CHAPTER - 3

ROLE OF INDIAN EXECUTIVE & LEGISLATURE IN CURBING CORRUPTION
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OVERVIEW:

Corruption whether on the part of politician in power or civil servants must be sternly dealt with whatever cost we pay for it. Government has set up so many committees and commission to probe into the matter and evolve some workable solutions. The most important of these is the report of committee on prevention of corruption under the chairmanship of Sri K. Santhanam. The committee emphasized the problems in detail on the cause of corruption and the existing statutes in our country.

There is no scarcity of reports and recommendations of various committees and commission on corruption of all types in the country. The only thing lacking is strong determination and courage to adopt some of the valuable suggestions made in these reports and to execute them with iron hand.

The people who are growing under poverty and rolling in the dust will breathe sigh of relief, when corrupt officials throughout the country will be paraded with handcuff in broad daylight. This will create a sense of horror in the minds of official who will then realize that public services are not bed of roses’ In the name of public service, looting government money and neglecting the case of downtrodden brings huge disaster for themselves and for their family members. They should not be allowed to evade punishment in the name of constitutional protection. Corruption has its roots also in the courts of law. Most of the judges may be found to maintain their integrity but their babus and peons are easily corruptible. Some fees not authenticated by
law are required to be paid to them otherwise litigants know that this will surely cost them in future. Corruption in some form or other was and still continues to be a part of administrative system, only the degree differs. There has been no system which is completely free from corruption. During British rule, corruption was very much there but it was less in comparison to the present scenario. Whatever corruption was there, it was not getting exposed as it happens today. It is in vigilant democracy that corruption gets exposed and the conscious people very much talk about it. In India, gradually this evil is being exposed due to more and more participation of the public in the administration of the country and their taking lively interest in its affairs. This is healthy sign of the country as political consciousness of the people is gradually gaining momentum. People are not prepared to spare the few who being the custodian of appropriate fund for their personal gain. In these days large section of people of our country are suffering from dissatisfaction, despair and disillusionment. More than 52 years have been passed since independence, we have different type of problems but it cannot be denied that we have achieved considerable amount of progress although further progress is required to be made. Certain percentage of people has become literate

The act of demanding or accepting bribes in lieu of performing routine governmental function is being equated with unjust restrain on personal liberty such as suppression of civil liberties and arbitrary detention.

A prompt and quality investigation is the foundation of effective criminal justice system. Since police are employed to perform multi functional job and quite often important work of expeditious investigation. To avoid such problem, separate wing of investigation to deal with corruption cases is indispensable. Most of the laws both substantive and procedural laws were enacted more than hundred years ago. With the scientific and technological development, types of offence have undergone drastic changes. Therefore investigating machinery has to be equipped keeping in view of new nature of offence which was not prevalent when the statute was enacted.
Investigating official have to be trained for advance technology, computers skill knowledge of changing law and use of modern investigating method. Separate team of officer equipped with modern technology should be engaged to deal with corruption related matter. To save the honest officer of the government, effective punishment should be imposed for false registration of cases and false complain. A panel of experts should be appointed from various fields such as computer science, banking, engineering, finance and law to get proper investigation result.

A common standard of morality and value education is sine qua non for curbing corruption from the society. Besides there is charge of double standard of ethics which are being applied for the top and other at the bottom. Cleansing corruption should start from higher echelons. One code of conduct for public servant and other code for the minister should be done away with and uniform code of conduct should be applied in all persons irrespective of their status in the society. Because person in whatever status in a society is not above the law. In the words of Ralph Blaibanti “in the bureaucracy the situation can be helped by careful rigid training in rules and procedure, indoctrination of careful code of ethics subscribed to and understood by all level of officials. No training in administration can be of value until there is perfect understanding of bureaucratic norms differed in the total bureaucracy.”

Parliament took effective steps to control corruption and to make public servant efficient are decentralization and devolution of power to people local self government. These are the powerful legislation to curb the menace of corruption from the society.

