CHAPTER VII

CONCLUSIONS, FINDINGS AND SUGGESTIONS
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In recent years, with the increasing role of the State in social and economic fields, scholars have put emphasis on the quality of its governance. The quality of decisions, actions and honesty of the officials of the particular nation enhances the trust of the people in the polity and its leadership. The desired socio-economic objectives of the policy can be achieved only when it is properly administered. Failure to properly administer the administration, therefore, defeats its very purpose and threatens equity. There is no country that has experienced sustained economic growth, where organized crime and corruption are rampant. Therefore, there has been given the tools and resources to develop good governance. However, tools and resources are proved their inefficiency due to the rampant corruption.

Corruption is endemic as well as an enemy within a State. It is a disease, spreading itself throughout developing nations. It is an effort to secure wealth or power through illegal means for private gain at public expense or a misuse of public power for private benefit. Corruption like cockroaches has coexisted with human society for a long time and remains as one of the problems in many of the world’s developing economies with devastating consequences. It is often a tool used by organized crime for the accomplishment of its purposes.

The combating corruption is perceived throughout the literature as crucially important as the corrupt activities can potentially destroy all types of Governmental policies and programmes, hinder development and negatively impact individuals and social groups. Corruption is an insidious disease that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.\(^1\) Corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples. The steadily increasing links between corruption and the proceeds generated by illicit narcotics

\(^1\) United Nations Convention against Corruption (UNCAC), 2003.
trafficking which undermine and threaten legitimate commercial and financial activities, and society, at all levels.²

Above all, corruption is becoming an international phenomenon in scope, substance and consequences. In the world of international commerce, it provides ample opportunity for engaging in a variety of corrupt activities imitated and transferred from one country to another. The rapid development of international financial and banking systems and simultaneous technological advances have enabled the quick remittance of funds and dissipation of assets regardless of geographical boundaries. It is a serious international problem which is presently the subject of concerted action in other parts of the world and one which countries in every stage of development should tackle as a matter of urgency.³

The ratification of anti-corruption conventions and their implementation in the municipal/local laws of a country are sufficient instances to show the concern about global aspects of corruption. In recent years, there has been a proliferation of international efforts to tackle or fight against corruption and promoting national actions, creating a common framework and organizing cooperation among the States Parties. Further impetuses for international measures were also generated by studies from various institutions including the World Bank which drew attention to the economic and social impact of corruption.

Corruption in India is all pervasive. The problem of corruption is wide spread and institutionalized in India. There is no activity of the nation which is totally free from this malaise. There is ample evidence to show the cancerous growth of corruption in India. The prevalence of corruption has been acknowledged by the various reports and studies and various steps have been taken to prevent and eradicate it. Anti-corruption legislations have been enacted, to prevent, detect and deter in a more effective manner.

Despite these measures however the incidence of corruption has escalated in India. The spread of corruption, incompetence, malpractices, abuse of power, fraud and other unethical behaviour as well as the lack of work motivation, have been

² Inter-American Convention against Corruption (OAS), 1996.
attributed to the decline in integrity among individuals, organizations and society. Therefore, the comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively. The detrimental impact of corruption on society and economic well-being is well established India. Corruption which is equal to monopoly plus discretion, minus accountability has serious impediment to sustainable development of the nation.

The problem of Corruption undermine the legitimacy of the nation and rule of law, and weaken the nation’ ability to defend its system of values. Once a governance situation is deteriorated it becomes extremely difficult to restore the rule of law, good governance, and trust between citizens and the State. The system becomes trapped into a vicious circle of bad institutions favouring corruption, leading in turn to a further going weakening of institutions.

Karnataka remains mired in corruption, crime, poverty, and violence despite the promulgation of several laws. That corruption has become the norm among both public officials as well as citizens was apparent from the findings, which established that corruption and bribery is rampant in the majority departments of Karnataka Government. In Karnataka, Corruption is one of the many unresolved problems that has critically hobbled and skewed development. It remains a long-term major political and economic challenge for the State. It is a canker worm that has eaten deep in the fabric of the nation.

