



Efficacy of Anti-Corruption Efforts in India

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Submitted by:
Souradip Sen

IIT Bombay

Mentored by:

Shri Amrit Mohan Prasad
IPS, 1989 Batch
I.G. Odisha Vigilance

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Please email your suggestions or concerns to: hr@rakshakfoundation.org

Preface

I am Souradip Sen, a 2nd year undergraduate student, Mechanical Engineering, IIT Bombay. Like many of my friends, I have often felt frustrated by the extent to which corruption is prevalent in our country. And Rakshak Foundation is one of the few organizations that attempts to channelize such frustration into something productive- a non-profit organization that attempts to make citizens more responsible. This internship was an ideal opportunity for me to go beyond lamenting the state of the “system”, and actually find out the exact nature of the problems and potential solutions. And so, I jumped at this opportunity when it presented itself.

The shortcomings of our anti-corruption machinery have been widely researched and a wealth of material is already available. This report, however, approaches the problem with a holistic view and tries to cover most of the important stakeholders and aspects of it, including elections and the media. The greatest amount of focus has been on strategies for civil-society involvement since it has been widely observed that the shortcomings of the system are not due to a lack of ideas but a lack of political will to implement existing laws. A society galvanized towards battling corruption is the best way to generate the political will required for reforms.

Acknowledgements

This project would never have been possible without the guidance of my mentor Shri Amrit Mohan Prasad, IPS 1990 batch. He introduced me to the various aspects of corruption that are prevalent in society, and the legal frameworks that deal with them, and continuously provided valuable inputs on how to approach this project.

I am also grateful to Shri Piyush Anand, Inspector General Kanpur range for his valuable inputs regarding the working and limitations of state police forces, to Shri Rajesh Kumar, Assistant Superintendent of Police vigilance Kanpur, for his inputs on the functioning of Uttar Pradesh vigilance, to Shri P.C.Sharma, Superintendent of Police, Special Unit, CBI for his invaluable inputs about the functioning of the CBI and the trial process, to Shri Vipin Saxena, Special Resident Commissioner, Odisha, for his inputs on the need for checks-and-balances in anti-corruption legislation, to Ms Anupama Jha, Executive Director, Transparency International India, for her inputs on the effectiveness and limitations of civil-society groups, and to Mr Gopikrishnan, Special Correspondent, The Pioneer, for his inputs on the role of the media in tackling corruption.

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Executive Summary

This report examines the existing anti-corruption infrastructure in a holistic manner. The 1st section provides the backdrop of rampant corruption followed by a brief analysis of the impact of corruption and the goals of the project. Section 2 briefly outlines the methodology adopted during the project while section 3 looks at the contributions of NGOs and the Government till date, in attempting to curb the menace of corruption.

Section 4 goes into the results and findings of the project. The key Findings can be summarised as:

- Too many cases- most day-to-day instances are simply ignored.
- Police force is underpaid.
- Very low probability of conviction.
- Trend of lenient sentencing
- No whistleblower/witness protection act.- required by UNCAC- ratified in may 2011
- Shortage of manpower and restrictions on jurisdiction
- Promotions and transfers controlled by state government
- Discretionary, overriding prosecution sanction without deadline
- Lengthy trial process with plenty of loopholes
- Menace of paid news in the media
- Countries with low corruption are generally characterized by an absence of many of the above listed problems
- A high standard of living for the common man has a strong correlation with low corruption

Further parts of section 4 deal with a comparative study of various countries on several parameters, along with a survey which deals with the prevalent trust gap.

Section 5 offers recommendations to deal with the situation. In a nutshell, the key recommendations are:

- Amendments to existing legislature to deal with the specific issues highlighted in the findings.
- Awareness campaigns targeted at the youth to generate sustained advocacy for reforms.
- Greater participation of civil-society groups in politics.
- Building an anti-corruption vote-bank.

Section 6 deals with suggestions for further work which includes a study on collusive patterns of bribery, black money, recovery of assets, and an exhaustive survey to document experiences had by the public while interacting with law enforcement agencies. This is followed by the conclusion- Section 7.

1. Introduction

1.1. Background Information:

Transparency International Corruption Perception Index 2011 ranks our country as 95th amongst all nations surveyed ¹. The gravity of this is further underlined by observing the other nations with similar rankings.

RANK	COUNTRY	SCORE
86	Serbia	3.3
86	Sri Lanka	3.3
91	Bosnia and Herzegovina	3.2
91	Liberia	3.2
91	Trinidad and Tobago	3.2
91	Zambia	3.2
95	Albania	3.1
95	India	3.1
95	Kiribati	3.1
95	Swaziland	3.1

Source: Transparency International India website

India is in elite company:

Bosnia-Genocide and subsequent separation from Yugoslavia

Liberia- 2 civil wars and elections only in 2005

Swaziland- HIV epidemic and lowest life expectancy of 31.88 years

The perception that India is severely plagued by corruption is almost uniformly subscribed to by the citizenry. The protests led by team Anna, the widespread demand for strong anti-corruption laws and institutions and public outrage caused by scams like the CWG scam, 2G scam, etc. underscore the frustration caused by status quo.

1.2. Main Problems, their scope and impact on the society:

Corruption imposes several costs on our society. And its impact is greatly enhanced by our failure to deter, combat and punish such acts.

The National Anti-Corruption Strategy² drafted by the Central Vigilance Commission states that “corruption not only stifles growth, it also perpetuates inequalities, deepens poverty, causes human suffering, dilutes the fight against terrorism and organised crime, and tarnishes India’s image globally.” To understand the implications of weak anti-corruption measures, let us first examine the associated costs of corruption.

1.2.1 Political costs

a) Perversion of the electoral process

Our current political spectrum is characterized by a hegemony of established parties, money and muscle power. The widespread belief that “money wins elections” is corroborated in large part by phenomena like:

- Paid news- allegations have been rife in recent years about the widespread phenomenon of paid news. There have been concerns raised by respected public figures³ like the Vice President of India and Chairman of the Rajya Sabha, Shri Abdul Hamid Ansari, Union Ministers such as Information & Broadcasting Minister Smt Ambika Soni and Human Resources Development Minister Shri Kapil Sibal, spokesperson of the Indian National Congress Shri Manish Tewari, senior leader of the Bharatiya Janata Party (BJP) and Member of Parliament (MP) Shri L.K. Advani, the Leader of the Opposition in the Lok Sabha and BJP MP Smt Sushma Swaraj, the leader of the Opposition in the Rajya Sabha and BJP MP from the Rajya Sabha Shri Arun Jaitley, the General Secretary of the Communist Party of India (Marxist) Shri Prakash Karat, the Chief Minister of Andhra Pradesh Shri K. Rosaiah, noted actor Shri Amitabh Bachchan, about media houses providing various “services-on-payment” such as favourable coverage of election campaign, advertisements disguised as independently generated news content, negative campaigning for opposition candidates, blocking all news about candidates who refuse to pay, etc.

- Exceeding of spending limits: The current spending limits are brazenly exceeded by all and sundry and it's difficult to prove because most transactions are in cash with no paper trail. This destroys the concept of a level playing field for all candidates since only the ones with adequate resources and an elaborate fund-raising mechanism can compete in the process, thereby restricting the choice of candidates available to people.

b) Loss of faith in the democratic process

There is a distinct sense of pessimism about the electoral process. The governing coalition has been rocked by a series of scams and corruption charges have been levelled against ministers. And yet there hasn't been a strong demand from opposition parties for immediate elections. Despite the strong anti-corruption sentiment prevailing in the general public, there is a clear lack of response from political parties in coming out with a clear anti-corruption agenda with specific promises.

In an environment like this, the current apathy which manifests itself in the form of low voter turnouts is only likely to be exacerbated. Moreover, there is a clear shortage of young educated leaders in the political spectrum which is a symptom of the bigger problem of a lack of participation by the youth in the political process.

1.2.2. Economic costs

a) Misallocation of resources

Astronomical sums of money have been involved in all the scams revealed recently. This is money that would otherwise trickle down to the common man in the form of direct transfers (NREGS- scams in disbursement) or reduced costs(2G scam- anti-competitive allocation of tenders). Black money stored in "safe havens" on foreign shores is a direct loss from our GDP.

b) Additional cost on business- reduces investment

The need to bribe public officials to quicken up the pace of work (permits, etc.) or to obtain a level playing field (in the awarding of licences or tenders) is a huge disincentive for investors.

- c) Reduces competition- monopolistic behaviour, scams in allocation of tenders, etc.

When a company manages to bend the rules in its favour through bribery, it hurts competition. For instance, if the bidding rules have a clause which prevents a large number of competitors from bidding for a specific tender, it reduces competition thereby allowing companies to impose higher costs on consumers.

1.2.3. Social costs

- a) Perception of wide-spread corruption is a disincentive for entry into politics. Very few young graduates aspire to become political leaders even though there is a widespread clamour for “cleaning the system from within”. This only exacerbates the hold of the corrupt on power since voters have limited options.
- b) The lack of independent, strong anti-corruption agencies makes it easier for influential people to get away with acts of corruption.

There are several restrictions on the functioning of anti-corruption agencies (dealt with in detail later), for example the CBI cannot initiate proceedings against anyone who holds the post of Joint Secretary or above without approval from the government⁴. This has led to the present culture of impunity where people with power and connections have very little to fear. This further contributes to the disillusionment of the masses, since they almost never see any powerful figure serving time. Even in high-profile cases like the 2G scam, trials are still going on and a decision is unlikely any time in the near future.

- c) Perceived and real lack of alternatives leads to a sense of resignation where people accept bribery as a norm.

The widespread existence of corruption and lack of avenues of redressal leaves an individual with very little choice but to comply. The act of paying a bribe to secure public services (like a driving licence, passport, etc.) has become so commonplace that's there's an air of normalcy attached to it. It's obviously much easier (or so it appears to most people, at the very least) to simply pay the bribe and get the work done instead of complaining about it and trying to stick to the actual rules. This is especially so in an environment where bribes are competitive: if I don't pay, a 2nd person will, and a 3rd person might pay even more to get their work done faster.

However acceptance of bribery by civil society would only entrench it further as a norm since those in power, reaping the benefits of a corrupt system have no intrinsic interest in cleaning up the system.

- d) Environmental risks: Harm done to the environment ultimately affects all of us. As with other rules, environment regulations can also be similarly flouted through bribery.

The recent revelations about Coal India Limited flouting environmental norms leading to the destruction of usable land roughly the size of Greater Mumbai, shows the extent of wastage that can be caused by such forms of corruption. Increasing air and water pollution levels with related impact on public health and well-being is another area of concern.

1. National Security risks

Corruption can seriously jeopardise our national security in several ways. These include but are not restricted to:

- a) Procurement of sub-standard defence equipment. The 26/11 attacks exposed how woefully under-equipped our police forces are ⁵.
- b) Appointment of ineligible people to important posts.
- c) Aiding smuggling, terrorism and insurgency.

1.3. Goals and Objectives:

The overall objective of the study is to analyze the series of steps starting from the act of bribery to the final sentencing, identify bottlenecks which hamper the anti-corruption efforts and delay justice, and recommend solutions for the same.

Goals:

1. To study the currently existing anti-corruption framework including laws, anti-corruption enforcement agencies, the judiciary, their efficacy and compliance with international standards.
2. To study corruption within the media, and also its role in combating it.
3. To study the efforts made by Civil Society Groups and their importance in spreading awareness and generating the political will necessary to push for reforms.

Make recommendations to improve upon the current anti-corruption

2. Methodology

Upon receiving my research topic I contacted my mentor to introduce myself and understand the general scope of the project. Ever since then he's guided me through the various stages of my project with recommendations as to what needed to be done at various stage.

After initial literature survey, I met with several senior IPS officers, each with their own perspective on the issue and their set of recommendations, based on which I conducted further literature survey and scheduled further field visits depending on the immediate requirement of the project.

Here I've briefly mentioned some of the things I've covered during my research thus far.

2.1 Meeting with Mentor

- Discussed the nature of anti-corruption machinery and legislature existing in India.
- Discussed various aspects of corruption and gradually zeroed in on the focus of my project.
- Decided upon the reading material that required immediate focus.

2.2 Literature Survey

- Studied the Prevention of Corruption Act, 1988, the United Nations Convention against Corruption, and certain relevant sections of the Indian Penal Code and the Criminal Procedure Code.
- Studied reports on Paid News, IPS recruitment Plan, Need for Sentencing Policy in India, India Corruption Study 2008 by Transparency International, and the National Anti Corruption Strategy by CVC.
- Studied various reports released by the police and anti-corruption agencies of countries like New Zealand, Finland, etc. which have low corruption.
- Studied news clippings on various aspects I learned about through field visits.