Prevention of Corruption Act 1988 is comprehensive legislation incorporating all offences of corruption laying down special rule of procedure to combat corruption arming investing agency with sufficient power and denying dilatory tactics by the accused person.
General law of the country has been made more stringent following the recommendation of Santhanam Committee and Civil Service Conduct Rule have been greatly modified to accommodate many more new situation uncovered by the rules. Revised rules have been framed under Art309 of Constitution of India which has now the force of statutory law. Many new restrictions have been imposed by these rules on the acceptance of gift, on the acceptance of private employment in commercial firm on retirement, on buying and selling houses and other valuable property or entering into any pecuniary arrangement, promoting and managing companies or raising subscription etc. In order to check against unauthorized accumulation of wealth and property by public servants, revised form of property return both movable and immovable have been introduced. On the whole revised CCS (conduct) Rules 1964 and All India Service Conduct Rules have been more stringent

The word corruption has a wider meaning than that is contemplated in Indian Penal Code or Prevention of Corruption Act. The definition of bribery and corruption has been used in Indian Penal Code and Prevention of Corruption Act. These two expressions are complimentary but not mutually exclusive. When an amount is paid to public servant as gratification, it is a case of bribery and it is also a corrupt practices but when it becomes habitual it is criminal misconduct under Sec 5 (1) (a) of Prevention of Corruption Act. Whether this practice adopted by low grade or high grade officer, it does not make any difference in the nature of offence. Even a minister can be indicted on the charge of corruption.

Parliament expressed grave concern over rampant corruption amongst public servant which has become major cause of demoralizing society as a whole. Corruption has entered in every sphere of society and it affects socials, political and economical strata of State and also destroys democratic value.
The complexity of tax law in India has opened door for tax payer to avoid tax. Such type of practice is prevalent with influential person like traders, businessman, lawyer, doctor, engineer etc. It is alleged that they conceal their legal income and also show fraction of income and as a result undisclosed source of income has led to the birth of black money. It is to be noted in this connection that government of India had introduced voluntary disclosure scheme to unearth black money which will be used to achieve social objective. But the results of this scheme were not very encouraging. The main reason for such negative approach was that tax payer did not want to be highlighted and fear of reopening their past records.

It is to be stated in this connection that Mali math Committee has recommended on presumption of innocence and burden of proof. There is no provision in the Indian Evidence Act prescribing of a particular or different standard of proof in criminal cases. In the corruption related matter, it becomes very difficult to prove guilt beyond reasonable doubt. Our Indian courts usually follow standard of proof laid down by English law i.e. beyond reasonable doubt. But in several countries, the standard is proof on preponderance of probabilities. There is another standard of proof which is higher than proof of preponderance of probabilities and lower than proof beyond reasonable doubt stated in different ways, one of them being clear and convincing standard. In order to make effective conviction, the committee after careful evaluation of standard of proof came to the conclusion that standard of proof beyond reasonable doubt presently followed in criminal case should be done away with and recommended in its place a standard of proof lower than that of proof beyond reasonable doubt and higher than the standard of proof on preponderance of probabilities. That is why committee favoured mid standard of proof.
A. REPORT OF SANTHANAM COMMITTEE:

Some important recommendation by the Santhanam Committee regarding training code of conduct, standard behaviour of Member of Parliament and Member of Legislative Assembly and declaration of assets by the men in possession, have not been fully accepted. The committee further recommended that if specific allegation against Minister at center or States are made by ten(10) MPs or MLAs, firm measure be taken to investigate into the allegation and if prima facie case has been established, a commission under Commission of Enquiry Act 1952 be set up and Minister concerned be asked to resign. This is certainly a revolutionary step. Some critics are of view that this exercises will be recurring feature as to the opposition member of Parliament or Legislative Assemblies will try to defame the Minister concerned by propaganda to furnish his image in his constituency. This is equally true that it will kill the initiative and drive the minister. To alleviate such problems, some punishment is to be provided if allegation made against minister proved to be false. This will minimize the number of allegations on false pretext with an intention of character assassination.