The Corruption has had severe negative consequences on economic growth and development of State. It has adversely affected governance and the larger social structure. It has crippled the State’s ability to deliver for its citizen’s enjoyment of even the minimum social and economic rights, including health and education. This generally leads to a retardation of economic development and to the deterioration of whatever public infrastructure has been put in place. The recent land de-notification scandal, resulting in the drastic changes in the Karnataka politics is one such illustration. Recently, The study conducted by the Centre for Media Studies in the slums of Ahmadabad, Bangalore, Bhubaneswar, Chennai, Delhi, Hyderabad, Goa,
Kolkata and Mumbai also said slum dwellers in all these cities perceived an increase in corruption especially police services\(^4\).

The legal regulation is unlikely to be effective unless there are robust enforcement mechanisms in place. The lack of a unified approach is unlikely to further the fight against corruption in any meaningful way. The present work is to highlights the difficulties associated with Lokayukta institution in enforcing the objectives of anti-corruption laws and explore whether the antiquated *qui tam* action might serve a useful purpose in addressing enforcement deficit. An understanding of the underlying multiple approach will help towards the creation and adoption of a suitable remedial strategy that might require a conscious, energetic and persistent measures to curb corruption. A noticeable aspect of the present study is to stress the fact that the premier State anti-corruption institution should look into take into the multiple approach which perhaps has much to contribute to the remedial strategy.

**TESTING OF HYPOTHESIS**

Accountable, credible and transparent governance which is free from corruption is essential for achieving the social justice enshrined under preamble of the Constitution. The causal explanations of corruption and governance abound in the literature, as well as studies about the effects upon outcomes such as economic growth, political equilibrium and social equality. Indeed, as described under Chapter 1 and Chapter 3 there are certain clear evidence to show that concept of social justice and accountable, credible and transparent governance are all linked and that corruption in any one of these sectors impedes the concept of social justice. The true costs are eroded opportunities, increased marginalisation of the disadvantaged and feelings of injustice. The myth that nothing can be done to curb corruption seems to be nearly as pervasive as corruption itself.\(^5\)

It is also evident from the literature used for Chapter-1 and Chapter 4 of the thesis that Corruption remains as important problem even after 64 years of independence in India. There are several factors at different dimension of thesis to

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\(^4\) Deccan Herald. “Common Man Feels Corruption has increased: Study” Deccan Herald, Bangalore. (7\(^{th}\) December 2012).

show that the problem of corruption is continued to eat away the rich resources of the country.

Addition to this it is serious and significant obstacle in social, economic, and political development path. The problem of corruption has many damaging effects and its detrimental impact of social, economic and political development path is well established. The seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law. Undoubtedly, it is very clear from the review and re-evaluate of the existing anti-corruption laws under Chapter-4 of the thesis that legislative steps taken by Central as well as State Governments should be strengthening and improving in terms of institutional reform and legislative polish.

Available evidence and extant studies suggest that the present position requires some new legislative step for controlling and preventing corruption. Even though we have good number of legislation directly or indirectly deals with corruption, the crisis of corruption continues to be a complex legal affair as there is no coordinating agency. The researcher is of the opinion that the Lokpal and Lokayukta Act can compensate this situation.

**FINDINGS OF THE RESEARCH**

The issue of Corruption must be addressed in tandem with political, social, legal, administrative and institutional reforms to advance the success of each. Broader perspective on the prevention of corruption helps to highlight expanded opportunities for anticorruption programmatic responses. The Lokayukta institution, in addition to its enforcement task, it has to work to reduce opportunities and incentives for corruption through public sector reform and deregulation, support for oversight and watchdog activities, and education of citizens about their roles in preventing corruption.

