



CORRUPTION IN INDIA

A short article on History of evolution of corruption along with the government's recent preventive measures to mitigate corruption in India.

Submitted by:-
P.BHUVAN DEEPAK
Gitam School of Law



INTRODUCTION:-

A few months earlier, a study reported that the most corrupt nation in Asia was-you guessed it-India. We beat Thailand on the 3rd and Vietnam on the 2nd for the most 'coveted' titles, and why not. The bane of corruption runs deep here, permeating every agency, every social service, and every thread of our country's nervous system. It's not just me to suggest this though; there are flat, hard evidence and numbers backing rising of those statements. Here's one for you right now-54% of India's population has charged a bribe to enter public facilities and agencies, more than 1 in 2 people. You could shrug it off as the Desi style, or you might take a moment to remember how fucked it was.

Nonetheless, here are a couple more statistics regarding the disqualified condition of affairs in India.

1. 38% of land and property income in India include bribery
2. Sixty two percent of law enforcement officials take bribes60% of street stops for truckers are for extorting coins.
3. 60 percentage of individuals who acquired a riding license from an reliable did no longer undergo a riding examination.
4. 31% of parliamentarians are involved with court proceedings
5. In 11 public basic services, such as education , health care and judiciary, the monetary value of minor corruption amounts to about Rs 3,19,72,50,000 a year.
6. India's Ministry of Telecoms siphoned around \$30 billion.
7. Approximately 40% of the grain intended for the poor reaches them.

Corruption is the sin of the earth. Corruption in India has been the biggest concern since independence. Both underdeveloped and emerging nations are highly impacted by corruption. Corruption is directly related to bribery, which involves granting or taking advantage of any illicit activity. Corruption has been

increasingly active in every field of Indian society. Corruption is a disorder that is not always confined to any single politician group. It infects the complete machine. A truthful politician candidate is already an oxymoron. In India, there are very few people with a sincere picture. In India, there are also a lot of scandals happened inside the Indian government. According to the 2009 Corruption Perception Index Report released by Transparency International, India ranks 84th among 180 countries impacted by corruption. Corruption strategies often boost the growth of the country.

There are several of things answerable for the boom of corruption India. First off, after the skilled British officials left India, a massive vacuum, created and a number of Indians who had no previous experience administrators needed to be appointed or promoted. Secondly, post Independence, there was a shoot in activities, programs, initiatives and tasks of government, entailing big funding consequently, there was a loss of accountability and well enough manipulate to govern corruption. Thirdly, large enterprise houses and multi-nationals gathered a lot of blab cash. They used their money power to steer the policies of the government of the day. Fourthly, the ill-paid authority's employees were easily tempted to ace bribes. Fifthly, almost 35% of Indians are illiterate. They turn out to be a clean pre to corruption.

OLD MYTHS ON CORRUPTION:-

The Oxford Dictionary describes corruption as “dishonest or fraudulent or unholy actions by those in authority or influence, typically involving bribery”. Corruption is the result of the Latin word: corruptus. The word is a past participle of corrumpere, which means "mar, bribery, and destruction.

"Corruption is as ancient as human history". Ancient Egypt's First Dynasty (3100–2700 BC) documented corruption in its judiciary.

The custom prevailed in ancient China, too. Each household in Chinese mythology has a Kitchen God who rules over the behavior of its members. The lord of the kitchen ascends to heaven a week before the New Year of Chinese, to send his

annual report to the King of Heaven, the Emperor of Jade. The destiny of the family is its reward or punishment, hinges on this report. In an effort to create a positive report, several households are placing a cake of sugar and honey on the picture of the Kitchen God they keep in their homes before burning the picture, which in Chinese mythology is how the Kitchen God will ascend to heaven to meet the Jade Emperor.

Throughout the same way, the Greek historian Herodotus states that the Alcmaeonid family bribed the Oracle of Delphi priestesses, one of the most strong supernatural powers in ancient Greece. From 1400 BC, inhabitants of Greece and beyond had their problems addressed by Apollo 's high priestess, Pythia. The rich Alcmaeonid family agreed to lavishly restore the Temple of Apollo with “Parian marble” after the earthquake had ruined it. By addition, Pythia compelled the nation-state of Sparta to assist the family by capturing and ruling Athens. After it succeeded, Aristotle has found that even gods can be bribed!

