Chapter 1

INTRODUCTION

*Those who fight corruption should be clean themselves.*

*Vladimir Putin*

(President of Russia)

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1.1 Significance or Importance of Research area

9th December of every year is being observed as “International Anti-Corruption Day”.

Corruption is a crime of “calculation” and in the nature of ‘victimless violence’ and also ‘bloodless offence’ which hurts every one and now become a way of life. 1 Giving bribe to work done become usual practice in India. People pay bribe against their will because they have no alternative except to pay bribe. Whereas those who pays bribe do not make any complaint against the corrupt officers. Everyone is under impression that, if he does not pay for the work then it is sure that, his work could not be done. Nowadays, for people money is everything and people do anything and go up to any extent to get money. Politicians are big sharp in our society they always talk on morality and teach the importance of value based education to others but that is not their internal voice but it is, there outer show and their internal voice is something different having full support to corruption. In public offices corruption is caused only due to dishonest behavior of public servant which involves acts beneficial to the personal interests.

Many avenues of corruption cannot be dealt under the provisions of the Prevention of Corruption Act, 1988. In many cases citizen are not even aware that, which day to day practices are classified as corruption. For e.g. when patients are directed to specific pathological laboratories for conduct of tests.

In India, corruption is not only committed by public servant but also by other people in their occupational capacity as like adulteration of milk by the milkman, selling adulterated food by the shop-keeper, selling expired medicine, taking out few kilos of gas from the cylinder. Business man in
India are always engaged in tax evasion and tax avoidance. They are also involved in violation of the foreign exchange regulations, profiteering and in black marketing of essential commodities. These activities are also in the nature of “criminal misconduct” which is punishable under the respective laws and not under the Prevention of Corruption Act, 1988 which is enacted only with an object to combat corruption in the society. Since, these offences are not come under the scope/purview of definition of “Corruption” even though they cause irreparable loss to the society at large. Moreover sometimes, for our own monetary gain these businessmen make adulteration of foods which may turn dangerous to personal life and public health, which is nothing but a Corruption.

In India from last sixty eight years, there is no any law to check corruption in private as well as in corporate sector. So corruption in private or corporate sector is more than public offices and because of selfishness, greed and nepotism of the people, corruption prevails in each and every part of the society.

The object of my research is always to find out or focus on lacuna/defects and undue advantages which are being taken by the people under the present existing Corruption Laws which are enacted only with an object to eradicate Corruption in the society. If we peruse the present law, related to the Prevention of Corruption in society and compare with Laws of other big countries then it became necessary to strengthen our criminal justice system. Considering all these aspects, it is need of the time, to remove lacunas and or deficiencies under the provisions of the Prevention of Corruption Act, 1988.
Nowadays, the Prevention of Corruption Act, 1988 is insufficient and become ineffective to control the Corruption which directly attack on the economy of our nation and spread up to each and every place of business and profession. Corruption distorts National and International Trade. Corruption threatens the integrity of market, undermines fair competition, and destroys public trust and rule of law. Corruption is violation of “Human Rights” and also deviates from the moral code. Corruption is the enemy of development and of good governance. Corruption damages moral and ethical fabrics and breeds evil in the society. Once the seed of Corruption starts growing, it takes root slowly and pass through the whole nation and become perilous disease. As a human being to create an atmosphere, free from corruption will be our highest achievement.

Corruption is just like a tree, whose branches are of an immeasurable length, they spread everywhere, and the dew that drops from thence hath infected some chairs and stools of authority hence it became necessary to dilute the poison of corruption which is spread in the society. Accountability and Transparency are the two anti-does of Corruption. If our legal system is faire, quick and uncomplicated then it became easier to fight Corruption which is even injurious and destructive to public interest

1.2 Scope, Object, and Purpose of Research area

1.2.1 Scope of Research

Since 2003 Corruption is worldwide, global, omnipresent and universal phenomenon. In India corruption is recognized as complex phenomenon which has co-existence with ‘Human Rights’ for a long
time. Corruption is at all level and found in all aspects of the public life which starts at the top and percolates up to bottom of the whole society. Nowaday’s, Corruption can be seen everywhere it starts from the village and extend up to Air Condition office of the Constitutional Authorities. Corruption widespread where dishonest officials and businessman carry the germs of disease.

