work.

C] Improving the education and training of judicial actors:-

Providing judges with frequent training throughout their careers promotes high levels of professionalism. Training programs can address ethical concerns, including navigating ethical difficulties. Facilitating peer-to-peer mentorship and sharing experience and best practices best across countries can be a helpful training method, since judges may be more receptive to discussing ethical issues with peers from different countries.

D] Promoting accountability and transparency :-

Transparency technologies can require judges to disclose their rulings and improve access to information about court procedures and case progress. Judges should have quick access to information, legislation, cases, and court procedures, while parties should be informed about their due process rights during and after court proceedings. Posters displaying court fee costs can reduce the danger of illegal fees being charged by officials. Journalists should be permitted to

⁶<http://www.u4.no/articles/corruption-risks-and-assessment-tools-in-the-criminal-justice-chain>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

report openly and fairly on court procedures, including allegations of corruption or undue influence.

E | Monitoring and public awareness :-

Court monitoring programs by international organizations, funders, or civil society organizations might detect errors in court decisionmaking. Judges have broad latitude in their decision making, and it is not always evident whether a judge is working corruptly or is honest but incompetent. Court surveillance may not discover corruption, but it can identify issues that warrant further inquiry. Public education campaigns can educate individuals and court users about their rights and what to expect from the courts. These efforts can encourage court users to avoid paying bribes or illegal fees to access judicial services.

Laws pertaining to corruption :-

⁷In India, corruption laws are governed by the Indian Penal Code, 1860 ('IPC') and the Prevention of Corruption Act, 1988 (as amended from time to time). On July 26, 2018, both houses of Parliament enacted the 'POCA Amendment Act', which includes supply-side prosecution and other significant modifications. The President gave his consent

In India, the Comptroller and Auditor General (CAG) and Central Vigilance Commission (CVC) play crucial roles in dealing with Public Interest Litigations (PILs), in addition to investigating and prosecuting institutions. Courts have ordered the CAG to investigate public-private partnership contracts in the infrastructure sector due to allegations of income loss to the government.

In India, public personnel can face penalties for corruption under the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988. The Benami Transactions (Prohibition) Act of 1988 forbids benami transactions. The Prevention of Money Laundering Act of 2002 punishes public personnel for money laundering. India has signed (but not ratified) the UN Convention against Corruption since 2005. The Convention addresses several forms of corruption and provides preventive measures. According to the IPC, "public servant" includes government employees, military, navy, and air force officials, police, judges, Court of Justice officers, and mu

⁷https://www.google.co.in/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.indiacode.nic.in/bitstream/123456789/1558/1/A1988-49.pdf&ved=2ahUKEwjfz6DVu5uFAxWxzqACHTzmCJMQFnoECCEQAQ&usg=AOvVaw0_QPoRi0ydAwDxDUzsZ1XP

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

municipal authorities constituted by a central or state Act.⁸ Section 409 pertains to criminal breach of trust by a public servant. The public servant shall be punished with life imprisonment or with imprisonment of upto 10 years and a fine.

Prevention of Corruption Act, 1988.

In addition to the categories included in the IPC, the definition of “public servant” includes office bearers of cooperative societies receiving financial aid from the government, employees of universities, Public Service Commission and banks. If a public servant takes gratification other than his legal remuneration in respect of an official act or to influence public servants is liable to minimum punishment of six months and maximum punishment of five years and fine. The Act also penalizes a public servant for taking gratification to influence the public by illegal means and for exercising his personal influence with a public servant.

⁹Prevention of Money Laundering Act , 2002.

The Act states that an offence of money laundering has been committed if a person is a party to any process connected with the proceeds of crime and projects such proceeds as untainted property. “Proceeds of crime” means any property obtained by a person as a result of criminal activity related to certain offences listed in the schedule to the Act. A person can be charged with the offence of money laundering only if he has been charged with committing a scheduled offence. The penalty for committing the offence of money laundering is rigorous imprisonment for three to seven years and a fine of upto Rs 5 lakh. If a person is convicted of an offence under the Narcotics Drugs and Psychotropic Substances Act, 1985 the term of imprisonment can extend upto 10 years.