2.3 Field Visits

Date	Name	Designation	Institution	Topic of Discussion
25-5-2012	Shri Piyush Anand	IG	UP Police	General problems with policing
26-5-2012	Shri Rajesh Kumar	ASP	Vigilance	Operational difficulties in tackling corruption
5-6-2012	Smt Anupama Jha	Executive Director	Transparency India	Civil-society involvement
6-6-2012	Shri Vipin Saxena	Special Resident Commissioner	Orissa (Odisha Niwas)	Procurements and sanctions
7-6-2012	Shri P C Sharma	SP	CBI	CBI- role, jurisdiction, capacity and restrictions
7-6-2012	Mr. Gopikrishnan	Special Correspondent	The Pioneer	Media Corruption

Please refer Appendix A for details*

2.4 Survey

I conducted a survey to analyze the currently existing trust gap. It was an anonymous online survey with 3 questions on how people would respond to a hypothetical scenario involving a bribe. Please refer to sec. 4.10 for details.

3. Current NGO and Government Efforts

3.1 Efforts by NGOs:

India Against Corruption:

Leading the crusade for the Jan Lokpal Bill with a view to solve many of the problems with the current anti-corruption machinery such as lack of transparency, independence from political influence, jurisdiction and autonomy to prosecute suo motu, delays in trials, and so on⁶.

Transparency International India:

It is one of the oldest and most respected organizations campaigning against corruption. Some of their activities are:

- India Corruption Study 2008: It surveyed the BPL households across the country and estimated the net amount paid by the poor in bribes annually. Moreover they studied the perception of corruption in the various sectors like healthcare, education, etc.
- Pahal: As a follow up to the above study they started working for the poor and marginalized rural masses to empower them to demand and access their entitlements and public services with the knowledge and use of the tools of good governance like RTI, social audit, revived gram sabhas, citizen's charter and e-governance. They also worked towards people-centric, transparent and accountable governance through greater participation of women and disadvantaged sections in local self governance, increased responsiveness from local administration towards Gram Sabha (people's assembly for self governance) and tools of good governance and active role of Panchayats in bottom-up planning and monitoring.
- Development Pacts: They encouraged the signing of development pacts which are public agreements between committed administrative or political representatives or bodies, such as local elected councils, and organisations of the poor. The pacts included development priorities expressed by the poor and measures to ensure the

integrity of decision-making processes by which these are delivered. Promises could be on access to food, land and water, safety/security, employment, roads, credit, communication, electricity, health centres, schools etc.¹

I Paid A Bribe: It is a unique initiative to tackle corruption led by Bangalore based NGO Janaagraha. Harnessing the collective energy of citizens, the website enables citizens to report on the nature, number, pattern, types, location, frequency and values of actual corrupt acts that they experience on a day to day basis. Through such citizen reports, I Paid A Bribe seeks to discover the market price of corruption and also provide a snapshot of bribes occurring across different cities. The reports will be used by Janaagraha to argue for improving governance systems and procedures, tightening law enforcement and regulation and thereby reduce the scope for corruption in obtaining services from the government.⁷

Lok Satta: It is a political party in India founded by Dr. Jayaprakash Narayan and launched on October 2, 2006 by the Lok Satta voluntary organization. Loksatta Movement fought for administrative and political reforms in the last 10 years including constitutional amendments to eliminate defections, reduce the size of cabinet, Right to Information Act (RTI), disclosure of criminal records and assets by all candidates and many more.⁸

3.2 Efforts by the Government of India:

- Prevention of Corruption Act, 1988: The basic legislative framework dealing with cases related to corruption.
- The Right to Information Act, 2005: Under the provisions of the Act, any citizen may request information from a public authority which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.
- Ratification of the United Nations Convention against Corruption in May 2011⁹

- Introduction of several important bills in Parliament as required by the UNCAC, like The Public Interest Disclosure and Protection of Persons Making the Disclosure Bill, the Prevention of Bribery of Foreign Public Officials and Officials of International Organisations Bill, the Citizens' Right to Grievance Redress Bill and the Judicial Standards and Accountability Bill.⁶

4. Results and Discussions

The focus of the anti-corruption efforts needs to be on the incentive structure created by the system. If the system is malleable enough to allow a person to find loopholes at every stage of the investigation and trial, it incentivises people to be corrupt.

And so, we'll adapt an approach where we analyze each individual aspect of the crime, the various stages of investigation and trial and the miscellaneous factors aiding and abetting it, in order to isolate the bottlenecks which delay, and often deny, justice. The analysis of the gap between current efforts and the actual requirement is integrated. The section concludes with a comparative study of various countries along with an analysis of the systems existing in various countries with low corruption.

4.1 Incentives to be corrupt

From the perspective of a potential criminal, there are several aspects of our criminal justice system which are highly appealing.

1. Most of the day-to-day cases of bribery never get reported. As a society we've almost entirely accepted things like getting a driving licence without a driving test, bribing the traffic police, passport officials, railway ticket inspectors, and so on. Therefore people in these jobs have every reason to fear no retribution whatsoever.
2. Even when these low level crimes do get reported, an F.I.R is almost never registered and the matter is simply ignored by the police. This should not be interpreted as a simple case of negligence and dereliction of duty. There are good reasons why the police is not in a position to do much about these cases:
 - a) There are just far too many of them for an understaffed and overworked police force. There are cases involving much larger sums of money that require investigation.
 - b) The only way to prove anything in such cases is to catch the person red-handed. If you've already paid the bribe (which is often very likely in these cases) there is simply no evidence to substantiate the charges.

3. The non-gazetted police officers are underpaid. And these are the investigating officers in many of the cases. Lack of financial security provided by the salary along with the unlikelihood of retribution is a very strong motivator for these officers. IPS officers are comparatively better paid, and also enjoy perks apart from the salary.

Grade	Position In The State Government(s)	Pay Band <small>[clarification needed]</small>	Equivalent Position or Designation In the State Government(s) or Government Of India (GOI)
Above Super Time Scale (Apex Scale)	Commissioner of Police (State)	₹80,000 (fixed) plus grade pay-Nil	Director General of Police - Only one cadre post, all other DGPs are in HAG + scale of Rs 75,500-80,000, Director (GOI), Director General (GOI), Secretary (R) Cabinet Secretariat (GOI)
Above Super Time Scale (HAG)(Pay-Band-4)	Special Commissioner of Police	₹67,000-₹79,000	Additional Director General of Police, Commissioner of Police (City), Special or Additional Director (GOI), Special or Additional Secretary (R) Cabinet Secretariat (GOI)
Super Time Scale (Senior Administrative Grade)(Pay-Band-4)	Joint Commissioner of Police	₹37,400-₹67,000 plus grade pay of ₹10,000	Inspector General of Police, Commissioner of Police (City), Joint Secretary if empanelled as such (R) Cabinet Secretariat (GOI)
Super Time Scale (DIG/Conservator Grade) (Pay-Band-4)	Additional Commissioner of Police	₹37,400-₹67,000 plus grade pay of ₹8900	Deputy Inspector General of Police, Commissioner of Police (City), Director (R) Cabinet Secretariat (GOI)
Selection Grade(Pay-Band-4)	Deputy Commissioner of Police if in the Selection Grade	37,400-INR67,000 plus grade Pay of ₹8700	Senior Superintendent of Police, Director (R) Cabinet Secretariat (GOI)
Junior Administrative Grade(Pay-Band-3)	Deputy Commissioner of Police, also designated as Senior Superintendent in certain States such as UP and Punjab	₹15,600-₹39,100 plus grade pay of ₹7600	Superintendent of Police, Deputy Secretary (R) Cabinet Secretariat (GOI)
Senior Time Scale (Pay-Band-3)	Deputy Commissioner of Police / Additional Deputy Commissioner of Police	₹15,600-₹39,100 plus grade pay of ₹6600	Additional Superintendent of Police - if placed as such
Junior Time Scale(Pay-Band-3)	Assistant Commissioner of Police	₹15,600-₹39,100 plus grade pay of ₹5400	Deputy Superintendent of Police, Circle Officer, Senior Field Officer (R) Cabinet Secretariat (GOI)

Source: Wikipedia

OFFICE	BASIC PAY	GRADE PAY
INSPECTOR	9300-34200	4600
SUB. INSPECTOR	9300-34200	4200
HEAD CONSTABLE	5200-20200	2400
CONSTABLE	5200-20200	2000
4TH CLASS	5200-20200	2000

4. Probability of conviction is very low due to several reasons like a lengthy trial process, multiple appeals allowed on various grounds, possibility of influence peddling at various stages of investigation and trial, the need for “prosecution sanction”, and so on... Most of these will be examined individually in the upcoming pages.
5. There is a trend of lenient sentencing in corruption-related cases ¹⁰. This is easily perpetrated due to the absence of a standard sentencing policy. Let us examine some data from the CBI cases which reached a verdict in the year 2010.

	Punishment awarded for 7 PC Act (in years)	Fine awarded u/s 7 PC Act (Rs in thousands)	Punishment awarded for 13(1)(c) PC Act (in years)	Punishment awarded for 13(1)(d) PC Act (in years)	Punishment awarded for 13(1)(e) PC Act (in years)	Fine awarded under 13(2) PC Act (Rs in thousands)
0.3						1
0.5	14	1				2
1	42	25	1	70	2	31
1.5		1		2		4
1.67				1		
2	18	10	5	89	5	30
2.5		5				4
3	19	7		52	2	18
3.5	3			5		
4	8			15	1	
5		19		22		42
6		2		12		3
7						1
7.5		1				1
8						
9						
10		18				44
15		6				12
20		4				15
25		4				14
30						1
40						4
50		1				9
75						2
100						36
200						3
500						1
1000						
1450						1
Total no of instances	104	104	6	268	10	279
Average Punishment	1.77	6.68	1.83	2.49	2.20	30.88

Punishment awarded to the accused person (imprisonment as well as fine) for all the CBI cases convicted in 2010.

The average duration of prison sentence is a mere 1.77 years for bribery cases and 1.83 years for misuse of office cases. The average fine imposed for bribery cases is a mere INR 6680- all in the midst of public outrage following the 2G and CWG scams.

	For Section 7 PC Act		For Section 13(1)(c) PC Act		For Section 13(1)(d) PC Act		For Section 13(1)(e) PC Act	
Period of trial	Avg sentence (in years)	% less than 3 years	Avg sentence (in years)	% less than 3 years	Avg sentence (in years)	% less than 3 years	Avg sentence (in years)	% less than 3 years
Total	1.77	89.42	1.83	100	2.49	79.85	2.20	90
More than 5 years	2.01	88.46	1.80	100	2.64	76.88	2.17	83.33
Less than 5 years	1.54	90.38	2.0	100	2.08	88.41	2.25	100
3 to 5 years	1.95	81.82	2.0	100	2.12	82.86	2.0	100
Less than 3 years	1.23	96.67	-	-	2.04	94.12	2.5	100

Average imprisonment sentence and percentage of the cases where the sentences were 3 years or less

A sentence of less than 3 years allows the convict to get out on bail, pending the settlement of the appeal. The overwhelming percentage of cases with sentences of less than 3 years indicates that very few people actually serve any time in prison, as long as they can afford the expenses of a quality defence lawyer and lawsuits and appeals lasting 20-25 years.