Corruption is just like a cancer to public life which is treated as incurable disease and cause of many social and economical evils in the society and damages moral and ethical fabrics of the civilization.

In other words, it is not disputed and also correct to state that, Corruption breeds many evils in the society and once Corruption starts taking place whole country pass through its net and after some time it becomes an incurable disease just like diabetes, which can only be controlled but not totally eliminated.

India is the largest democratic country in the world. Corruption in the society is major road back for India 2020. Corruption is rampant and run in the veins of the corrupt public servant. In the twenty first century, number of Ministers and public officers with an honest image cannot be found or counted on fingers. Today, bribe is paid for getting right thing done at right time. Not a single institution in India that can claim freedom from corruption.

Corruption is our biggest problem and always accelerated the exploitation and injustice in each and every sphere of our life. Nowadays, everything is done for consideration only. Even the office of Prime Minister is not exempted from this implied rule. Due to sole
reason Indices of Corruption in our society are increasing time-to-time. Corruption exists only if there is someone willing to corrupt. Offence of Corruption is always done by the public servant and not by the poor people but it is proved that these poor people are the real victim of Corruption and always bear a burden of Corruption. These poor people have no option but to live with sub-standard services. Rich people are more likely to pay bribes, whereas the poor bear a disproportionate burden of corruption.

Nexus between politician, bureaucrats and private sector is very strong in India and are always involved in cycle of Corruption. Upper class of society is always beneficiary of “criminal misconduct” whereas, middle and upper middle class in the society has no way to escape from it. Corruption penetrates upto the fabrics of the society. Everyone is crying for money and everyone is running for money only.

Due to selfishness and pollution of mind of human being as well as due to change in the value system and ethical quality of the people, offence of Corruption is committed intentionally. We observe that, some of the offences are committed by taking help of animals or birds. These animals or birds are stronger than man but they are not selfish or egoistic, there mind is not polluted. Hence it is proved that, Corruption is committed only by Man and not with the help of Animal or Birds.
1.2.2 Object of Research

India was not free from corruption even from ancient period till today, because corruption is like a “water flows” from top to bottom and its starting point is government itself if we consider the history of corruption it is observed that, our government itself has no will and are in favour of corruption.

Today's scenario is that, if a person wants a government job he has to pay lakhs of rupees to the higher officials irrespective of satisfying all the eligibility criteria. In every office, one has either to give money to the employee concerned or arrange for some sources to get work done. Today adulteration and duplicate weighing of products in food and civil supplies department by unscrupulous workers who cheat the consumers by playing with the health and lives of the people is common. In the assessment of property tax, the officers charge money even if the house is built properly according to the Government rules and regulations.

Corruption is one of the biggest hurdles in the development of our Nation and considered as a major issue which adversely affects our economical system. Criminal misconduct is very serious crime and also harmful for the economy of our country. Corruption affects each and every people directly or indirectly even though they do not come into direct contact of Corruption. Corruption stop the economical development of country, disable social services and business competitiveness. Corruption affects civil, political as well as social and cultural rights of the people.
Nowadays, tendency of human being is change drastically. The officer or person who are deputed to look into the matter of eradication of Corruption turn out to be corrupt. Everybody observed that, “criminals have no moral hence nothing good can be expected from them”. The Person from police department is designated as symbol of maintaining discipline, law and order in the society but they are themselves involved in Corruption.

Our investigating agencies are also become corrupt because our laws are outdated which required to amend immediately, our legislature whose prime responsibility is to make full proof laws are itself corrupt and not in a position to make change in the present scenario, due to all these aspect people lost their faith on the three pillars of our constitution.

It has been seen that officers who are deputed to look into the matters of corruption turn out to be corrupt. This established that people are losing their faith from the government due to its own corrupt practices. Hence it become very difficult to control or eradicate Corruption in the society. At the same time, it is not impossible creating atmosphere free from Corruption. Eradication of corruption or make corruption free India is not only the responsibility of Government but ours too and for that purpose joint efforts are required. Then and then only, we will become the model for the coming generation.