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6. See Supra note 1.
Corruption in General

Corruption can be defined in many ways and it may be in many forms. Corruption as one of the oldest phenomenon in human society exist in every country of the contemporary world and findings demonstrates that high scale corruption may have very harmful effects on social, economic and political development. As rightly stated, corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society.\(^7\) Besides, Corruption continues to manifest itself in a number of ways. It ranges from petty to grand in nature, from political to bureaucratic in focus and from incidental to systemic in scope.

The form of corruption may be in different form under different contexts. For example, the following are the most common form of corruption, as described in the United Nations, anti-corruption toolkit; bribe, embezzlement, theft, fraud, extortion, favouritism, nepotism and clientelism, conduct creating or exploiting interests, improper political contributions.

Lokayukta Institution

It has been recognized that Karnataka Lokayukta institution is an ideal and premier anti-corruption body in the nation. The institution has significantly strengthened its anti-corruption programmes in recent years. In recent times, the performance of the institution demonstrates that the institution is to work for better governance and enhance public confidence on Governmental activities.

However, lessons learned from the findings of the past performance and current situation of the Lokayukta institution suggest that the key factor need to be addressed is strong political will demonstrated by a commitment from the leadership at all levels of Government. The strength and energy of the Lokayukta institution in the effort to stop corruption is a direct reflection of commitment of political will. The threat of uncontrollable corruption can be minimised only when relatively

\(^7\) Council of Europe Criminal Law Convention on Corruption (COE Convention), 1999.
sophisticated political commitment exhibited by the politicians. Otherwise the prevention of corruption remains mere rhetoric.

With the same line, it is very apparent from the findings of the thesis that there is no single solution in fighting corruption and the Lokayukta institution has to examine its unique circumstances and come up with a comprehensive strategy. It is suggested that a broad based approach must be adopted in relation to anti-corruption strategies if systematic corruption is to be mitigated. The experience of Karnataka is that the Lokayukta institution cannot rely on one single solution to fight corruption. Fighting corruption requires a well thought out and comprehensive strategic plan.

**Political Environment and Corruption**

The first condition to ensure the successful implementation of any anticorruption strategy is to build a credible and committed political leadership. The anticorruption institution should support by the strong and sustained political backing. It has been recognised that demonstrable political will and leadership are essential ingredients towards an effective war against the scourge of corruption.\(^8\)

Reform efforts are often unsuccessful due to the combined influence of inadequate strategies, political resistance, failure to sustain long-term reform efforts and the lack of knowledge about appropriate tools to establish systemic change.\(^9\)

It is very clear from the above analysis that the politicians must have the willpower to pass legislation to put structures in place and arm them with the capacity to effectively accomplish their goals. Unfortunately, the Indian political system is supporting certain strategies as cosmetic reforms to soothe the public and please the anticorruption institution. Anti-corruption institution of the country have become a popular strategy used by governments to spearhead and publicize their efforts, but these institutions often lack the resources and authority to be effective and are often manipulated for political purposes.

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Legal Environment

The legal structure of society forms an important pillar in fight against corruption. If corruption is to be cured, the need for a strong legal framework against the same is almost axiomatic. There is an extensive legislative, regulatory and policy framework in place in India that advances the stated purposes of the policies, namely: to prevent and combat corruption.

The legal instruments used to fight corruption in India include the Prevention of Corruption Act, 1988, Right to Information Act, 2005, The Delhi Special Police Establishment Act, 1946 and The Central Vigilance Commission Act, 2005. Prior to Independence, the Indian Penal Code, 1860 was the primary source of law dealing with corruption in India. But due to the narrow nature in dealing with corruption such as only criminalizing the conduct of bribe-taking public servants, it was replaced by various ant-corruption laws. This however, failed to stem the tide of corruption.

The Indian legal framework for curbing and controlling corruption is primarily based on statutory and common law. While existing legislations and executive orders have gone a long way towards reducing corruption levels in India, there still remain some areas that require change. The legal status of an anti-corruption entity, its form and structure, have lasting implications for its effectiveness and its capacity to insulate itself from undue political interference.