Chart 3- Fine Awarded u/s 7 PC Act (All cases)

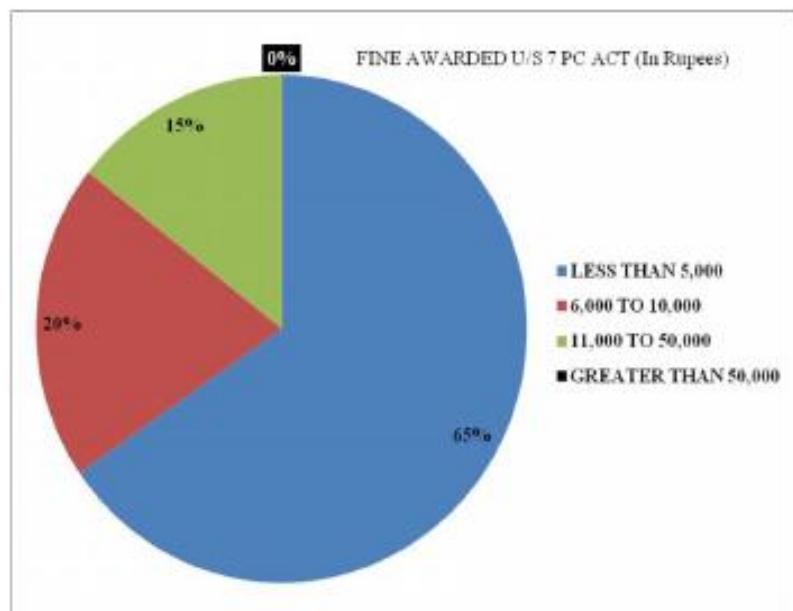
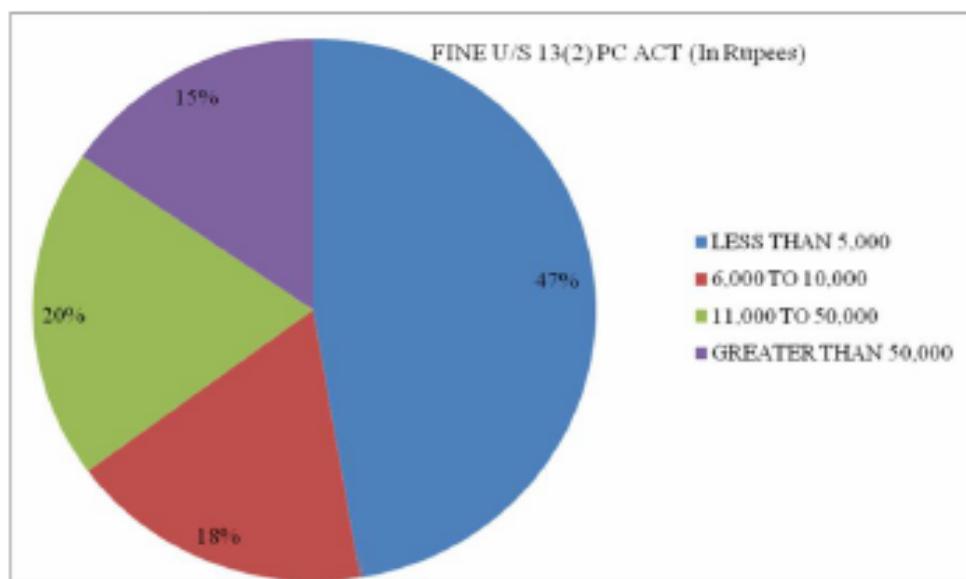


Chart 4-Fine Awarded u/s 13(2) PC Act (All cases)



The above two pie charts (Chart 3 and 4) indicate that in case of 7 PC Act, in 65% cases fines of less than rupees 5,000 have been imposed. Whereas in section 13(2) of PC Act fine amount was less than rupees 5,000 in 47 % cases.

Similar observations can be made with regard to the fines imposed. Clearly something's not quite right when fines of less than INR 5000 are imposed in 65% of bribery cases.

4.2 Disincentives for a complainant

After examining incentives for a potential criminal, the next step is to examine disincentives for complainants and witnesses since the justice system cannot function unless people actually complain about injustices perpetrated in society.

1. Personal Security Risks:

- a) The biggest disincentive for any aggrieved party from complaining is the fact that our record for witness protection is appalling.

Highly publicized murder cases of activists involve those of Satyendra Dubey and RTI activist Shehla Masood. Here is a list of RTI activists murdered in 2010 alone.

S.No	Name	Place	Form of attack	Probable Cause	Date
1.	Amit Jethwa	Gujarat	Shot to death	Enquiries about illegal mining that were a danger to the Gir reserve	July 20, 2010
2.	Dattatreya Patil (farmer)	Kohlapur, Maharashtra	Beaten up and slashed with swords	Filed RTI against horse trading in Kohlapur Municipal	May 31, 2010

				Election	
3.	Vitthal Gite	Beed, Maharashtra	Killed by under the members scanner .	Exposed irregularities in a school in his village	April 21, 2010
4.	Arun Sawant	Badlapur, Maharashtra	Shot dead		Feb 26, 2010
5.	Satish Shetty	Pune	Assaulted by assailants	Exposed major land scams, near Mumbai-Pune expressway	Jan 13 2010
6.	Vishram Laxman Dodiya	Ahmadabad	Shot dead	Sought info on illegal electricity connections in the city	Feb 11 2010
7.	Shashidhar Mishra (street vendor)	Begusarai, Bihar	Shot dead	Filed more than a 1000 petitions before his murder	Feb 14 2010
8.	Ramdas Ghadegaokar	Nanded, Maharashtra	Stoned to death	Took on the sand mafia	August 2010
9.	Sola Ranga Rao	Krishna district, Andhra Pradesh	Found murdered	Filed a petition on funding of the village	April 11 2010

				draining system.	
10.	Irfan Yusuf Qazi	Jaitapur,Mahrashtra	Killed when his scooter was hit by a police jeep	Protested against nuclear power plant in Jaitapur	December 18, 2010

Source: Hindustan Times, August 17, 2011

There is no law specific to protection of witnesses. A bill is currently pending in Parliament and needs to be passed in order to adhere to the recently ratified guidelines of the UNCAC.

b) Accused has a right to a copy of the charge-sheet:

The accused is provided a copy of the charge-sheet free of cost, by the Government of India. It contains all the evidence which makes the prosecution believe in the guilt of the accused, including the identity and statements made by witnesses. This enables influential people to know who to target. Those who cannot be bought can easily be threatened.

c) The long time taken by the trial process:

This increases the magnitude of the risk faced by a witness. Not only does it provide the accused with ample time to plan on ways to compromise the integrity of the witness (threats to person, family members, etc.) but it also opens them up to the risks of perjury. Giving false statements in court is a serious offence and this traps the witness between the Devil and the Deep Sea. Sticking to the truth implies retribution from the accused, perjury implies retribution from the Justice System.

d) Collusive cases of bribery:

A significant number of cases of bribery are collusive in nature where both bribe payer and receiver benefit from the exchange. This involves but is not restricted to cases of public procurement scams (2G scam, for example) or any other instance where one party wants the rules or procedures tweaked or disregarded to suit its needs.

In such cases none of the involved parties has an incentive to complain and such practices can continue unchecked unless a 3rd party complains. The reasons discussed above serve as a very strong deterrent for anyone from complaining.

2. Other psychological barriers:

a) A lack of faith in the system's efficacy in delivering justice-

The lack of faith, from the evidence we have already seen, is well-grounded in reality. Paying a bribe and moving on is a lot more efficient use of resources than complain with very little chance of anything coming out of it.

b) Bribery doesn't have the same kind of social-stigma attached to it compared to other forms of crime, unless it's on a grand scale.

People usually don't run away from a cab in a crowded market, sneak away from a crowded restaurant and so on, without paying. There is very little stopping us from doing so. The cab driver is unlikely to catch us, and nobody is likely to notice at the restaurant until it's too late. The same set of people however wouldn't even be remotely surprised, or outraged, when a ticket inspector asks for a bribe in a compartment full of people. A society's general attitude towards a particular kind of crime is a large factor in how people react when faced with individual instances of it.

3. Issues with accessibility of vigilance offices.

The ratio of offices to districts is quite low across most states. Uttar Pradesh has around 11 vigilance offices and 75 districts. Such ratios are a rule rather than an aberration. This also reflects a lack of manpower.

4.3 Roadblocks for investigation

For the cases regarding which information is received by anti-corruption agencies, there are several bottlenecks that could hamper investigation:

1. Jurisdiction

There are serious restrictions on jurisdiction of important anti-corruption agencies like the CVC and CBI:

CVC: It is only an advisory body and its advice can be rejected by the Government.

CBI-

- a) Its primary jurisdiction extends only to Union Territories and Railway Property.
- b) In order to investigate in a state, it requires sanction from the concerned state government.

This has several problems associated with it. The state police and vigilance departments are directly controlled by the State Government and so their autonomy can be compromised (as discussed later). Therefore the CBI may be required to step in, to investigate allegations against officials from a state. This provision provides State Governments with a tool to safeguard its officials from the CBI.⁴

- c) In order to investigate charges against any official of the rank of Joint-Secretary or above, the CBI requires permission from the concerned department. Such permission is often denied.

The only instances in which such restrictions can be bypassed are when either a High Court or the Supreme Court orders a CBI inquiry. Here's a brief timeline of the 2G scam investigation:¹¹

December 2008: The Pioneer unearths the scam through the efforts of Mr. J Gopikrishnan

May 2009: Complaints received by the CVC, directs a CBI investigation.

March 2010: CAG report corroborates most aspects of Mr. Gopikrishnan's story, thus forcing the Government to come out of denial.

October 2010: Supreme Court pulls up the CBI for tardy progress in the investigations.

November 2010: CBI tells Supreme Court that it will file a charge-sheet within 3 months.

Clearly, investigations that should take 3 months had been pending for 2 years until the Supreme Court's intervention.

2. Lack of manpower

There is currently an acute shortage of manpower both in the ranks of IPS officers and for lower ranked officers. This hurts the efficiency of the police force in terms of its ability to investigate cases effectively and in a time-bound manner.

An IPS Recruitment Plan released by the Ministry of Home Affairs details several irregularities in recruitment patterns in the past and suggests comprehensive solutions to tackle the problem entirely by 2020. Here is some data from that report:¹²

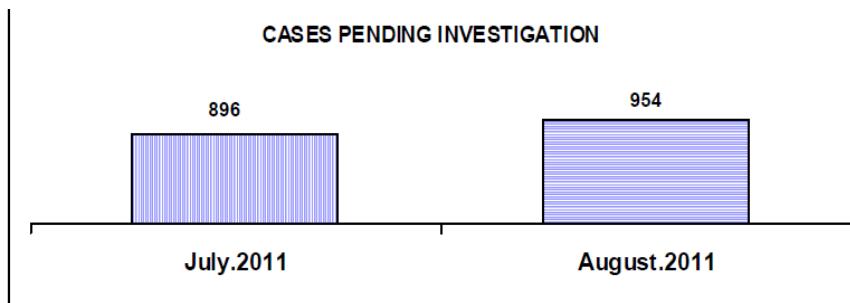
**Extent of Vacancies in the Authorised Cadre Strength of IPS
(As per Civil List as on 01.01.2009)**

S.No.	Cadre	Authorised Strength			Actual in position			Vacancies		
		D.R.	P.Q.	Total	D.R.	P.Q.	Total	D.R.	P.Q.	Total
1	Andhra Pradesh	146	63	209	132	57	189	14	6	20
2	AGMU	137	59	196	112	50	162	25	9	34
3	Assam/Meghalaya	107	46	153	93	36	129	14	10	24
4	Bihar	135	58	193	113	38	151	22	20	42
5	Chhattisgarh	57	24	81	53	21	74	4	3	7
6	Gujarat	112	49	161	95	43	138	17	6	23
7	Haryana	82	35	117	78	34	112	4	1	5
8	Himachal Pradesh	52	23	75	47	15	62	5	8	13
9	Jammu & Kashmir	74	61	135	58	52	110	16	9	25
10	Jharkhand	77	33	110	70	29	99	7	4	11
11	Karnataka	120	52	172	95	38	133	25	14	39
12	Kerala	99	43	142	83	36	119	16	7	23
13	Madhya Pradesh	161	70	231	146	67	213	15	3	18
14	Maharashtra	165	71	236	144	65	209	21	6	27
15	Manipur-Tripura	85	36	121	76	25	101	9	11	20
16	Nagaland	42	18	60	23	17	40	19	1	20
17	Orissa	111	48	159	96	1	97	15	47	62
18	Punjab	101	43	144	86	28	114	15	15	30
19	Rajasthan	129	55	184	109	44	153	20	11	31
20	Sikkim	22	10	32	21	10	31	1	..	1
21	Tamilnadu	165	71	236	126	60	186	39	11	50
22	Uttar Pradesh	282	122	404	240	95	335	42	27	69
23	Uttarakhand	42	18	60	39	17	56	3	1	4
24	West Bengal	194	84	278	148	71	219	46	13	59
								414		657
	No. of IPS Probationers of 2008 batch				100		100	(-) 100		(-) 100
	Total	2697	1192	3889	2383	949	3332	314	243	557

Source: IPS Recruitment Plan 2009-2020

There are 557 vacancies out of 3889 posts: 14.32% vacant seats.

Data from the CBI website about pending cases as of August 2010:



2.6 AGE PROFILE OF CASES PENDING INVESTIGATION

As on 31st August 2011, **954 (877 RC+ 77 PE)** cases were under investigation as compared to **896(823 RC+ 73 PE)** cases at the end of July, 2011. The age wise profile for cases Pending under Investigation are as follows:

<1 Year (a)	1-2 Years (b)	2-3 Years (c)	3-5 Years (d)	> 5 Years (e)	Total (a+b+c+d+e)
713	204	21	8	8	954

Source: CBI website

3. Lack of autonomy due to control by the Government:

- a) Promotions and transfers of police forces are completely controlled by State Governments. Promotions are based on a feedback system with the criteria being seniority and “lack of negative feedback”.

This can be easily used to unsettle honest officials if the upper administration is plagued by corruption. A below average feedback in an annual report can seriously affect promotions. Also, arbitrary transfers to remote places can be a serious deterrent.

Also, this system of promotion clearly lacks objective, merit-based incentives.

- b) The appointment of the director of the CBI is by-and-large controlled by the Government at the centre:

“The Director is recruited exclusively by deputation of the officers of Indian Police Services, who have been approved for appointment as Director General of Police under the Government of India respectively. Recommendations for appointments

are made by a CBI Selection Board headed by Central Vigilance Commissioner and Home Secretary, Secretary (Co-ordn & PG), Cabinet Secretariat as Members. The views of the incumbent Director are considered by the Board for making the best choice. Final selection to these posts of CBI is made by the Appointment Committee of the Cabinet from the panel recommended by the aforesaid CBI Selection Board.”¹³

This allows the entire hierarchy of the CBI to be controlled to some extent by the Central Government.