"In my seventh-class economics book, the first sentence read, "India is a wealthy nation populated by poor people. "I certainly did not recognize the relevance of this statement at the time. The author had meant to say that India was rich due to its mineral wealth and natural resources, and poor due to its low GDP and per capita income. That was in 1983, however, and a lot has changed since then".

Diversity and corruption in India:-

To understand India's advent of corruption, and to understand its impact on society as a form of existence, one must understand India's history. India is a very young country. In 1947, after 200 years of British control, it obtained its independence. That India was neither a geographical body nor culturally homogenous. The Via the East Indian Company the British came to India and over the decades they noticed cumulative pressures of shifting the emphasis from commerce to land and from commerce to political and military control –fueled by the greed of its private owners – increasingly fragmented the

already complex country. Thousands of tiny territories that make up the land of Bharat (India) grew smaller and more oppressive as the years went by, embedding the virus of corruption in India.

In 1947, when the British Empire, after the II- World War, was reduced in power and ability, it left India. Governance fell into the possession of India's first Prime Minister, Jawaharlal Nehru. In an attempt to fully eliminate Western control, he took a political move to follow a revolutionary solution to the economy. What followed in the next five decades was painfully slow economic growth. Improved regulatory restrictions also culminated in popular economic incentives. Population growth, low per capita income, and slow GDP all combined to create near-hyperinflation. Small pay of government staff (such as bureaucrats and police), oppressive taxation, complicated tax and regulatory processes, bureaucratic administration, shortage of incentives, arbitrary control, government supremacy, and an antiquated judicial structure with a lack of consistent rules and procedures have just further aggravated the already-tainted and inefficient framework. After 2005, India ranks near the center of the Transparency International Corruption Perceptions Index (90th of 180 countries). Corruption practices in India include exploitation of public properties for private benefit, spanning from the reduction of public funds to abuse of authority (including bribery).

The path of India's liberalization:-

Increasing globalization, greater access to and reporting on global media, and the work of organizations such as Transparency International organizations have continued to expose corruption. Though India was gradually developing its standing-challenging and dubious activities in several sectors of the economy, including hiring procedures, measurement and documentation in civil supply departments and valuation of property taxes. Reports by the Auditor of India and the Comptroller have continuously displayed that the most serious corruption rates can be detected in excise duties, tax collection, public services and licensing agencies. Commission of Central Vigilance has been formed in 1964 and is responsible for enforcing the law on the Corruption prevention, with an emphasis on

senior officials. Although the powers and mandate of the Commission have been expanded over the years to make it more efficient, its emphasis still lies more on administration than on politics.

In 1992, India declared itself nearly bankrupt and in heavy debt, and under pressure from the World Bank, the government was pressured to liberalize its economy. What proceeded is the subject of myth. Today, one may argue that the Indian idea is 500 years old, and that the country itself is 70 years old, but its economy is just 25 years old. In this span of short time, India has doubled its GDP, found a niche for itself as a global software provider, and produced thousands of entrepreneurs. Unfortunately, the road of liberalization and subsequent prosperity has not liberated India from exploitation but has managed to fuel it. Truckers on Indian highways spend billions of rupees per year for bribes. Bureaucrats in monopoly positions make it greater tough to do commercial enterprise in India through growing strict and complex compliance necessities which might be difficult or not possible to meet. Revenue officials are searching for innovative opportunities to profit from the growing income of investors who, in effect, are inventing inventive methods to stop revenue. Corrupt leaders and industrialists have joined together, manipulating popular thought and opinion through their own media outlets. Controversies have been frequently recorded in the previous 2 decades, such as the Commonwealth Games and the AgustaWestland scandals, including various complaints including prosecutions against officials and members of the dairy, telecommunications, and energy sectors

As with many revolutions, one character or event is later visible as a spark that illuminated the path to tremendous change. In 2011, social activist Kisan Baburao "Anna Hazare" started a hunger strike that triggered a national anti-corruption campaign and contributed to the passage of the Jan Lokpal Act (Citizens' Ombudsman's Bill).