Societal Environment

The policy measures need to be adopted depends on the overall social environment and the attitude about corruption held by society. Societal reforms generate new information about the costs and causes of corruption to stimulate demand for change and provide guidance on what to change. Societal reforms also foster structures to facilitate monitoring and advocacy by civil society.

The societal attitude could be improved in such a way that various stakeholders are to be informed about the policy and fully understand its implications with the view to strengthening support for change and building the
capacity and commitment within the public agencies involved in the implementation of the anti-corruption strategies.

The survey findings suggest that respondents have little or no awareness of key legislation and that there is a need to improve levels of awareness and understanding of terms and concepts surrounding corruption and anti-corruption legislation. Awareness raising activities targeting both the public and the various stakeholders is therefore an important aspect of successful implementation of Lokayukta institution in Karnataka. The findings of the research work clearly asserts that the priority focus should therefore be given to strengthening Lokayukta Institution to make it work effectively and independently for societal reform, rather than create new norms and institutions for this purpose.

**Administrative Environment**

The complexity of laws and procedures increases the magnitude of corruption in the system. A high degree of discretionary power and the lack of adequate monitoring and reporting mechanisms are vital in providing opportunities for corruption. The findings of the thesis suggest that a Government organisation is most vulnerable to corruption when bureaucrats enjoy a monopoly. Further, the findings clearly demonstrate that the relationship between bureaucrats and various stakeholders such as legislature, judiciary, media and civil society needs to be broadly articulated. The research work also find some evidence that in order to further strengthen anti-corruption strategy, the system of recruitment of officers should be streamlined with an eye to minimizing personal interactions of recruiting authorities with prospective government servants.

In order to overcome the problem of corruption, anti-corruption agency is to be addressed these administrative issues. Anti-corruption strategies can include a wide range of interventions aimed at reducing discretion and monopoly of power of government officials, improving law enforcement, reforming the civil service, increasing transparency and access to information, improving citizen oversight, etc. The institution should review and revise the practices and procedures of government departments to identify and remove weaknesses. The institution is to be endowed with the statutory power to examine the practices and procedures of government departments and public bodies and to secure the revision of methods of work or
procedures which may be conducive to corrupt practices. When new legislation, procedures or policies are formulated by the government, the institution can contribute corrupt free State by providing expeditious consultation service or confidential corruption strategy to the concerned departments.

**Institutional Reform**

The agency in charge of should have sufficient financial, human and institutional resources and capacity to coordinate and monitor the overall implementation of the anticorruption laws. The anti-corruption agencies should have access to adequate technical assistance, training and mentoring.

Depending upon how well these resources supplied to an anti-corruption, it can be quite successful in reducing or eliminating the observed corruption. Unfortunately, the untrained professionals and ill-equipped resources is the most prevalent approach of the Karnataka Lokayukta institution to fight against corruption in Karnataka today. The present position of Karnataka Lokayukta reveals that the institution is lacking sufficient resources in capacity building to ensure effective implementation of anti-corruption laws.

**Civil Society, NGO and Media**

The pro-active involvement of non-state actors at all stages of the process determines the credibility and legitimacy of the process of the anticorruption institution and is likely to contribute to the successful implementation of the strategy.

Without the mobilization of civil society, governments are unlikely to follow through on. Therefore, the findings of this thesis illustrates that, there is much recognition of the role of society in the upcoming years, as it is a precondition to current corrupt profile of the State. As a result in addition to the legislative reforms, civil society plays a major role in addressing the problem of corruption. As evidenced by recent political crisis at Centre and State, due to civil society activists, it is very clear there is a growing recognition of the importance of civil society against in India.
The collaboration of Karnataka Lokayukta Institution with civil society organisations can be used to sustain best practices, as well as to improve and monitor the effectiveness of public ethics programs. The image of the Karnataka Lokayukta institution with civil society organisation could be strengthened through various joint venture awareness activities such as Seminars/Conference/Workshop and similar kind of activities.