4.4 Approval of prosecution sanction

After sufficient evidence is gathered for a charge-sheet to be prepared, permission is required to initiate prosecution against a public official. The required permission is called “prosecution sanction” and it is issued by the “competent authority”, who is also the appointing authority for the concerned official. At state level, the minister of the concerned department is the authority for the sanction against officials of that department. For central government authorities, the DoPT handles sanctions for all class 1 employees.

Undoubtedly, it can be an important check mechanism against undue harassment of an official due to legal proceedings initiated against him, especially in cases where investigations might have been initiated as a means of “settling scores” by framing charges. However there are obvious issues with this provision in its current form:

1. Completely discretionary: The concerned sanctioning authority can simply decide not to allow prosecution. This effectively shields officials in cases where the minister is in cahoots with the official.
2. Overriding authority: A rejection of sanction is not subject to appeal; the case must be dropped.
3. No deadline: until very recently, sanctions could remain pending indefinitely, with any reasons shown for the delay.¹⁴

However in January 2012, the Supreme Court issued an order stating that sanction must be given (or rejected with reasons stated) within 3 months, or the sanction

will be deemed to have been granted. There is a provision for an extra month in case the sanctioning authority requires legal advice on the matter.¹⁵

Data from the CBI website on prosecution sanctions, as of August 2010:

3.2 REQUESTS PENDING FOR PROSECUTION SANCTION

In **97** cases pending with Central Government departments/authorities, **170** separate sanctions have been sought. Similarly, in the **18** cases pending with State Government departments/authorities, **66** separate sanctions have been sought and therefore total requests pending are **236**.



Source: CBI website

4.5 The trial process

The inefficiencies of our Judiciary are very well documented and too vast a topic area to cover robustly in this report which takes a holistic view of corruption.

However some of the most important ones:

1. Hostile witnesses: Mainly a result of a failure to protect witnesses. An important witness turning hostile is a serious blow to the prosecution since they have the burden of proof “beyond reasonable doubt”.¹⁶
2. Adjournments: The phenomenon is rampant enough to have found its way into popular culture (“tareekh pe tareekh”). Repeated adjournments have the immediate effect of making witnesses lose interest, and also increase chances of them being compromised. Longer delays often result in the investigating officer

being transferred or retired before completion of prosecution leading to further holdups.

3. Strong lawyers' associations, especially in the lower courts: Lawyer strikes eat into vital working days of an overburdened judiciary.
4. Pendency: Pendency of cases creates a cycle wherein the number of cases each year keeps on increasing. This means the longer a case runs the more it is likely to become irrelevant or forgotten unless someone has a very strong incentive to push for a verdict. Even the criminal cases keep piling on each year making it difficult for the public prosecutors to keep track of old cases with new ones piling up. The judiciary is overstrained.
5. Appeals: The provision to appeal to the High Court and then the Supreme Court about the verdict is just one of the many forms of appeal. Appeals are often made to the High Court regarding the charges framed by the special court, etc. There are several such provisions all intended to protect "Rights of the Accused". These are often used as loopholes to protect the guilty.
6. Refusal to cooperate: Evidence gathering can be an issue if the accused refuses to cooperate.

Article 20(3) of the Constitution of India states: No person accused of any offence shall be compelled to be a witness against himself.

This is often interpreted in various ways which allow the accused to refuse cooperation. For example, in the Rakesh Bisht vs CBI case, the Delhi High Court on 3rd January 2007 quashed the CBI's request that Rakesh Bisht be asked to provide his voice samples so as to match them against samples of telephonic conversations they had gathered.

4.6 The wildcard: Role of the Media

The media is the one body which can keep an effective check on all kinds of corrupt practices by reporting about it. The discomfort faced by the UPA Government in recent times when the media covered various scams (2G, CWG, etc.) was very obvious. If the media were to report diligently about every act of corruption it could unearth or attempts to shield the same, such crimes would be much harder

to commit. For instance, if the CBI is being unable to investigate an important case because of a pending sanction, the media can create a buzz about it and question the government about the reasons behind the delay. Unsatisfactory answers could then be pilloried.

However, the reality is starkly different.

The recent phenomenon of “Paid news” is a very serious threat to the foundations of our democracy. Newspapers have been publishing advertisements and selling editorial spaces and disguising it as independently generated news content, thereby seriously misleading the voters.³

Particularly malicious amongst them are the concepts of “Rate Cards” and “Private Treaties”.

Rate Cards are essentially menus offering a candidate a variety of “services” in exchange for cash. Services include favourable coverage, advertisements disguised as news, publishing unedited pieces prepared by the candidate’s PR team, negative publicity for the candidates main opponents and so on. Refusal to accept such offers result in the candidate receiving negative or no coverage in the run up to the elections.

An elaborate report on “paid news” was prepared by a committee headed by veteran journalist Mr. Paranjoy Guha Thakurta. The deception or fraud that such news entails takes place at three distinct levels:

1. The reader or the viewer is deceived into believing that what is essentially an advertisement is in fact, independently produced news content. This has the capacity to distort choices made by citizens. Biased reportage in the garb of neutrality is likely to be taken at face value because of the inherent trust people have in newspapers as a source of information. Erosion of this trust due to continuation of such practices for a long time is another serious concern.
2. Candidates contesting elections to not disclose the true expenditure incurred on campaigning thereby violating the Conduct of Election Rules, 1961, which have been framed by, and are meant to be enforced by, the Election Commission of India

under the Representation of the People Act, 1951. This is one of the reasons why politics is dominated by money and honest independent candidates find it extremely difficult to fight and win elections against such odds- unless they have the resources and the will to indulge in similar practices.

3. The concerned newspapers and television channels typically receive funds for paid news in cash and do not disclose such earnings in their company balance sheets or official statements of accounts. Thus, by not accounting for the money received from candidates, the concerned media company or its representatives are violating the provisions of the Companies Act, 1956 as well as the Income Tax Act, 1961, among other laws.

Such clandestine practices are notoriously difficult to regulate because they deal in cash and leave no paper trail and therefore no concrete evidence. However circumstantial evidence has been painstakingly gathered by several senior journalists clearly indicating that something is amiss.

For example, identical articles with photographs and headlines have appeared in competing publications carrying by-lines of different authors around the same time. On the same page of specific newspapers, articles have been printed praising competing candidates claiming both are likely to win the elections.

The other concept of private treaties is one where Media Houses sell ad space to corporations in exchange for equity shares. This creates a clear conflict of interest where negative reporting about such companies could lead to a fall in their stock prices, and so on. BCCL alone, which owns Times Group, has around 200 private treaty partners.

4.7 A comparative study of various countries ^{1,17}

In this section we will compare 12 countries on various parameters, to identify patterns which correlate with low corruption levels. The countries are 8 of the top 25 least corrupt countries (according to Transparency International) and the 4

BRIC nations. The BRIC nations (which includes India) have been chosen mainly for comparison with the other 8, and also because these four nations are considered to be the emerging economies of the world and therefore face similar challenges.

Strong anti-corruption machinery (police, courts, and media) and a high standard of living should generally correlate with low levels of corruption. The following table outlines the comparisons.

Country	CPI (Rank)	HDI (Rank)	Judicial Independence (Rank)	Press Freedom (Rank)	Global Competitiveness (Rank)	Population (millions)	GDP (\$billion)	GDP per capita 1000\$	Life expectancy (years)	infant mortality rate (per 1000)	Literacy rate	Poverty
New Zealand	1	5		1	13	25	4.4	126.68	28.79090909	80.29	4.8	99%
Finland	2	22		4	1	4	5.4	238.75	44.21296296	79.72	2.4	99%
Denmark	2	16		2	10	8	5.5	309.87	56.34	78.6	3.3	99%
Sweden	4	10		3	12	3	9.4	458.97	48.82659574	81.35	2.3	99%
Singapore	5	26		20	135	2	5.1	208.77	40.93529412	81.29	2.1	94%
Hong Kong	12	13		15	54	11	7.1	243.3	34.26760563	82.72	2.9	95%
Germany	14	9		7	16	6	81.7	3280	40.14687882	79.84	3.4	99%
USA	24	4		36	47	5	309.1	14590	47.2015529	78.09	6.5	99%
Brazil	73	84		71	99	53	194.9	2090	10.72344792	72.76	17.3	90% 6.10
China	75	101		63	174	26	1300	5930	4.561538462	73.06	15.8	94% 13.10
India	95	134		51	131	56	1200	1730	1.441666667	64.78	48.2	74.08% 32.70
Russia	143	66		123	142	66	141.8	1480	10.43723554	68.6	9.1	99.6

Source: Transparency International and World Bank data; CPI: Corruption Perception Index, HDI: Human Development Index

Human Development Index:

There is a very strong correlation between HDI and CPI. All of the 8 countries listed from the top 25 based on CPI also feature in the top 26 based on HDI. A high standard of living for most citizens strongly reduces incentives to be corrupt through illegal means of augmenting income. Also a high standard of living correlates to a high level of faith in the State since the perception is that the State

has managed to deliver on its obligations satisfactorily. This has ramifications in terms of greater cooperation with government offices, officials and the law.

The distinction with the BRIC nations is starkly obvious. All 4 nations rank significantly lower on both CPI and SPI. Also, all four nations have a history of nepotism and have poor records with respect to upholding basic human rights. Russia and China, due to their political structures, restrict human rights directly through legislature. The problem with Brazil and India lies more in enforcing the guaranteed rights. Either ways, compared to the other 8 nations, there is a clear lack of faith in these governments.

Judicial Independence Index (JII) :

An independent and effective judiciary is one of the pillars on which anti-corruption efforts must rest. Certainty of punishment, if caught, is a strong deterrent.

The observations here are less homogenous, although there are clear patterns. The following are the main observations:

- The top 4 nations in terms of CPI are also the top 4 in terms of JII.
- Singapore, Hong Kong and Germany also feature in the top 20 (JII).
- USA is 24th based on CPI and 36th based on JII. The judiciary is often accused of ideological bias, especially at the top level. The recent Supreme Court Judgement on Obamacare on a 5-4 split was a reminder of the ideological equations that are always at play due to the President nominating judges to the Supreme Court.
- The BRIC nations rank fairly low on JII; India ranks highest, at 51. That is small comfort however, due to the various problems with our Justice System, as pointed out earlier.

Press Freedom Index:

Freedom of the press is essential to hold the system to account. It is supposed to inform the public and also challenge the system wherever it perceives abuse of power. The role played by the media in forcing action on the 2G scam is a recent reminder of the importance of the press.

Observations:

- The top 4 and Germany rank relatively high (top 20).
- Singapore has an appalling record (135th) mainly due to the partly authoritarian nature of its Government with the PAP sweeping all elections since 1959.
- Hong Kong and USA have a middling record.
- The BRIC nations rank comparatively lower.

Global Competitiveness of economy

This one is fairly straightforward. The more competitive the economy, the better the standard of living, and therefore- lesser the corruption. This is borne out by the observations:

- 6 of the first 8 countries rank within the top 10; Hong Kong 11th; New Zealand 25th
- China ranks high (26th) but the benefits are offset by the presence of the largest population in the world, a sweatshops-driven export economy and a one-party system.
- The other 3 BRIC nations are outside the top 50.

Population:

Lower populations are easier to regulate, a fact borne out by the observation that the first 6 countries have less than 10 million people. India and China face a unique challenge as they have the 2 largest populations in the world.

Per-capita GDP:

Along with HDI, this is an indicator of prosperity. India is by far the lowest among the 12 countries considered. 6 of the 1st 8 countries have per-capita GDP over \$ 40000, compared to \$ 1440 for India.

Life expectancy, Infant mortality, Literacy and Poverty:

All of the above are general indicators of public welfare and, not surprisingly, India has the worst record among the 12 countries in all the 4 parameters. The more developed countries fare significantly better.

Comments:

India's corruption problem is not simply one of enforcement. A true solution would be a holistic development in the living standards of the people in terms of healthcare, education and means of livelihood. We need a society that is much more aware and vocal about its rights. That is impossible in a scenario where a significant section of our population is forced to focus on immediate survival. There needs to be a significant improvement both in terms of economic growth and its trickle-down effects reaching those who need it most.

4.8 An analysis of the systems of 3 different countries

This section examines relevant features of the systems existing in New Zealand, Finland, and Singapore. India, with its size, population and diversity cannot directly adopt a model from any other country. However, a study of essential features of other systems and adapting elements of such systems is essential towards reaching a solution.

Comments have been inserted wherever necessary to indicate feasibility of adaptation of certain features of these countries.