Though maybe not innovative in the conventional meaning of the term, many will consider the 2014 election of Narendra Modi as prime minister as a catalyst for dramatic reform. The loss of India's longest-serving political group—the INC—in support of the fresh name and speech of the BJP and the winning of 282 seats in the general election, shocked many. Analysts indicated that this win was attributed to both

the success of Modi and the lack of support for the Congress owing to corruption controversies in his previous tenure, including the Hazare movement itself. However, the maxim that dominance shall corrupts and over absolute power corrupts completely, the world's largest democracy has selected a new image, a new name, and introduce a better party to government, looking for a more transparent chapter of it. Following a successful run as Chief Minister of state, Modi came to power and received acclaim for initiatives to encourage economic growth and efforts to combat corruption in his home state of Gujarat.

In 2016, Modi did the unthinkable and took action that amounted to the use of a brahmastra (weapon of annihilation in ancient Sanskrit writings). He centered his first emphasis on administration, and bureaucrats started reporting to work on time. He demonetized the 1,000-rupees and 500-rupees notes and substituted them with fresh money. These denominations made up 90% of the currency in circulation in India, and citizens were given 40 days to deposit any cash they held in their banks. If the currency deposited was unrecognized, they will have to report it and pay taxes and fines in the sum of 50% of the income. In the event of no declaration, penalties of up to 90% and other charges would apply.

Modi's stated targeted goals are multi-focused:

1. Eradication of counterfeit money smuggled into India to finance terrorist attacks and separatist activities.
2. Taking unrecognized and unused money into the finance sector and thereby rising turnover and tax collection.
3. Cut the economic cash flow and thus lift real estate and land rates, rendering them more competitive.
4. Flushing banks with money, thus raising the cost of borrowing and offering an opportunity to spend and kick-start development.
5. The norm to allow digital transactions.

The demonetization suffering was tremendous, with people struggling for money and digital transactions occurring really quickly. This is anticipated to have a huge effect on potential collections of government revenue, and allow deficits to be written off.

Corruption itself may take another decade to fully remove it, but the first measures have been taken. Other moves along with demonetization have been the implementation of the legislation that is RTI Act and the Right to Public Services legislation. A number of other indirect taxes have been absorbed by the successful introduction of the GST, India's first tax reform, on 1st July, 2017. The aim of this one tax is to ensure higher collection rates, reduce revenue leakage for the government, and ensure a fair sharing of taxes between both the governments that is Central and State governments.

Corruption and poverty:-

Poverty and corruption are unquestionably connected together. Only 15% of the government's anti-poverty funds reached the poor in 2003. Anti-corruption laws have existed in place since 1968, assisted by organizations such as the Central Bureau of Inquiry and the Central Vigilance Committee, however the lack of competence of the Department and the inherent hesitancy to self-police or incriminate also resulted in several attempts to implement such laws efficiently.

Not only does corruption exacerbate deprivation in India, but it also drags the whole country's growth down by resource degradation. However, India has been evolving and rising at a faster pace than almost every other nation in the world. Unless corruption is totally eradicated, the pace of economic development in India may be double-digit.

India and the relocation industry:-

Unlike other business industries, India's relocation industry isn't prone to corruption's harmful effects. Organizations and people must be fully educated and mindful of the threats—as they apply to license and insurance, service levels, or acts that may be perceived as bribes. As globalization proceeds to encourage further movement to, from and inside India, open-mindedness, trustworthy business and legal stakeholders, and complete awareness of enforcement and threats, greater openness will continue to be fostered. Irrespective of one's political beliefs, we all aspire to experience India and to ensure that our children inherit a country that will be inhabited by the rich—rich in culture, honesty, ethics, integrity, justice, practice, politics and principles.

There is a crime behind any significant fortune:-

Corruption was seen as immoral and unethical activity from the time of the Biblical era¹. Chanakya was found in his teachings²; Corruption is a symbol of constructive potential. Ironically, Mario shares identical points of view. The Godfather Puzo!³. Historical incidences of wrongdoing and behaviour can invoke a sense of curiosity; Nevertheless, in modern days there should be no doubt, There should be no wonder, however, that in the current modern business and commerce, the effect of corruption results in debilitating and disabling. In this decade, India has witnessed amongst the biggest state procurement controversies and also the consequence of extraordinary judicial decisions and cancelation of production arrangements. In India, the legislation on corruption is broadly based on the rules present in Indian Penal Code, 1860(IPC) and the Prevention of Corruption Act, 1988 (as amended from time to time (“POCA”)). Both houses of Parliament adopted the new amendment to POCA which provides for investigation and prosecution on the supply side, among other important amendments, and obtained the President's assent on July 26 , In addition to the possibility of criminal action under POCA, there is often a chance of being blacklisted and under indictment for anti-competitive conduct.