Nothing can be done until there is will power in the people to fight against Corruption. Law act only when people come together and
complaint against evil of corrupt practices. No doubt after the protest of Anna Hazare in respect of Jan Andolan Bill, people have started to raise their voice against the Corruption in the country but in a system of democracy corruption is a social evil and is the major hindrance in the pursuit of growth and prosperity of the Nation.8

“Prevention is better than cure” and it is also best weapon against the Corruption. Success of the Prevention of Corruption is depending upon the mass participation of the society. Corruption creates and or generates “Black Money” which purchases decision making power in the public offices. Good governance is established for socio-economic of our nation. After Second World War it is proved that, poverty increases corruption which has coercive impact on economy. Corruption in India flows from political domain and election fund is created from corruption only. For eradication of corruption, public education and prevention are equally important.9

Growing corruption in the business and industry, adversely affects the entire society and create social, commercial, industrial problems. Under the present circumstances, there is adequate scope for businessmen and industrialist to use wrong ways of getting their things achieved. Sociologists says that, Corruption is not only fueled of greed. But also is short cut means for getting quick money. Black Money is promoted through white collar crimes and public service thrives as the beneficiary of this evil source of earnings.10

Researcher has focused his study to point out or find out the lacunas and or defects under the Prevention of Corruption Act, 1988
and to suggest the mechanism to control the menace of the corruption. Corruption is harmful and directing attack on the economy of the country. Present laws are insufficient to control the corruption in which directly attack on the economy of the nation as well as provides the facility of corruption.

We frequently observe that, politics and politicians are fully involved in corruption and politics become their business and source of income.

At this present juncture, what we need is the strengthening of our enforcement agencies such as Central Bureau of Investigation, the Enforcement Directorate, Anti-Corruption Bureau, The Directorate of Revenue Intelligence, The Income-tax Department and the Customs Department.

The object of the study of researcher is also to compare our laws relating to corruption with the laws of developed countries and to suggest the steps towards the improvement of the laws so as to enable it to combat with the menace of the corruption, which is becoming rampant in the society and collapsing the economy of our country. Some of the suggestions are as under:

1. That the, concentration and distribution of national wealth must be done in a proper manner.
2. Speedy trial should be arranged by appointing more Judges.
3. Central Vigilance Commission must keep a constant vigilance on the workings of the top ranking officers.
4. Lastly if they are traced and proved guilty then deterrent theory of punishment should be awarded.

1.2.3 Purpose of Research area

Corruption in the Society is the Major issues since from ancient period. Till date number of law’s are enacted time to time taking into consideration the then present status and need of society. These laws are also amended or modified continuously taking in to consideration the social change. Even number of investigating agencies are constituted but we are not succeed to combat or to control corruption, since our law are vague, Corrupt public servant always take benefit of doubts and undue advantage of benefits of defects under the Prevention of Corruption Act, 1988.

Our laws are not water full proof. Our present legal system have various Constitutional and legal provisions but still corruption is not controlled on the contrary it is increasing day by day. Unless and until, these defects curbed effectively we will not achieve the object of Democracy.

1.3 Hypothesis

Hypothesis of Research Topic are discuss as under -

i) The Corruption is prevailing everywhere in our country not only in business but also in professions and politics, and it is difficult to identify and punish such criminals under present laws.
ii) The Corruption directly attacks on national economy affecting development of country which is necessary to be curbed and removed by adopting proper legal system.

iii) Existing laws on Corruption are failing to control its menace, as well as insufficient to fight with it and there is a need of new comprehensive Law to control and punish the Corruption criminals.

iv) Corruption is infringing Right to Life and Personal Liberty of human being guaranteed under Indian Constitution. It is a need to protect these Constitutional safeguards by applying proper mechanism by the Legislation.

1.4 Methodology

To find out defects under the law of Prevention of Corruption Act 1988, is most sensitive area of research which has its own methodological problem in terms of its analysis. The methodology adopted by the researcher is purely “Doctrinal” in nature. It involved depth study of source materials, text review, case study and comparative study.