New Zealand- 18, 19, 20

New Zealand sits at the top of the CPI list, being rated as the country with least corruption, by Transparency International. Here are some of the features of the administrative system in the country which are relevant to our study:

- 4 million people, 120 parliamentarians- clearly a small population makes for a better represented population.

- No written constitution- gives overriding power to the legislature to make laws- potentially dangerous, but has worked well till now.
- Ministerial declaration of assets and possible conflicts of interest, gifts and hospitality received- on appointment and annually, not allowed to be a part of the day-to-day running of businesses- eliminates risks arising from conflicts of interest to a large extent.
- Official information act meets best international standards
- Competitive culture in public services- elements of the private sector, hiring of consultants, etc.
- Merit-based recruitment
- Post- public service restrictions like 12 month cooling-off period, restrictions on use and retention of official information.
- Elections- free and fair, but loopholes in spending limits
- Elections every 3 years, proportional representation- increased power for political lobbyists and small parties- essential for a country without a constitution to keep the legislators in check.
- Public trials- increase transparency.
- Whistleblower protection is taken seriously.
- Ombudsman- appointed by interviews conducted by both government and opposition party representatives, independent and report to speaker of the house – however the advice of the ombudsman is not binding on the government.

NZ Ombudsmen (2011):

This is the record of disposal of cases in 2011:

- 95 per cent of cases that were within jurisdiction but did not warrant a formal investigation- within three months of receipt.
- 93 per cent of urgent investigations- within four months of receipt.
- 78 per cent of non-urgent but high public interest cases- within six months of receipt.
- 77 per cent of all other cases within 12 months of receipt.

There is a general culture of acceptance of the Ombudsmen's advice by whoever it is intended towards.²⁰

NZ Police (2011):¹⁸

- Dealing with 721,106 emergency 111 calls
- receiving 1,016,120 non-emergency calls
- receiving 230,171 traffic-related *555 calls
- responding to 515,652 incidents
- recording 34 murders, the lowest in 25 years
- completing 821,146 key preventative tasks
- having one of the highest resolution rates for a police jurisdiction
- stopping drivers for 3.2 million breath tests
- Recording 315 road deaths, the lowest recorded thus far.

The above data signifies a few key aspects:

1. Efficiency- responding to 515,652 incidents in a country with a population of 4 million is impressive. Even more impressive is the figure of 3.2 million breath tests and the correspondingly low number of road accidents. This reflects a wider culture of policing efficacy.
2. The very fact that such figures are recorded and regularly responded to, the presence of a nationwide toll-free emergency number, etc. (which is a key feature of most developed countries) is an indicator of a technologically equipped police force- which is indeed the case.

Police starting salary (lowest position)- \$51815, net remuneration \$64000 (NZD)

Using PPP calculations, \$64000 (NZD) = \$46759.184(USD)

Clearly, the police are highly paid, a key factor in maintaining a motivated, clean force.

Finland: ²¹

Key features:

- Restrictive approach towards gift-receiving: if it can weaken public confidence it is acted upon by the courts
- Very few cases registered annually
- Many municipalities are small with 20k to 30k residents
- All decisions made by public officials are made public and open to criticism, tax records are publicly available- no reasons need to be stated as to why the info is desired
- Public funds for political parties- campaign financing
- Transparency in public procurement
- E-governance: 10th placed worldwide for its ability to use tech
- The Chancellor of Justice and the Parliamentary Ombudsman conduct periodic reviews of the work of administrative and judicial authorities. They also conduct their own special investigations in response to a complaint from the public, or for example in response to allegations of abuse reported in the media.
- Welfare state- School and higher education and basic healthcare- high literacy
- High standard of living
- Strong media- high newspaper readership and internet usage
- Powers of the police in pre-trial investigations extended to using tech surveillance and telephonic interception, etc.
- Overseas offences treated the same way
- Legislation in line with EU anti-corruption policies and International conventions. Public and private sector, money laundering and accounting offences are all included
- Paying and receiving a bribe- both are offences
- Bribery is established the moment undue favour is accepted- it can weaken the faith in the establishment- actual impact on duty is not necessary
- Maximum sentence of 4 years in the most serious cases along with removal from office

- Private sector- fines of up to 850000 Euros, ban on business activities, exclusion from competitive bidding for tenders, etc.
- Disclosure of campaign financing, State aid to political parties
- Non-politicization of several key civil-service posts along with decision making power and low hierarchical govt. structure

Police starting salary- (approx) 21000 Euros

PPP adjusted, starting salary = (USD) \$22300

Comments: Finland follows the Scandinavian welfare model and hence, the general human rights record is good. A strong culture of cooperation, faith in the State, etc. is an important factor in keeping it corruption-free. A small population with a strong cultural identity is a far cry from India- the land of diversity. The challenges faced by us are far more complicated and diverse.

Singapore: ^{22, 23}

Singapore is largely a unique case of top-down cleansing of an originally corrupt system. The People's Action Party (PAP) has been in power since 1959 and the nation while democratic, has distinct elements of authoritarianism such as restrictions on press freedom and harsh laws with a strong culture of execution of the death penalty. Here, the main reason behind low corruption, and indeed, crime in general, is the presence of a strong criminal justice system.

Salient Features:

- Corrupt Practices Investigation Bureau 1952- only anti-corruption agency
- Independence in 1959 from British- plagued with corruption
- Strong political will- PAP in power with fair elections 82 of 84 seats in 2006
- Top-down, merit-based bureaucracy
- Authoritarian in censorship, caning and death penalty enforcement (highest execution rate, penalty for drug trafficking)
- Judicial independence- a large number of cases against political opponents of the PAP tend to be decided in its favour, otherwise fine

- Restrictions on freedom of speech- defamation lawsuits used to silence political opponents and drive them to bankruptcy- Chee Soon Juan US\$ 300,000- driven the party into bankruptcy- can't hold public office and can't leave Singapore.
Jeyaretnam- 1st political opponent to be elected to parliament- US\$ 925000, Far Eastern Economic Review magazine- US\$290000- penalties and censorship laws leading to self censorship in the media
- Transparency report 2011- HR abuses Government critics and human rights defenders continued to be penalized for exercising their right to freedom of expression. The media continued to be tightly controlled through restrictive censorship laws and legal actions against publishers. Arbitrary detention, judicial caning and the death penalty were retained.
- Prevention of Corruption Act, 1960- several amendments:
 1. Public and private sector, both payer and receiver included under the ambit of this act.
 2. Presumption clause- duty of accused to prove that money received is not through corrupt means
 3. Accepting bribe a crime irrespective of ability to provide the promised favour
 4. Act forbids the camouflaging of bribes as gifts/red packets on Chinese New Year
 5. Bribe amount recovered as civil debt – close to being double jeopardy
 6. Offences by citizens outside country prosecuted in Singapore and under same laws
- CDSA(confiscation of benefits), Political Donation Act
- Independent CPIB- can investigate anybody and reports directly to PM
- Open public hearings
- Standard of behaviour expected of public officials-
 - a) a public officer cannot borrow money from any person who has official dealings with him or her;
 - b) a public officer's unsecured debts and liabilities cannot at anytime be more than three times his or her monthly salary;
 - c) a public officer cannot use any official information to further his or her private interest;
 - d) a public officer is required to declare his or her assets at his or her first appointment and also annually;

- e) a public officer cannot engage in trade or business or undertake any part-time employment without approval; and
- f) a public officer cannot receive entertainment or present in any form from members of the public.

Under Public Service in the 21st century, there were several major initiatives to reduce bureaucracy and cut red tape, such as:

- **The Pro-Enterprise Panel Movement**

The Pro-Enterprise Panel receives and vets suggestions from the public to help ensure that

Government rules and regulations are supportive of a pro business environment in Singapore. The panel is led by the Head of Civil Service, with members from the private sector, such as Chief Executive Officers of companies. The public and companies can provide suggestions through the internet (www.pep.gov.sg) and these suggestions may result in changes in the rules and regulations.

- **The Zero-In-Process (ZIP)**

This aims to reduce inefficiencies in services whereby the public has to visit several agencies for related reasons. In the past, issues which cut across agencies were tossed around from one agency to another. The ZIP makes sure that such cases do not slip between the cracks by identifying lead agencies and forming ZIP teams to tackle and propose solutions on difficult cross-agency issues.

- **The POWER (Public Officers Working to Eliminate Red-tape)**

This aims to reduce bureaucracy by eliminating obsolete public sector rules. The goal is to give public officers greater flexibility with operational issues and raise awareness that we should enforce the spirit and intent of the regulations rather than complying with them mindlessly. It also allows public officers to cut red tape whenever they spot it. A POWER website has been set up to receive suggestions from public officers and to channel them to the respective regulators for follow up action.

- **The Cut-Red Tape Movement**

Under this, civil servants are encouraged to reduce red tape within the government. Through the internet, the private sector and public can write to the government with suggestions on cutting of red tape. Such feedback can promote

transparency and reduce business costs. There is a Cut Waste website where the public can submit their observations/suggestions on areas where government can cut expenditure. The government ministry concerned will have to respond to the public's query and have their reply posted in the website for all to see. This helps to keep government on its toes and help to minimize wastage of government spending, if any.

- E-governance: most govt services can be accessed online
- CPIB has 49 investigating officers
- High salaries for public officials
 - Police officers: lowest rank inspector- starting salary: \$40000 (approx, including 11.75% in INVEST retirement plan)
 - PPP converted: starting salary = (USD) \$34000(approx)

Comments:

While the general level of efficacy is something to aspire towards, the authoritarian nature of the solution cannot be replicated in most countries. Moreover, Singapore is an island-city, and therefore, much easier to regulate.

4.9 Comparative study of witness-protection schemes: ²⁴

This section examines key features of a comprehensive witness and whistleblower protection scheme, as adopted in Australia and the USA.

SA, Hong Kong, Canada, Portugal, France, Czech Republic, Korea, Japan, Netherlands, Philippines, Germany, Italy, New Zealand, Ireland, UK are other countries with comprehensive witness protection schemes.

The section ends with a critical analysis of the currently pending bill in the Indian Parliament titled: The Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010.

Australia-

Witness protection act 1991(for Victoria) and the Witness protection Act 1996 (for Mainland)

Chief Commissioner of police may take such action as he thinks is necessary and reasonable to protect the witness and his family members. Such action may include:

- (a) Applying for any document necessary;
- (i) To allow the witness or family member to establish a new identity; or
- (ii) Otherwise to protect the witness or family member;
- (b) Relocating the witness or family member;
- (c) Providing accommodation for the witness or family member;
- (d) Providing transport for the property of witness or family member;
- (e) Doing any other things that the Chief Commissioner of Police considers necessary to ensure the safety of the witness or family member.

Sign MOU- apply to Supreme Court for an order for change in Birth/Marriage Register, etc.

All such orders given by the SC are in a closed door proceeding

USA- restraining order, relocation and protection:

- a) Provide suitable documents to enable the person to establish a new identity or otherwise protect the person;
- b) Provide housing for the person;
- c) Provide for the transportation of household furniture and other personal property to a new residence of the person;
- d) Provide to the person a payment to meet basic living expense;
- e) Assist the person in obtaining employment;
- f) Provide other services necessary to assist the person in becoming self sustaining;

- g) Disclose or refuse to disclose the identity or location of the person relocated or protected or any other matter concerning the programme;
- h) Protect the confidentiality of the identity and location of person subject to registration requirements as convicted offenders under the Federal or State law;
- i) Exempt procurement for service, materials and supplies and the renovation and construction of safe sites within existing buildings from other provisions of law, as may be required to maintain the security of the protective witness and integrity of the witness security programme.

India: ²⁵

Key Issues and Analysis

1. The Bill aims to balance the need to protect honest officials from undue harassment with protecting persons making a public interest disclosure. It punishes any person making false complaints. However, it does not provide any penalty for victimising a complainant.
2. The CVC was designated to receive public interest disclosures since 2004 through a government resolution. There have been only a few hundred complaints every year. The provisions of the Bill are similar to that of the resolution. Therefore, it is unlikely that the number of complaints will differ significantly.
3. The power of the CVC is limited to making recommendations. Also it does not have any power to impose penalties. This is in contrast to the powers of the Karnataka Lokayukta and the Delhi Lokayukta.
4. The Bill has a limited definition of disclosure and does not define victimisation. Other countries such as US, UK, and Canada define disclosure more widely and define victimisation.
5. The Bill differs on many issues with the proposed Bill of the Law Commission and the 2nd Administrative Reform Commission's report. These include non-admission of anonymous complaints and lack of penalties for officials who victimise whistleblowers.