Corruption is a worldwide problem. It has been a feature of our everyday lives. It is detestable, because it has reached into our culture's very foundations. Corruption, nepotism, dishonesty are growing rapidly.

¹ Proverbs 29:4 – A just king gives stability to his nation, but one who demands bribes, destroys it

² Chanakya – His Teachings & Advice, Pundit Ashwani Sharma, Jaico Publishing House, 1998: In the forest, only those trees with curved trunks escape the woodcutter's axe. The trees that stand straight and tall fall to the ground. This only illustrates that it is not too advisable to live in this world as an innocent, modest man.

³ Page 100, Mario Puzo, 1969 – The breaking of such regulations was considered a sign of high-spiritedness, like that shown by a fine racing horse fighting the reins.

Santharam Committee:-

It was founded by the Central Government in 1960. The committee chairman was Mr K. Santhanam. The studies of this committee published its report in 1962. The Committee observes that 'Corruption cannot be eliminated or reduced unless preventive measures are taken and implemented in a proper manner. Preventive steps may involve political, legislative, social, economic and educational initiatives. The central government, on this body's recommendation, created the National Vigilance Commission in 1964 to investigate instances of corruption against central government.

Recommendations by the committee:-

- A detailed review of each agency, undertaking or ministry must be carried out. The report will also address the prevention steps that need to be taken.
- Citizens should be educated and made conscious of their privileges and obligations. They're supposed to know how the government works.
- Different services, such as accommodation, medical care, etc., should be given to workers. This will be a rise in their pay.
- Recreational tasks will be carried out for the workers of each agency.
- Companies and businesses are expected to hold detailed expense records.
- Administrative officers will be appointed with due consideration. Only those who entirely fulfill the criteria will be assigned to the key posts.
- Public employees can not consider private commercial jobs until two years following retirement.
- Administrative shortages would be lowered to prevent the practice of corruption.
- Licenses and regulatory schemes, coupled with tax regulations, ought to be checked.
- The higher authorities will insure that the laws are strictly followed.
- Media should play a positive role in fostering accountability and the avoidance of corruption.

PREVENTION OF CORRUPTION ACT:-

The Act on the Prevention of Corruption went into operation in September 1988. It inculcated provisions of Prevention of corruption Act, 1987, Indian penal code, the Criminal Procedure Code and the Criminal Law Act, 1952. After and during the World War-2, corruption among officers and public servants risen significantly and the provisions of the IPC and the CrPC were insufficient to cope with this circumstance. The Prevention of Corruption Act, 1947, was therefore introduced on this issue. Within this Act, separate judges shall be appointed by the Government of the Central and State. Special Judges will be a Session Judge or an Additional Session Judge or Assistant Session Judge under the Code of Criminal Law, 1973.

The Criminal Procedure Code states that the offences against the public officer are non-cognizable, yet the act obliges the court to render such probability of guilt against the convicted. The inquiry will be carried out by the Deputy Superintendent of Police. This act shifts the burden of proof from prosecution to the accused.

The act also redefined the definition of the word 'public servant.' The 'public servant' as specified here shall involve any individual in the service of the government and in the pay of the government or its agency, its businesses or any undertaking or control of the government. The act applies to the entire of India, with the exception of Jammu and Kashmir. MP's and MLA's were left out of this operation. When it comes to the prosecution of public officials, it is performed by a special judge and the challenge is put before the higher court that is High Court and eventually before the Supreme Court. If the offenses against the public servant have been proven, they shall be prosecuted by imprisonment of no less than 6-months, which may be extended to five years. Misappropriation, abusement of official position, misappropriation of income, advantage like pecuniary, etc. are treated as offenses under this Act.

Administrative Vigilance Division in the department of Personnel and Training:-

It was formed in August 1955 at the Ministry of Home Affairs to take anti-

corruption steps. Under this system, each department was expected to appoint a member of no less than the Deputy Secretary as Chief Vigilance Officer of the department. He had been appointed to manage all security matters within his authority. They devise and enforce Central Government initiatives in the fields of vigilance, public sector honesty and anti-corruption.