The media can serve many important functions, not just exposing corruption but also sustaining an open and transparent flow of information and fostering a climate of opinion that is increasingly intolerant of corruption. The lack of access to information about rules and regulations makes unaware of citizens’ rights and exposes them to discretionary treatment by corrupt officers\(^\text{10}\). The media significantly enhance an opportunity to have knowledge on rules, regulations and procedure and publicize adequately so that citizens are aware of it. The role of media includes publicizing all enforcement actions, major electronic media campaigns as well as other strategic initiatives to reinforce the anti-corruption themes. In addition, the publishing the name and photograph of corrupt officials can be quite effective. If public castigation for engaging in corruption is used extensively and effectively, it can significantly close the door to corruption.

In many countries non-governmental organizations (NGOs) are heavily involved in public awareness on anti-corruption. For example, Transparency International is the global civil society organization leading into the fight against corruption. TI is a global network including more than 90 locally established national chapters and chapters-in-formation. These bodies fight corruption in the national arena in a number of ways. They bring together relevant players from government, civil society, business and the media to promote transparency in elections, in public administration, in procurement and in business. NGOs can also work to bring about public awareness in creating anticorruption institutions and anti-corruption laws and work at creating institutional support.

\(^{10}\) See Supra note 4.
RECOMMENDATIONS

In this part, the researcher has been concentrating mainly on the policies reducing the corruption taking into account the existing corruption literature, empirical research and experience of other countries, which have succeeded in their fight against corruption. According to the findings, the present thesis work, following recommendation have been suggested for the reduction of corruption existing in the State.

Preventive Strategies

It is very essential to make every possible effort to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance. The preventive strategy aims at reducing the corruption opportunities in government departments and public institutions. Following are the major recommendation for this strategy.

- The Karnataka Lokayukta Institution should examine practices and procedures of government departments and public bodies with a view to identifying and eliminating opportunities for corruption.
- The progress of simplification of procedures should be monitored annually in terms of the reduction in processing time and reduction in submission.
- The institution should also advise private sectors on ways to prevent corruption.
- The Institution should provide free and confidential corruption prevention advice to public as well as private sector and should adopt various practices such as enhancing staff integrity and code of ethics, streamline the procedures to ensure proper supervisory checks and control over the affairs of the departments.
- To recognize and reward the efforts of companies that voluntarily embody good anti-corruption policies and a system of credits should be introduced by the institution for preventing corruption.
- The Institution has to be established as a centre manned on a 24 hours basis and there is a need of highly publicized telephone hotline to facilitate public reporting.
- SAKALA programme must be extended and strengthened by inserting much more services to the programme and by eradicating complexities associated with the execution of the programme.

- Accounts of all the Government officials must be subject to strict scrutiny and care must be given of E-Transaction of money.

**Enforcement Strategies**

In order to investigate and prosecute cases of corruption in the State, Government of Karnataka has established police wing and prosecution. Conducting prosecution is a joint responsibility of the police and the prosecutors. Whereas the prosecutors lead the evidence in the court of law, police officers assist them in briefing the witnesses and prepare them for arguments on points raised by the other side. The following suggestions are advisable as enforcement strategies for effective working of Karnataka Lokayukta in the State.

- Objectivity and transparency should be maintained in recruitment and appointment of officials to enforcement authority of Karnataka Lokayukta.

- Formal coordination should be established between the CBI and the Karnataka State Lokayukta Police Wing.

- Steps to be taken for the capacity building of Karnataka Lokayukta in line with modern trends and global best practices. Adequate Human and Financial resources should be provided to the institution for this purpose.

- The successful enforcement stories also provide a basis for public education and act as deterrence for the other corrupt officials. Therefore, the enforcement wing should disseminate these stories effectively.

- The enforcement wing should be empowered with the use of undercover operations and broader and more effective use of intelligence and information technology.

- The Institution’s investigators should be given continuous professional training to keep pace with the changing environment, technological advances and the latest developments in criminal investigation techniques.