Comments:

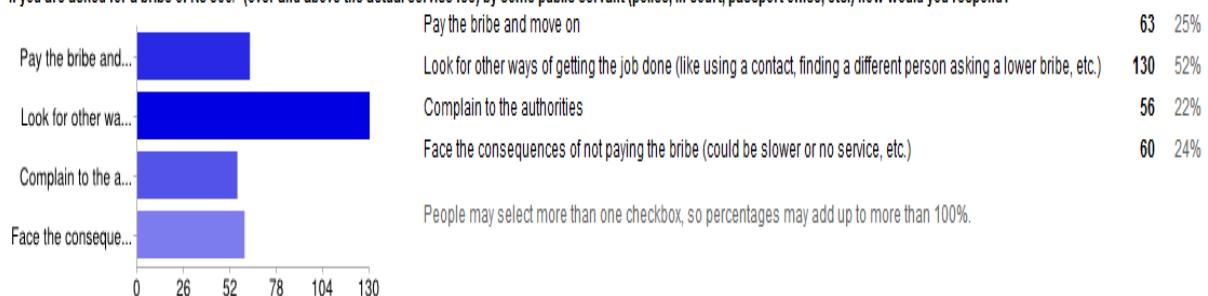
Clearly, the proposed bill is nowhere near as exhaustive in providing protection to witnesses as the ones in Australia and USA. There is ambiguity in the definition of “victimization” and it differs in several key aspects from the suggestions in the Law Commission Report.

4.10 Online Survey to explore the trust gap: ^{26, 27}

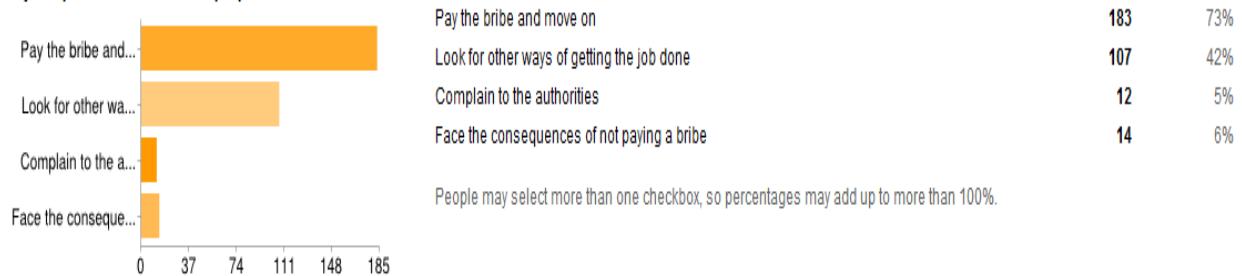
Details:

- Anonymous survey
- 3 questions
- 252 respondents covering almost all states to provide sufficient diversity
- Online survey- most of the respondents were aged 18-27
- Explores the trust gap that exists with people not trusting others to play by the rules, and not trusting the government to enforce the rules.

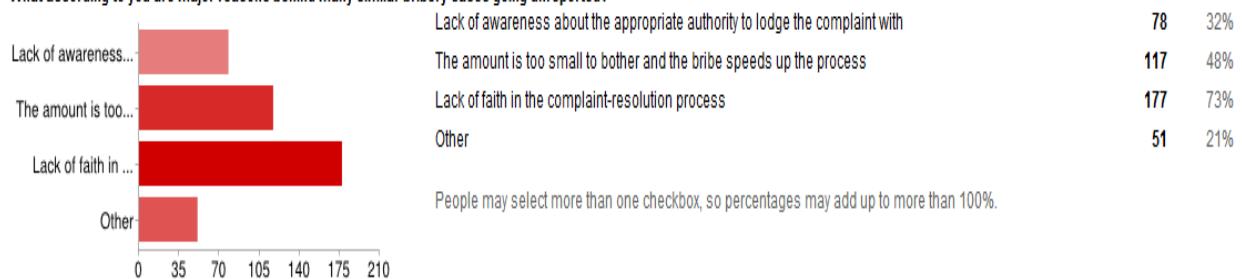
If you are asked for a bribe of Rs 500/- (over and above the actual service fee) by some public servant (police, in court, passport office, etc.) how would you respond?



In your opinion what would most people do in the same situation?



What according to you are major reasons behind many similar bribery cases going unreported?



Observations and Inferences:

- 52% of the respondents would consider looking for ways to get the job done without paying the bribe. Only 22 % would complain and 24% would rather face the consequences of not paying the bribe. 25 % would consider simply paying up and moving on. The numbers are highly discouraging and portray a lack of faith in the system.
- However the bigger concern is the fact that 73% of the respondents believe that most people would simply pay the bribe and move on. There is a clear mismatch between this number and the 25% who would pay the bribe themselves. This trust gap is symptomatic of the Collective Action Problem which prevents us from uniting against corruption. Its only when we can start trusting others to not pay bribes that we can ourselves abstain because otherwise the ones who abstain will get an unfair deal.
- Only 5% believe that others would complain in a similar situation. No wonder most cases go unreported. With such widespread distrust within society, it is essential that civil-society groups focus on trust-building and unity.

- On reasons why most cases go unreported, 73% say they don't trust the complaint-resolution process. 48% believe that the paying the amount is worth it because it speeds up the process.

Clearly these numbers point out a culture of distrust and of acceptance. This needs to be targeted and form the subject of sec 5.2.

5. Recommendations, Scope and Strategy for Implementation

Several comprehensive studies on this issue already exist. The National Anti Corruption Strategy formulated by the CVC in 2010 covers several of the aspects covered in this report in greater depth. Other reports exist, dealing with specific aspects of the problem in depth. Many of those reports have been mentioned in the appendix.

The recommendations in this report have been divided into 2 parts:

1. Policy based recommendations
2. Civil-Society Involvement Strategies

The policy based recommendations outline a series of measures which if implemented will clear most of the impediments to the anti-corruption efforts. Most of these have been suggested time and again by several sources, generally to no avail. Several bills like the Public Interest Disclosure and Protection of Persons Making the Disclosure Bill, the Prevention of Bribery of Foreign Public Officials and Officials of International Organisations Bill, the Citizens' Right to Grievance Redress Bill and the Judicial Standards and Accountability Bill, the Lokpal bill, etc. are currently pending in Parliament. These need to be passed as soon as possible.

However, the main reason behind the inefficiency of the anti-corruption machinery is not a lack of good policy-ideas but a lack of will in implementing such ideas. Therefore the Civil-Society Involvement Strategies focus on a bunch of measures which can be implemented by NGOs with little or no requirement of Government support. These are aimed at galvanizing the citizenry into a force which can create the political will required to pass such reforms.

5.1 Policy Based Recommendations:

Scope for reform: All of the policy based recommendations are based on deficiencies in the current system. The impact of these deficiencies and the necessity of these reforms have already been discussed at length in section 4. Therefore, I shall only include references to the applicable sections.

Flowchart for implementation: Most of these require amendments to specific acts. The only way to get that done is through lobbying by civil society groups to pressurize the government into introducing such bills and to get it passed through parliament to make it into a law. Recommendations for all of the following points have been made by Law Commission Reports and other independent reports. The challenge is to create the political will.

1. An independent body should deal with the promotion and transfer of police officers. Merit and performance should be given adequate consideration while deciding on these matters. The culture of following orders is essential for the smooth functioning of the police force. But corruption at the upper level should not be something that completely ties honest officers down.

Scope for reform: refer 4.3 (3)

Flowchart for implementation:

This requires a constitutional amendment since currently this is allocated under the State List. This requires lobbying by Civil Society groups to introduce a corresponding bill in Parliament.

2. Given the slow and lengthy trial process, the cases that do result in the accused serving a sentence, should serve as a deterrent for others. Stricter sentencing, including increased maximum sentences and a sentencing policy need to be implemented.

Scope for reform: refer 4.5

Flowchart for implementation:

Lobbying for amendments to Prevention of Corruption Act and relevant sections of the Indian Penal Code along with a petition to the Prime Minister's Office.

3. Witness and whistleblower protection needs to be made a priority and the pending bill needs to be passed. This will empower the public to take on the might of those with money and influence. However its effective implementation in practice will remain a challenge even if the bill is passed.

Scope for reform: refer 4.2, 4.9

Flowchart for implementation: Lobbying by civil society groups to pass the currently pending Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010, along with amendments to match international standards.

4. Manpower needs to be boosted both by filling existing vacancies in a staggered manner and reviewing the actual required strength from time to time. In this regard the recommendations of the IPS Recruitment Plan 2009-2020 should be implemented diligently. This will enable the police to investigate a greater number of cases with greater efficiency. Payment of constables sub-inspectors and inspectors needs to be increased since they are most vulnerable to bribery due to their work in the field.

Scope for reform: refer 4.3 (2)

Flowchart for implementation: Lobbying by Civil Society groups to implement standing recommendations of the IPS recruitment plan, along with a petition to the Department of Personnel and Training and the Prime Minister's Office.

5. The CBI needs to be an independent body with greater jurisdiction. An independent Lokpal with the CBI anti-corruption wing within it is one way of doing so. The restriction regarding the requirement of sanction to investigate officials of Joint-Secretary rank or above needs to be discarded. The appointment of the CBI Director should be freed from political intervention. A transparent selection process conducted by distinguished members of civil society along with retired

members of the Judiciary, and a diverse team of senior politicians from across the political spectrum is preferable.

Scope for reform: refer 4.3 (1)

Flowchart for implementation: Lobbying by Civil Society groups for an amendment to the Delhi Special Police Establishment Act. Also the proposed Jan Lokpal Bill, if implemented, would solve the problem.

6. Prosecution sanction needs to be subjected to a strict deadline. The order issued by the Supreme Court in this regard must be carried out diligently. It must not be an overriding order and should be subject to appeal to an independent tribunal. This will subject a greater number of corrupt public officials to trial which should be a strong deterrent for others. The added media scrutiny in case of a trial is another boon in this regard.

Scope for reform: refer 4.4

Flowchart for implementation: Lobbying by Civil Society groups for an amendment to the Prevention of Corruption Act along with the currently pending Lokpal Bill.

7. A large number of fast track courts need to be set up in order to clear the backlogs and quicken the trial process. This will at least partially solve some of the issues discussed in section 4.5.

Scope for reform: refer 4.5

Flowchart for implementation:

This is under the control of respective state governments. Lobbying by civil society groups along with a petition to the Chief Minister of the concerned state is the best way to move forward.

8. Rights of the accused need to be balanced with the possibility of delaying justice through frivolous appeals. A detailed study needs to be done to plug loopholes in this regard and needs to be implemented as soon as possible.

Scope for reform: refer 4.5, 4.8 (Singapore)

Flowchart for implementation:

This needs to be researched thoroughly before any lobbying can be done. This could be a topic for a similar project.

5.2 Civil-Society Involvement Strategies

Civil-Society involvement - need

The reasons behind rampant corruption are very well documented. The National Anti-Corruption Strategy Draft prepared by the Central Vigilance Commission provides a comprehensive analysis of the problem along with recommendations to tackle the problem from every angle: strengthening anti-corruption institutions, addressing political and administrative corruption, etc.

However there is a clear lack of will on the part of the Government, and indeed, the general political establishment to act on those recommendations. Obviously, people who benefit from the current setup are unlikely to be prompt about pushing for reforms that would curb their powers. Obviously every politician is not corrupt. But given the extent to which corruption has affected even the highest echelons of political establishment (case in point- A Raja), it is obvious that there is a serious lack of political will to tackle corruption.

The draft of the Lokpal bill prepared by the government is proof enough of the lack of political will. The proposed Lokpal will have serious limitations on jurisdiction like:

- Cases cannot be directly registered. Only those cases that are forwarded by the speaker of Lok Sabha and Rajya Sabha shall be investigated.

- Lokpal will be an advisory body. No powers to prosecute on its own- will have to forward its recommendations to a competent authority.

The protests led by Anna Hazare which received widespread support initially, revealed a very important aspect of the fight against corruption- an informed public is much harder to evade. Due to the huge demand for the Jan Lokpal Bill to be passed, the government was forced to answer difficult questions about the perceived loophole in its draft, the issue of involving the Prime Minister and senior members of the judiciary, providing suo motu prosecution powers to the Lokpal, and so on.

What's obvious is the fact the creation of political will, so vital for serious reforms, can only be generated by an informed, vocal and active civil society. However there are obvious limitations to the extent to which various people can participate in any long-term movement, as this promises to be. Therefore, the need of the hour is to identify the various reasons behind the inertia prevalent in society and to devise effective civil-society-involvement strategies keeping such limitations in mind.

Civil Society Participation- limitations

It is obviously true that if everybody stopped paying bribes, corruption would stop completely. That's the mantra preached by civil society movements to instil a sense of responsibility in the citizenry.

However the problem with collective action is that each individual needs to make a cost benefit analysis without being assured of cooperation from others. In a corrupt system, bribes are demanded in a large number of situations. And the payoff always remains that “If I don't pay the bribe, I'll be denied the service while others will continue to pay and contribute (indirectly) to perpetuating the system”. Therefore paying a bribe is the sensible choice to make under many circumstances, compared to the hassle of taking recourse to legal action.