Central Bureau of Investigation:-The Central Bureau of Investigation is been established by the Government of India, Ministry of Home Affairs brought a Resolution No 4/31/61-T, dated 1 April 1963. The investigation is carried out by the S.P.E. Wing of the C.B.I., which derives its police powers from the Delhi's Special Police Establishment Act, 1946, to investigate certain specified offenses or classes of offenses relating to corruption and other forms of malpractice involving public servants with a view to bringing them to the book.

Central Vigilance Commission:-The Commission of Central Vigilance was established in 1964 on the advice of the Santharam Committee. This is a non-legislative entity and its powers and roles can be changed by the state. This involves instances where police officers from the central government, union territories, PSU officers and nationalized banks are arrested for corruption. It operates as an autonomous and advisory body. It is led by the Commissioner of Central Vigilance, assisted by the Secretary, 5 Branch Officers and 11 Departmental Inquiries Commissioners.

PROMINENT CASES:-

1) Ketan Desai-

The CBI has recently arrested the President of the Indian Medical Council, Ketan Desai, and three others for accepting bribes to allow Patiala-based Gyan Sagar Medical College to recruit a fresh batch of students without sufficient facilities.

2) 2G Spectrum Scam-

The CBI is conducting a trial pursuant to this Act. Under this fraud, the

Telecommunications spectrum was distributed to companies by dishonest and unconstitutional means by the UPA Government at throwaway rates.

POCA Amendment Act:-

Since its introduction to Parliament in August, 19, 2013, the POCA bill was amended based on the report of the Law Commission. Despite that, Five long years after the launch of the POCA Bill reached the upper house on June 19, 2018, accompanied by the lower house on 24 June, 2018. The POCA Bill has now obtained the assent of the president on 26 July 2018 and of the POCA Act of Legislation came to be enforced. The following primary improvements were made To the POCA by virtue of the POCA Amendment Act.

1) *Bribe-giver is liable to be prosecuted:-*

Conceding to the advice of the LCI, The scope of POCA has now been extended to include to Cover those who offer or agree to send 'undue' advantage to a person with an intention to encourage, or rewards the public servant to conduct their 'public' Job 'improperly,' as pointed out in Section 8. Immunities Conceded according to the previous section 24, this has now been removed. Such an offense would have been committed punishable by full imprisonment Seven years and/or a fine period.

2) *Commercial organizations liable to be prosecuted:-*

The POCA Amendment Act has been largely in effect the edict of the POCA Bill and the allocation of authority for prosecution of commercial organizations,' if any individual affiliated with such commercial operation organizations are giving or promising to give any undue Availability to a public servant...⁴ '. In addition, if necessary any director, manager, secretary, or other officer of the commercial organization must have been known to have consented and/or connived to commit the offense, such an officer will be punishable by incarceration for a term of imprisonment more than 3 years and up to 7 years and even subject to fine. The same thing as the

⁴Section 9 POCA Amendment Act

POCA Bill, the POCA Amendment Act also specifies that it will be a legitimate protection for commercial purposes organization to show that it was 'adequate procedures' in place.

- 3) Prior permission to be sought before initiating investigation:- Taking into consideration the crucial role of the public servant position of the worker, POCA Amendment Act makes it important for police officers to seek prior permission from the authorization until the inquiry is done. Any crime perpetrated by the incumbent and retired civil servants. The permission must have been given and they must be obtained from the appropriate union or Government of the State in whose employment accused 'public servant' had perpetrated the crime, in contentment of his public responsibilities and roles. It is the compliance of such statutes in many states with criminal punishments on other crimes and for other people.

- 4) Attachment of tainted property:-

A new chapter has been added to the POCA Amendment Act-CHAPTER IV A to the POCA, which grants the power to do so assemble property, confiscate money or property and manage land that is tainted by illegal practices. Adhering in spirit to the recommendations of LCI, owing to the terms of the Criminal Law Amendment Ordinance, 1944, is also applied to this attachment to the trial. Previously, it may be applied to tainted properties by steps related to anti-money laundering laws

- 5) Time limit for trial:-

The bill now requires that the trial of the offenses be held on a daily basis, and attempt to conclude two years from now. A time-bound trial will definitely help to speed up an appropriate trial procedure which will function as a effective threat to habitual offenders.