My research is based on two types of material-

I) Primary Material

II) Secondary Material.

Primary material consists of Laws, Rules and Regulations, Judgements of various courts. Whereas, secondary material consists of Books, Articles, Encyclopedia, Research paper, Newspaper, Magazines, Information on various websites.
The research is mainly focus on concept of corruption and the study of case law. Important information relating to subject matter is also gather from internet. My research is analytical and descriptive in nature. Articles from journals are cited. While citing case law, name of court, year of judgment, name of parties, page number are written.

1.5 Requirement of Research

Corruption is like a ball of snow. Once it set a rolling it must increase. We found corruption in all aspects of the public life. It affects every sector of the economy and economy affects public life. Corruption is one of the serious threat to our society and spread like a plague. The amount involved in the Corruption extends to thousands of corers on the other hand existing Law related to Corruption become insufficient or ineffective to control the Corruption in the society. Corruption directly affects the Human Rights and are in violation of fundamental rights of every citizen. If such mushroom of Corruption is not controlled then entire system of democracy will be collapsed. So for good governance of structural reforms at all the levels is required by enacting or amending the Prevention of Corruption Act, 1988 and other enactments related therewith.

1.6 Scheme of Research.

In the present research thesis following eight chapters on the topic of “Laws relating to prevention of corruption - a critical study” are discussed and presented along with some valuable recommendations.
1.6.1 Chapter 1 Introduction

The first chapter of the research thesis, focus on the scope of significance or importance on Corruption. This chapter also include scope, objects and purpose of research in which researcher has presented that, our present laws related to Prevention of Corruption are not full proof and insufficient to control or eradicate the corruption in the society. In addition to above, overall scheme of the research has been elaborated and presented. Hypothesis of the research area and Methodology adopted by researcher is presented.

1.6.2 Chapter 2 Review of Literature

The chapter present review of literature

1.6.3 Chapter 3 Corruption: An Overview

This chapter presents an overview of the research and briefly define the definition meaning and concept of corruption. In this chapter history and idea of corruption is elaborately define. Even meaning, concept, causes and consequence along with measures for corruption are presented. After obtaining data from primary and secondary sources the observation on the research was analysed. Which is also deal with area open for further research.
1.6.4 Chapter 4  Constitutional and Legal provisions to Control Corruption

The chapter four presents constitutional and other legal provisions or enactments, relating to eradication or combating corruption in the society. This chapter also discuss about the investigating agencies constituted under the law. Corruption violates the principle of “Rule of Law” which require good governance. For eradication of Corruption, policy makers enacted many Laws but the basic law to punish the corrupt public servant is The Prevention of Corruption Act, 1988.

1.6.5 Chapter 5  International Perspective on Corruption

The fifth chapter deviates to International Perspective on Corruption, International anti-corruption agencies of Hong Kong, Corruption practices investigation bureau Singapore, Independence Commission against Corruption, New South, Wales Australia and office of Government Ethic USA and their strategy to eradicate Corruption are discussed.

1.6.6 Chapter 6  Present Scenario and Land Mark Corruption Cases of Our Country

The Chapter sixth discuss and devotes to Present Scenario in our Country along with landmark Corruption scam, scandals and taking into consideration these scams, the indices of corruption is increasing day to day. After the independence of India, the first high
profile Jeep scam of worth rupees 80 lacs was identified in the year 1948 whereas, after independence of sixty-eight years ratio of corruption of scam which are available to the researcher upto the year 2015 is 253. Worth of these Scam is in thousands of Lakhs of Crores.

1.6.7 Chapter 7  Defects and Lacunas under the Prevention of Corruption Act.

Without analyzing above chapters we cannot analyze the chapter seven. This chapter devotes, discuss and presented Defects and Lacunas under the Law of The Prevention of Corruption Act, 1988.

1.6.8 Chapter 8  Conclusion and Suggestions

In the last chapter observation in respect of research area are pointed out in which researcher has come to conclusion that the Prevention of Corruption Act, 1988 in effective to control or eradicate the corruption in the society which required to the amended or modified the present enactment subject to recommendations pointed out in the present research thesis.
List of references:
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