Therefore we need to move away from a moralistic discourse to a more pragmatic view. Several reasons why people refrain from activities like voting, volunteer work for the anti-corruption movement, etc. are:

- Social movements need to have clearly defined, achievable goals. The initial success of team Anna was largely due to its singular focus on passing a Lokpal bill and perceived chances of success. The support diminished after it appeared to be rigid and unwilling to negotiate on issues like the involvement of the Prime minister under purview of Lokpal. Participating in protest rallies is for an individual, comes at the cost of forgoing other activities. It is extremely difficult for the working-class.
- Most people simply aren't motivated enough to endure serious hardships to bring about change. Status quo seems preferable compared to the efforts required.
- An individual's vote is highly unlikely to change the outcome of an election. Often there seems to be a complete lack of desirable candidates who have a chance of winning. This dissuades voters.
- Politics is largely dominated by money and corruption. Spending limits on election campaigns are flouted with impunity, destroying the possibility of a level playing field. This dissuades the youth from venturing into politics.

Civil Society Involvement- strategies

Therefore, we need to develop a clear plan to galvanise the civil society into a united and informed voice against corruption. A wish-list in this regard (the recommendations are yet to be tested for feasibility and possible mechanisms for implementation):

- Increasing awareness among the youth about the actual bottlenecks in the anti-corruption efforts. This will help in asking the right questions. For instance, people know that the CBI is often ineffective in stopping or dealing with corruption cases regarding top-level officials. What most do not know is the law that requires them to seek permission to investigate anyone holding the rank of Joint Secretary or above. Information allows us to question the validity of such laws, reasons behind delay in sanction in specific cases, etc. This is a good way of channelizing the anti-corruption sentiment

Flowchart for implementation:

1. Approach NGOs working on corruption related issues (Ex. Transparency International, India Against Corruption) to seek advice on how to design effective workshops.
 2. Gather manpower through such NGOs and contact senior IPS officers, and other competent personalities regarding their interest and availability to deliver such workshops.
 3. Contact college authorities asking for permission to conduct workshops.
 4. Publicize the workshops appropriately.
-
- Social networking sites need to be used effectively to create a buzz about strategic issues. Details about delays in important cases, or a lack of investigation, can be questioned effectively through open letters and status updates.

Flowchart for implementation:

Coordinate with other NGOs and use existing forums and facebook groups to promote specific causes.

- We need to be the ones setting the agenda for elections. The youth need to be galvanized into a strong anti-corruption lobby. Elections are often decided by special interest groups voting for the same candidate. In elections with multiple candidates, and with voters voting with various motivations, a 10% vote one way or another could make a crucial difference. With a vast percentage of voters being young, if the youth start considering the vote as a referendum on anti-corruption performance, it can make a huge difference. Politicians are generally arm-twisted into pandering to lobby groups. This could form one of the strongest lobby groups.

Flowchart for implementation:

Same as that for conducting workshops- in addition, political parties with a clean image need to be involved in this endeavour. The Lok Satta Party is an ideal launch-pad for this idea.

- There is a need to pick and choose our battles and time them properly. Campaigning for the passing of important legislature should gather steam as the election approaches.
- Civil Society groups need to aim to eventually enter the political scene and battle it out in the elections. Ultimately there needs to be viable alternatives for the people to choose from. Popular groups need to create a strong support base before foraying into politics.
- Including education on major societal issues (including corruption) in the school curriculum. The NCERT has been focussing on making its curriculum more attuned towards real life applications. Now is a good time to lobby for this move. It is unlikely to be opposed as strongly as some of the moves which threaten the hegemony of the corrupt more directly (an independent Lokpal, for instance). And yet this is an effective way of spreading awareness at an early stage.

Flowchart for implementation:

Approaching the Ministry of Human Resources Development- CBSE- NCERT

6. Suggestions for future work

Future work on this topic needs to focus in these 4 areas:

1. A comprehensive survey:

- Identification of an ideal sample space
- Questionnaire designed to find out reasons behind distrust of public servants, and the actual experience of people in dealing with the police and vigilance agencies, along with ways to encourage people to complain to the authorities instead of simply paying bribes.
- Designing survey methodology: may involve door-to-door visits, asking people randomly on the streets, in shopping malls, etc. Ideally data should be collected from multiple states.

2. A comparative study of the Indian system with other countries on these parameters:

- Efficiency of policing, manpower to population ratio, etc.
- Punishments awarded for similar crimes and efficacy of courts
- Nature of anti-corruption laws

3. A study of laws dealing with recovery of disproportionate assets and black money, the currently prevalent situation on the ground and comparison with other countries having standard laws.

4. A study of patterns of collusive bribery and strategies to tackle it.

7. Conclusion

The fight against corruption cannot be fought on any single front. A complete solution would involve economic development and poverty alleviation, better payment of police forces, a cultural paradigm shift from the currently prevalent passive acceptance, along with reforms in the anti-corruption machinery.

The progress seen recently through the efforts of India Against Corruption, is encouraging. However there is a dire need to avoid politicising such movements since that destroys the credibility. The Anna Hazare movement has successfully harnessed the frustration and energy of the youth and should set the stage for greater galvanisation of our society in actively condemning corruption and bribery in all forms.

The ratification of the UNCAC followed by the introduction of several relevant bills is a ray of hope. All the necessary ideas have already been voiced. It is now up to the citizens of India to lobby for actual change.

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5. Appendix A

Meetings and Interviews

Field Visit Reports

Field Visit to IG, Kanpur Zone

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad

Intern ID: 13

Date of the Visit: 25-05-2012

Suggested/Referred By: Shri P Venkata Rama Sastry.

Visit No.: 1

If more Trips required to the same organization: no

Goal of the visit:

- To get information regarding the working of CBI and its jurisdiction.
- To get information on the statistics of the cases solved by CBI related to anti-corruption.
- To know about the whistle blower protection in India.
- To discuss about the problems faced in prosecution and the penalties awarded in the corruption cases.

Goals Met:

- Got the information about jurisdiction of CBI.
- Got a case study which contains few statistics of the anti-corruption cases.
- Discussed about the whistle blower protection act.
- Discussed about the prosecution part and got his suggestions on same.

Persons Met:

1. Name: Shri Piyush Anand, IG, Kanpur Zone.

Duration and Timings of Discussion: 90 minutes, 16:30 to 18:00

Details of the Discussion:

- Understood the difference between the jurisdiction of CBI and Vigilance offices. Also got the idea that there are no specific powers vested on either of them to enquire on the corruption cases in private companies, as long as they don't have effect on public domain.
- Discussed about whistle blower protection in India. The new act also just covers the public servants and public organisation. In the private sector, law won't give protection. Also got to know that around 50% cases in CBI come from whistle-blowers who want to keep their identity secret (sourced complaints).
- Discussed about the prosecution part of the corruption cases. Also, got the case study which he did on the number of cases solved, punishments awarded, fines collected, etc. by the CBI. Will study it in upcoming days and then gain insight on the prosecution of cases.
- Discussed about scarcity of availability of reporting mediums against corruption in all the places in India. There are vigilance offices only in major cities in each state.
- Income tax department has provision for monetary incentive for informers (whistle blowers), but no provision in anti-corruption agencies. So, will try to look into this system of IT department and suggest for the replication in anti-corruption system.
- Discussed about the risk-reward ratio in current anti-corruption system in India.

- He also stressed on speedy disposal of corruption cases in India. The major reason for the increasing corruption is the delay of cases. A solution to this is to be found out. He suggested ways like Sentencing policy and Plea- Bargaining.
- Along with this, he suggested me to look into a few topics on internet including speedy trial of Galleon scam case, Ponzi Scheme, Prevention of Money Laundering Act, ED.

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad

Intern ID: 13

Date of the Visit: 26/5/2012

Suggested/Referred By: IG Kanpur range Shri Piyush Anand

Visit No.: 2

If more Trips required to the same organization: Yes

Goals of the visit:

- To understand (qualitatively) the problems related to man-power and recruitment, and possible motivations behind the corruption within the police force.
- To understand the investigation procedures adopted by anti-corruption units.
- To understand (qualitatively) the extent of the powers of the Vigilance units and their limitations with respect to the controls imposed by State Governments.

Goals Met: All

Persons Met(*)

1. Name: ASP Vigilance Shri Rajesh Kumar and 3 senior inspectors

Duration and Timings of Discussion: Approx. 1 hour, 4PM to 5 PM

Details of the Discussion:

- Discussed the shortage of manpower and resources.
- Currently Vigilance offices in less than 18 out of 75 districts in U.P. Exact number needs to be determined.
- In the Kanpur office, 11 vacancies currently exist. Only 5 out of a required 15 Inspectors are currently available.
- There have been no interviews conducted since 1997 for promotion of officers from sub-inspector to inspector, and so on.
- A large number of vacancies continue to exist even at the lower levels. The estimate was 35000 (needs to be verified).
- Investigation procedures and protocol:
- Admission that most of the minor bribery cases are simply ignored due to lack of manpower.
- For the more “important” ones, entrapment is the standard protocol.
- No provisions of witness protection.
- Limitations:
- Apart from the restrictions on manpower, these are the ways in which State Governments can, and have been, restricting the functioning of vigilance departments:
- Even when sufficient evidence has been gathered, sanction from the appropriate authority is required before a charge-sheet can be filed.
- Often such sanctions take a very long time, sometimes, sanction isn’t received. There is no time limitation in which the authority is required to either approve or state reasons for refusal to grant sanction.

Field Visit to Smt. Anupama Jha, Executive Director, Transparency International India

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad

Intern ID: 13

Date of the Visit: 05-06-2012

Suggested/Referred By: Shri P Venkata Rama Sastry

Visit No.: 3

If more Trips required to the same organization: maybe

Goals of the visit:

1. To get details regarding the efforts of TII in India and the results of the efforts.
2. To get details of the effect of UNCAC ratification by India.
3. Views on speeding up the prosecution of cases.
4. The views on whistle blower protection and compliance policies of companies.
5. The views on use of technology to reduce corruption.
6. Details of the surveys and methodology

Goals Met:

1. Got details of the TII's initiatives in India.
2. Got details of UNCAC ratification.
3. Got views on prosecution, whistle blower protection, compliance policies and use of technology.

Persons Met:

1. Name: Smt. Anupama Jha

Duration and Timings of Discussion: 75 minutes, 12:30 pm to 1:45 pm

Details of the Discussion:

- Reasons for the corruption prevailing: lack of political will; weak anti-corruption agencies; lack of merit based promotions in bureaucracy; lack of anti-corruption organisations like NGOs.
- Importance of UNCAC ratification: peer review of India system by other countries and NGOs (after 5 years); the anti-corruption bills in the parliament; the government will to fight corruption.
- Effect of organisations and NGOs in India: UNCAC ratification, RTI act.
- TII had proposed National Anti- Corruption Strategy in association with CVC, but it was not adopted by DoPT.
- IP are not adopted by private companies as it would bind them. So there has to be some mandatory force.
- The whistle blowers are always victimised and so, the law for protection is needed.
- Ethics education is needed in companies with active participation from top management as there is lack of awareness and role models in private sector.
- The risks for big corporates in being corrupt: reputational risks; corruption within company causing losses; investors and shareholders going restless because source of spending not clear; money losses in procuring through corruption.
- Ways to tackle: advocate awareness; create sense of urgency; reach out to like-minded people in cases of whistle blowing cases or spreading awareness.

Field Visit to Shri Vipin Saxena, Special Resident Commissioner, Orissa

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad

Intern ID: 13

Date of the Visit: 06-06-2012

Suggested/Referred By: Smt. Anupama Jha

Visit No.: 4

If more Trips required to the same organization: no

Goal of the visit:

- To understand the areas of governance most susceptible to corruption.
- To understand the requirement of “prosecution sanction”.
- To understand the delays in the awarding of prosecution sanction.
- Irregularities in awarding tenders.

Goals Met:

- Got information about the corruption prone areas of the government machinery.
- Got information about the prosecution sanction.
- Got information about the tendering and corruption in the process.

Persons Met:

1. Name: Shri Vipin Saxena, Ex- Vigilance Officer, RITES

Duration and Timings of Discussion: 30 minutes, 11 am to 11:30 am

Details of the Discussion:

- Got information about the sanction procedures for prosecution of cases and the reasons that cause delay.

- Got to know about the Supreme Court's order of giving prosecution sanction in 3 months.
- Got to know about the specifications of tender allotment by the government.
- Got the information about the vulnerable areas in the government machinery where corruption can occur (mostly in procurement).
- The main ways of uneven practices in tender allotment: minimal advertisement, uneven or biased tender specifications and collusive bidding.
- The checks of government on the public sector organisations: certificates, inspection, etc.

Field Visit to Shri P C Sharma, SP, Spl Unit, CBI

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad (IPS)

Intern ID: 13

Date of the Visit: 07-06-2012

Suggested/Referred By: Shri Amrit Mohan Prasad

Visit No.: 5

If more Trips required to the same organization: no

Goal of the visit:

- To get information about the working of CBI and influence of government on its investigation.
- To get information on the sanction procedures and delay in the cases.