Other Important Principles under POCA:-

- 1) Public duty and Public servant:-

Public service is described as 'a service to discharge' the State, the public or the community of which this has an impact at large.' The term 'state' it

also has an inclusive definition. The relevance of the concept of 'public service' is that persons paid by the Government for the valuable public services or initiatives are taken by the executive. The duties may also be of public service to the POCA. POCA defines a general public servant in an expansive way. The word is not restricted to the cases set out in the definition clauses and judges have also embraced and the interpretation that enables more people to do so as be included in its array⁵. Definition of the public service and the public servant were examined at the P.V. Narasimha Rao v. State⁶. Even though the case related to a Member of Parliament, the decision of the Supreme Court made it clear that both of them Public duty and the public servant would have been given a broad interpretation. Applying those concepts in the case of Ram Gelli, even though the concerned Individuals weren't employees of the State or of the State Instrumentalities in the face of the public responsibility Factor and essence of the work conducted out by the bank Managers, the Supreme Court has come to the conclusion that for the purpose of the POCA, these Officers would have been public servants.

In Bhupinder Singh Sikka v. CBI Delhi⁷, The High Court ruled that the person who was a part of the Insurance business, which was established through an act of Parliament becomes an automatic public servant and still, there was no requirement for proof to be given in reference to the same. Extensive definitions are being followed by the Supreme Court can contribute to a state of unpredictability and ambiguity in the rules.

2) Taking gratification, influencing public servant and acceptance of gifts:

Section 7, Section 8, Section 9 and Section-11 of the Rules of POCA, as significantly changed by means of POCA Amendment Act, provision for instances to take gratification, to manipulate the public servants or the acceptance of presents. These are the sections substantially updated with

⁵ Section 2 (c) of POCA. See also Ram Gelli case above.

⁶ (1998) 4 SCC 626.

⁷ CrI. App. No. 124 of 2001, Delhi High Court, decided on March 25, 2011.

India in view obligations in the UNCCA. With view of the crimes related to in Section 7, 11 and 13, the court noticed that they were an abuse in duty by the public official involved. Transactions that contravene the rules of POCA usually requires a public officer and the illegal gratification in connection with that securing a favour from or as the public servant in result of reward or compensation for the public servant.

It is similarly necessary that there should be a request for a sum made by the public servant and basic fact that the individual has a valuable thing, in any absence of these proofs such requests may not result in conviction under Section-7 of POCA⁸. It was also considered that a crime under Section 7 is a violation of office⁹ and that of the actions of the people involved have the hue of the authority.

3) Investigation, trial and settlement:-

Investigation of offenses under POCA shall take place in accordance with the procedure laid down in the Code of Criminal Procedure 1973 ('Criminal Code').POCA does not allow for arbitration or compensation compounding process¹⁰. The Criminal Code points down the circumstances in terms to which compounding is possible¹¹. Even then, though, although the crimes under POCA are not listed in Section 320 of the Criminal Code provides The Supreme Court held that, in certain cases, which do not require moral turpitude, was more of a business sort, that will be allowed parties to resolve the conflict. The Supreme Court observed:

⁸ P. Satyanarayana Murthy v. The District Inspector of Police (2015) 10 SCC 152.

⁹ Parkash Singh Badal, above

¹⁰ Settlement or any form of plea bargaining.

¹¹ Section 320 of Criminal Code.

“In the case of serious crimes, including those under the IPC or crimes of religious turpitude under Special laws, such as POCA, crimes perpetrated Public servants when serving in the Ability cannot be disciplined for settlement between both the survivors and the perpetrator”.

OFFENCES AND PENALTIES UNDER THIS ACT:-

The foregoing are the crimes under the PCA [Corruption Prevention Act] coupled with their penalties:-

- Any pleasure other than legal remuneration in regard of an official act, and where the public servant is found to be guilty, shall be punished with imprisonment of not less than 6 months, but a maximum of 5 years , and liable to a fine along.
- Receiving gratification through dishonest or unlawful means for manipulating public officials is punished through incarceration for a period not longer than three years but which can stretch to seven years and is often liable to fines.
- Gratification shall be punishable by incarceration for the practice of personal influence over a public officer for a duration not exceeding six months, but which may stretch to five years, and may also be liable to penalties.
- The capture by the public officer of the crimes alluded to in Section 8 or 9 shall be penalized by incarceration for a period minimum than six months, but which may stretch to five years , and shall also be liable to a penalty.
- The public servant who obtains valuables without consideration from the person concerned in the proceeding or business carried out by that public servant shall be punished with detention for not fewer than six months, but for a duration lasting up to five years, and responsible for a fee..
- Punishment for offenses of abetment defined in Sections-7 or 11 shall be penalized by incarceration for a period minimum of six months, but that may go up to 5 years, and can even be subjected to a fine.