Process to investigate prosecute public servants :-

The three main authorities involved in inquiring, investigating and prosecuting corruption cases are the Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI) and the state Anti-Corruption Bureau (ACB). Cases related to money laundering by

⁸ Bare Act , Indian Penal Code (IPC) , 1860.

⁹https://www.google.co.in/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.legalserviceindia.com/legal/article-9085-anti-corruption-laws-in-india-with-recent-judicial-pronouncements-a-complete-guide.html&ved=2ahUKEwjfz6DVu5uFAxWxzqACHTzmCJMqFnoECCQQAQ&usg=AOvVaw3dxtXV_4_Q57VSdNVEG96W

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

public servants are investigated and prosecuted by the Directorate of Enforcement and the Financial Intelligence Unit, which are under the Ministry of Finance.

The CVC is a statutory body that supervises corruption cases in government departments. The CBI is under its supervision. The CVC can refer cases either to the Central Vigilance Officer (CVO) in each department or to the CBI. The CVC or the CVO recommends the action to be taken against a public servant but the decision to take any disciplinary action against a civil servant rests on the department authority. Prosecution can be initiated by an investigating agency only after it has the prior sanction of the central or state government. Government appointed prosecutors undertake the prosecution proceeding in the courts.

Conclusion :-

On the basis of above research it that conclusion has been drawn how the corruption has been spread and how to control. As with many other issues facing India, the problem of judicial corruption festers not for want of solutions but for lack of will. Several reform commissions, senior judges, and eminent jurists have laid out detailed proposals for reforming the system from the ground up. Some of the key suggestions include improvements to contempt of court and impeachment proceedings, improvement of judicial infrastructure, enforcing integrity codes for judges and lawyers, extending the Right to Information Act to cover the judiciary, opening judicial vacancies to qualified legal scholars, create a 'National judicial commission' to bring transparency in judiciary, using alternative dispute resolution mechanisms, and introduction of modern technology. However, reforms have been intolerably slow, with the judiciary and executive blaming each other for the delay. We see that in spite of all the advancements in information and communication technologies changing the life of the people of the country dramatically, the India legal system still looks like a domineering and pretentious British vestige appearing to belong to an elite class away from the people and the country. As a matter of fact, the present system of justice is totally out of place and out of time and tune with democratic procedures and norms that please only a certain section of the society with vested interests. Therefore, there is an immediate need to restructure the entire judicial system to make it answerable to the needs of a democratic, progressive society.

References

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

<https://timesofindia.indiatimes.com/india/Corruption-widespread-in-Indiahttps://>

[www.transparency.org/news/pressrelease/20070523_judicial_](http://www.transparency.org/news/pressrelease/20070523_judicial_corruption) corruption, 2017 widespread.

www.legalservices.com anti-corruption .

www.livelaw.in /amp/supreme-court/supreme-court-judgments-prevention-of-corruption-act-annual-digest-2023.

<https://www.google.co.in/url?sa=t&source=web&rct=j&opi=89978449&url=https://>

knowledgehub.transparency.org/guide/topic-guide-on-judicial-corruption/

[5305&ved=2ahUKEwjh38G3ypyFAxUlbfUHHSu1CsgQFnoECCUQAQ&usg=AOvVa](https://knowledgehub.transparency.org/guide/topic-guide-on-judicial-corruption/5305&ved=2ahUKEwjh38G3ypyFAxUlbfUHHSu1CsgQFnoECCUQAQ&usg=AOvVa)

[w0YgEfnHBgaapjIldKYS_VN](https://knowledgehub.transparency.org/guide/topic-guide-on-judicial-corruption/5305&ved=2ahUKEwjh38G3ypyFAxUlbfUHHSu1CsgQFnoECCUQAQ&usg=AOvVaw0YgEfnHBgaapjIldKYS_VN)



For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>