- To get information on the jurisdiction of CBI.
- Witness protection and whistle blower protection.

Media influences on the investigation procedures.

Goals Met: all the above goals were met.

Persons Met:

Name: Shri P C Sharma, SP, CBI

Duration and Timings of Discussion: 120 minutes, 10 am to 12 noon.

Details of the Discussion:

- CBI investigates cases that are in its jurisdiction according to DSEP act, 1944. Outside this, it needs permission of the respective state governments or Supreme Court orders.
- CBI can investigate the central government employees in all states. To investigate private companies, court orders are needed.
- No sanction for prosecution is needed in cases involving private sector corruption.
- The director of CBI is appointed by the government. So there is an indirect influence of the government on the cases investigated by CBI. The CBI is not completely autonomous. The appointment of the Director needs to be done by a more transparent and inclusive process.
- Got information regarding the assets attachment and recovery. Also got information regarding disproportionate assets in which cases, the court can impose penalty equal to the assets.
- The strength of investigating officers in CBI is around 800 personnel.
- There is no witness protection as per present system as the charge-sheet has names of those who gave evidence and the charge sheet is given to the accused.
- There is “Public Disclosure Bill” and “Whistle Blower Bill” in parliament which needs to be passed soon to make changes in the present scenario.
- Media has negative influence on some cases and it also impedes investigation in many cases.

- CBI cannot investigate anyone of Joint Secretary rank or above without permission of Ministry.
- In trap cases, permission is not needed.
- There are 23 special judges of CBI in Delhi.
- Also, got some cases studies regarding the investigations of CBI and also some useful articles from Sharma Sir.

Field Visit to Mr. Gopikrishnan, Special Correspondent, The Pioneer

Student Name: Souradip Sen

Project ID: 60

Mentor Name: Shri Amrit Mohan Prasad

Intern ID: 13

Date of the Visit: 07-06-2012

Suggested/Referred By: Smt. Anupama Jha

Visit No.: 6

If more Trips required to the same organization: no

Goal of the visit:

7. To get information about the 2G spectrum case and how it was unearthed.
8. To get media point of view in bringing out scams.
9. Media's role in informing people about positive and negative aspects of a particular company.
- 10.** The role of journalist and media.

Goals Met:

Same as above.

Persons Met:

1. Name: Mr. Gopikrishnan

Duration and Timings of Discussion: 40 minutes, 3:50 pm to 4:30 pm

Details of the Discussion:

- There is corruption prevalent among media houses too and most of the media houses are being run by corporates. So the scams and scandals are not being brought out by media.
- Small newspapers and media agencies are independent and so, they can bring out the stories if they get them.
- The 2G case was being brought out after a whistle blower gave information and then a series of research and then articles were published in The Pioneer. There were threats as well as many different lucrative offers but The Pioneer didn't accept any.
- Strictly enforce the 'Monopolies Act' by I&B ministry so that new agencies are not being bought by any major corporate.
- Journalists have to withstand threats, lucrative offers, and other risks in order to report true story.
- Punishments should be there on the media houses too for reporting wrong news and false stories.
- The business journalism should be strictly dealt with.
- As major corporates own media agencies have a share in it, corporates use media to bend the stories and news in their favour so that stock prices rise.
- Also got information about 'Paid News' report.

Minutes of meetings and discussions with mentor:

Date: May 11th

Time: 12:30 PM to 1:30 PM

1. Discussed the nature of anti-corruption machinery and legislature existing in India.

2. Discussed various aspects of corruption and gradually zeroed in on the focus of my project.

3. Decided upon the reading material that required immediate focus.

May 20th

9:30 PM to 10:00 PM

Week 1

1. Decided a step-by-step course of action for next week.
2. Identifying bottlenecks and developing hypotheses regarding reasons for the same.
3. Deciding on what data might be needed to substantiate/disprove the hypotheses.
4. Identifying sources from where I might procure the data.

May 30th

8:30 PM to 8:50 PM

1. Updated him on the results from my field visits, the details of which I have submitted in my report.
2. Discussed the nature of data I would need to substantiate my findings.
3. Discussed the nature of the survey which I should later conduct and about the sources from which I can find samples for the same.
4. Discussed the timeline for the remainder of my project.

Week 3

8th June

8:40 PM to 9:00 PM

1. Discussed the broad scope and nature of the survey.
2. Discussed the range of questions I need to ask during the various interviews.
3. I updated him on my progress in terms of data accumulation and analysis on the work done so far.

Meetings with mentor: telephonic conversation

June 21

9:20 PM to 9:45 PM

1. Discussed the midterm report and the aspects I need to consolidate, including case studies of other countries.
2. Discussed the nature of the survey that had to be conducted.
3. He recommended a 2nd round of field visits in the 1st week of July, after all my findings were completed in the 2 weeks since the midterm report.
4. He recommended that I spend the final week in Orissa to fine-tune the final report in consultation with him before the final presentation on 15th July.

June 30th

8:20 PM to 8: 40 PM

1. Discussed the findings from the survey.
2. Discussed the various aspects of the studies of New Zealand, Singapore and Finland and the feasibility of their models in the Indian context.
3. Discussed the witness protection schemes in Australia and USA.

July 5th

9:30 PM to 9:45 PM

1. Discussed the final format of the report and the amendments to the recommendations section.
2. Discussed the possibility of the field visit to Cuttack.

July 9th

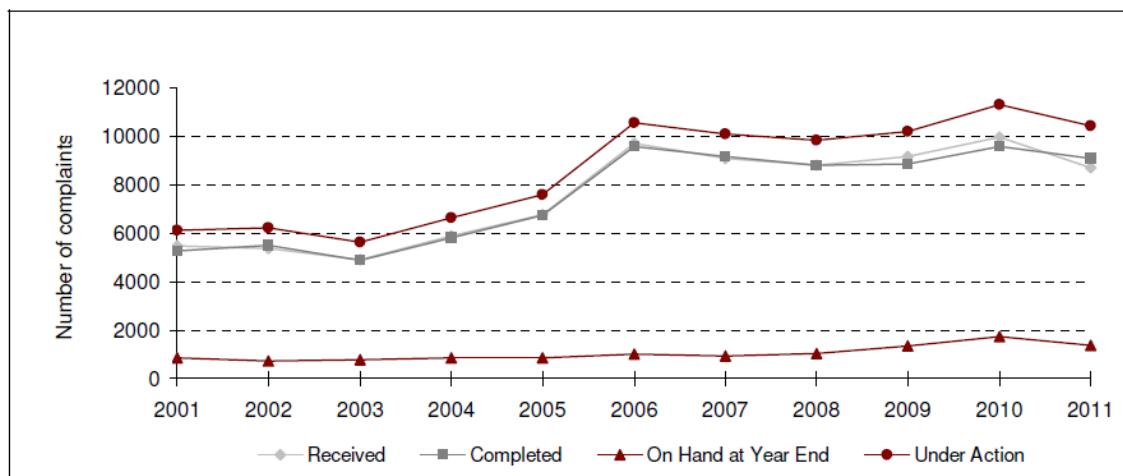
9:30 PM to 10:00 PM

1. Discussed the various aspects of the study that could be a part of a follow-up project (sec 6 of the final report).
2. Given constraints on his availability, decided to scrap the field visit.
3. Discussed the flowchart for implementation of the policy-based recommendations.

Appendix B

Fig. and Tables other than what has been used in the main body.

The following table shows the overall throughput of complaints over the past 10 years.



New Zealand Ombudsman report

Table 6: Results of Citizens' Satisfaction Surveys, 2008/09–2010/11

Indicators	2008/09 (%)	2009/10 (%)	2010/11 (%)
Overall satisfaction with service delivery among the public who had contact with police	79	79	82
People who had contact with police whose expectations of service delivery were met or exceeded	88	88	89
Agreed/strongly agreed that 'in the end I got what I needed'	73	72	75

New Zealand- Public satisfaction with police

Table 4: Public trust and confidence in Police, 2008/09–2010/11

Measures	2008/09 (%)	2009/10 (%)	2010/11 (%)
Full/quite a lot of trust and confidence in Police	72	75	77
Agree/strongly agree police are responsive to the needs of my community	75	75	78
Feel safe/very safe in neighbourhood during day	91	92	93
Feel safe/very safe in neighbourhood after dark	66	70	72
Feel safe/very safe in city/town centre after dark	45	48	53

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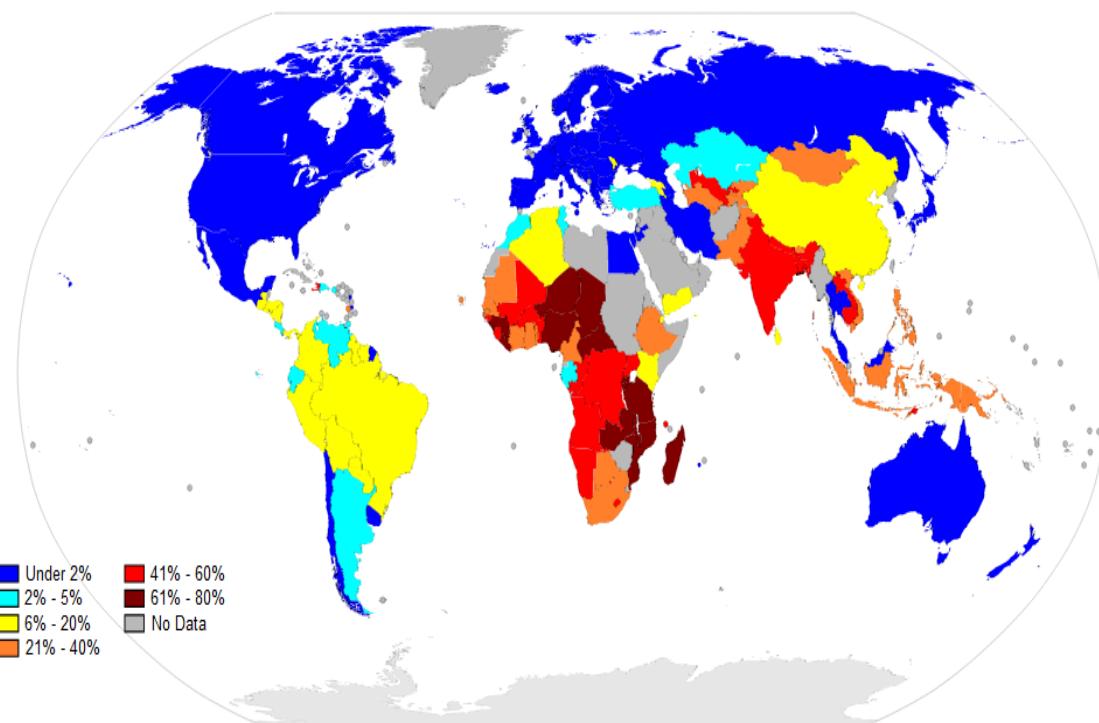
Cases pending in Maharashtra courts

Table 3: Comparison of the Law Commission Report and the Bill

	Law Commission of India	Bill
Scope	Disclosure can be against Minister and public servant.	Disclosure can be only against public servant.
Definitions	Defines disclosure as a complaint against abuse or misuse of power; commission of an offence under any law; or mal-administration.	Defines disclosure as a complaint against a public servant on commission of an offence under the Prevention of Corruption Act, 1988 or misuse of power leading to demonstrable loss to the government or gain to the public servant; or a criminal offence.
Disclosure of Identity	Defines victimisation.	No definition.
Powers of Competent Authority	The name of person making the disclosure shall be revealed to the public servant unless the complainant requests that his identity be kept hidden or it is necessary in public interest.	The Vigilance Commission shall not reveal the identity of the complainant to the head of the organisation except if it is of the opinion that it is necessary to do so.
Time limit	The Competent Authority has the power to direct the appropriate authority to initiate criminal proceedings against the guilty official.	The Vigilance Commission has the power to recommend measures such as initiating proceedings and taking steps to redress the loss to the government.
Burden of proof	The Competent Authority has to complete the inquiry within 6 months to 2 years after receiving the complaint.	No time limit prescribed for discreet inquiry. Time limit for explanation to be given by the concerned head of department shall be prescribed.
Penalty	In case a complainant is victimised the burden of proof is on the employer or public servant who is accused of victimisation.	No provision.
	Penalty for false complaints is imprisonment upto 3 years and fine of upto Rs 50,000.	Penalty for false complaints is imprisonment upto 2 years and fine of upto Rs 30,000.

Sources: 179th Law Commission Report, Bill 2010, PRS.

Comparison of the pending whistleblower's bill



Worldwide poverty- World bank

RAKSHAK FOUNDATION

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2784 Homestead Rd, #235
Santa Clara, California - 95051
United States of America

Tel: +1 (408) 329-1492
Email: secretary@rakshakfoundation.org

www.rakshakfoundation.org