- Every public official who performs a criminal offence of criminal misconduct shall be subjected to incarceration for a term that should not less than one year, which can stretch to 7 years and can also be subject to a penalty.
- Specific offences under Sections-8, 9 and 12 which is habitual committing offence shall be punished by incarceration for a term minimum of 2-years, but which may extend to 7 years, and shall also be liable to a fine.

PUBLIC SERVANT CAN BE PROSECUTED WITHOUT THE PRIOR PERMISSION OF EMPLOYER:-

Previous sanctions of the GoI shall be imposed on employees of the Central Government, the State Government concerned on employees of the State Government and, in the case of any other public servant, the sanctions of the respective authority empowered to remove him from office is required to prosecute a public servant for crimes committed under sections 7, 10, 11, 13 and 15 of the Act. It calls for protection against unfair action on the grounds of fraudulent or misleading allegations against public workers. It calls for protection against unfair action on the grounds of fraudulent or misleading allegations against public officials.

Section 19 of the POCA, 1988, imposes a bar on the court to recognize an offense against a public servant until such time as a penalty is received from the government workers.

Supreme Court Judgment on Section 19 of Prevention of Corruption Act:

1) Validity of section:-

In Manzoor Ali Khan vs UOI (2015) and Subramanian Swami (2014), the provision of a penalty for prosecution in a corruption case is not unconstitutional, as the mere possibility of abuse cannot be a ground for declaring a provision unconstitutional, but the executive needs to expedite

the sanction process.

2) Requirement –

This has a positive goal of defending an innocent public worker against unwarranted and false persecution and it refers to the criterion itself (Aiyappa vs. Anil Kumar (2013) and Narayana Swamy vs. State (2016) cases).

3) Counter-Views:-

In Subramanian Swami vs UOI (2014), SC held that Section 6A of the Delhi Special Police Institution Act required prior sanctions for inquiry as unconstitutional (Similar views in Rajasthan vs. Raj Kumar-1998 and R.R. Chari vs. State-1951)

No Tolerance of Corruption- > Undercutting the fundamental basic principles of fairness, liberty, democracy and solidarity as an individual is not applicable to the prosecution of crime.

Subjugation of judicial powers- > by placing limits on the prosecution by the police themselves at the preliminary stage.

A Convention of Knowledge and Simplicity

CONCLUSION:-

The Prevention of Corruption of the Act, 1988, is an significant piece of law to fight the sin of corruption. It is a powerful weapon to put a stop to this bad. The effectiveness of the anti-corruption bad campaign rests on the enforcement of this law. This is also necessary for us to recognize the impact of this legislation. They ought to figure out the lacuna in the law whether anything remains in the law. We need to do away with the oppressive clauses of the Act. Similarly, the incorporation of new laws into the Act would always be a good measure.

REFERENCES:-

1. Proverbs 29:4 – A just king gives stability to his nation, but one who demands bribes, destroys it.
2. Chanakya – His Teachings & Advice, Pundit Ashwani Sharma, Jaico Publishing House, 1998: In the forest, only those trees with curved trunks escape the woodcutter's axe. The trees that stand straight and tall fall to the ground. This only illustrates that it is not too advisable to live in this world as an innocent, modest man.
3. Page 100, Mario Puzo, 1969 – The breaking of such regulations was considered a sign of high-spiritedness, like that shown by a fine racing horse fighting the reins.
4. Section 9
5. Section 2 (c) of POCA. See also Ram Gelli case above.
6. (1998) 4 SCC 626.
7. Crl. App. No. 124 of 2001, Delhi High Court, decided on March 25, 2011.
8. P. Satyanarayana Murthy v. The District Inspector of Police (2015) 10 SCC 152.
9. Parkash Singh Badal, above.
10. Settlement or any form of plea bargaining.
11. Section 320 of Criminal Code.