- The Karnataka Lokayukta institution should adopt a zero tolerance policy. So long as there is reasonable suspicion, all cases of corruption, irrespective of
whether it is serious or relatively minor in nature, should properly be investigated and the same should be reviewed by the monitoring authority.

- Strict confidentiality rule in investigation matters are to be observed other than matters that the public has the right to know.

**Educational Strategies**

Anticorruption education is a vital component of any anti-corruption strategy. An informed society is perhaps more crucial than the most sophisticated codes of conduct, laws and regulations in preventing corrupt and unethical behaviour. Therefore, the institution should adopt a very wide range of education strategies, in order to enlist the support of the entire community in a partnership to fight corruption.

- Ethical education strengthening individual in their ethical decision making, value conflicts, and ethical dilemmas frequently arise in the daily lives of people should be provided by the institution as its anti-corruption strategy.

- The institution should promote integrity and positive behavioural standards through a range of products aimed at teachers, parents and students in State’s kindergarten, schools and colleges.

- Corruption prevention talks and ethical, character and behavioural development seminars/conferences/workshops for public servants and business community should be organized by the Lokayukta institution.

- The Education should be imparted by the institution giving citizens improved access to information about rules and regulations pertaining to corruption in order to empower them to demand greater levels of accountability.

- The institution should organise exhibitions, fairs, television variety shows to spread the message of a clean society.

- In order to substantially strengthen anti-corruption strategy, the Karnataka Lokayukta institution should educate or create awareness
about their rights and responsibilities prescribed under important legislation.

- Anti-corruption Act and institutions must be part of curriculum at the high school level itself.

Legislative Strategies

Law is an effective and powerful tool for multi approached strategies against corruption because of its multifaceted character. Despite adequate laws to fight corruption in the public sector, it is still one of the biggest menaces Indian society must deal with. The researcher proposes the following recommendation for problems and challenges associated with Indian legislative system upon which Lokayukta Initiation is working.

- Constitutional amendment for creation of the institution of Lokayukta Institution having jurisdiction for dealing with cases against people’s representatives, private entities and to look into cases against state government officials;

- The PC Act does not expressly seek to punish corrupt acts of private parties, The PCA, 1988 should be amended to place equal emphasis on public and private sector corruption.

- The concept of prior sanction under PAC, 1988 has shown that the provision has often resulted in long delays. Therefore, the provision is to be removed or limitation should be prescribed for the previous sanction of the authority.

- There is a need of simplification of legal and administrative procedures in order to avoid inordinate delay of prosecution of corruption cases.

- Creating provisions for punitive action for wilful disregard of the recommendation of the commission in a similar manner as prescribed in the RTI Act.

- Enabling legislation is to be enacted by the Central Government so as to acquire international cooperation in terms of mutual sharing of best practices, shared learning lessons, and technical assistance.

- The legislative inadequacy in terms of whistler bowler protection, bribing foreign officials and confiscation of property should immediately be enacted.
The legislative lacunas associated with Right to Information Act, Prevention of Benami Transaction Act, Money Laundering Act should also be amended.

**Partnership Strategies**

Anti-corruption strategies cannot operate successfully within a vacuum but should rely upon the engagement of a wide range of participants. The public and private organizations, professional associations and the media all have a stake in the quality, stability and fairness of society as well as influence on the successful outcome of anti-corruption policies.

- Partnership with Media can boost the Educational and preventive strategy of Lokayukta and can also organise debates, discussions on corruption and create awareness among citizens.
- The institution can materialize the political will against corruption by exposing the corrupt activities of politicians and political parties. It can be done with the collaboration with citizens groups, civil society organization and media.
- Partnership with the civil society and media may play important role as watchdogs of public sector.
- The partnership with NGO’s to carry out surveys can help to measure the extent and nature of corruption in a country, measuring corruption helps to establish priorities for reform by identifying the activities and agencies where corruption is rampant.