Santhanam Committee on prevention of corruption in its report (1964) has expressed some idea since moral behaviour of citizen is vital condition for the growth of healthy public life. The view of Santanam Committee is as follows:

"Strict adherence to high standard of ethical behaviour is necessary for the honest functioning of new social and political and economic processing. The inability of all section of society to appreciate in full thus needs results in the emergences and growth of white collar and economic crimes. This types of crime is more dangerous not only because the final stroke are higher but also because they cause irreparable damage to the public moral exists only if there is some one willing to corrupt and capable of
corrupting. We regret to say that both the the willingness and capacity to corrupt is found in large measure in the Industrial and commercial class. It is fact that with lowering of public moral, corruption has in recent years spread even to the highest level of administration. The government has come to realize the gravity of situation and has taken active steps towards unscrupulous elements for public service. The cases of corruption amongst gazetted officer by CBI show the extent to which corruption has spread in higher echelons."

The attempt of Guljari Lal Nanda, the former Home Minister of India is really praiseworthy. He was shocked to see the large scale corruption prevailing in the administration and for which as true ‘Gandhian’ he had to announce that he would not be in the Home Ministry if he would not be able to eradicate corruption substantially within two years. No doubt he made some earnest efforts by creating semi-official machinery and established different public grievance cell in his ministry. He had intention to create network of such branches throughout the country. A year back, during emergency, corrupt civil servants were held up and some compulsorily retired. The administration was toned up to some extent.

**B. RAILWAY CORRUPTION ENQUIRY COMMITTEE:**

Railway corruption enquiry committee was set up and Mr. J.B. Kripalani was the chairman of that committee. The said committee submitted its report. This one man committee outlined the problems with reference to Railways which by very nature of its work is prone to corruption. The said committee also mentioned the corruption and inefficiency of police administration as having a direct bearing on the problems of corruption in the Railway.

In order to remove corruption from Railway Organization, Government of India constituted Railway Enquiry Committee of 1947 to make
general survey of the working of Railway and this committee expressed view
that evil was there and should be tackled and also recommended that control
over immovable property held or acquired by Railway servant should be
strictly followed. The than Minister of Railway in budget speech during
February 1953 referred the prevalence of corruption amongst Railway
Officials and declared to constitute high power committee. Accordingly,
Ministry of Railway constituted a committee headed by Sri H.N.Kunzru. Since
Sri Kunzru was appointed as member of states reorganization commission,
Acharya J.V.Kripaline was appointed in his place. That committee conducted
lot of sittings and examined several witnesses regarding the corruption
prevalent in the Railway Organization. The said committee mentioned that
corruption and inefficiency of Police Administration have a direct reltions on
the corruption in Railways.

C. REPORT OF LAW COMMISSION:

Law Commission of India in their 14th report (1958) stated that
court clerks do some unwanted deductions from the money payable to the
witnesses for their bha and traveling allowances or some times do not pay
them the money at all. All these practices are continuing for long.

The chairman law commission has drafted Bill called Corrupt
Public Servants (Forfeiture of Property) Bill 1999. A committee was set up by
Government of India in 1949 with Dr.Bakshi Tek Chand as Chairman to
report on special police establishment with a view to asses among other things,
the success achieved by special police establishment in combating corruption
and to make recommendation regarding the continuance, strengthening,
curtailment or abolition of special police establishment.

In view of rising complain of corruption, misbehaviour and
misdemeanor against judges, the Law Commission examined the issue of
judicial accountability in the light of law laid down by Supreme Court in its various judgments which relates to the interpretation of Art 121,124 & 217 of constitution of India. On the basis of recommendation made in 195th, report of law commission on the judges (Enquiry) Bill 2005 has been proposed. It proposes setting up National Judicial Commission in which National Judicial Committee is for appointment and transfer and National Judicial Council is for disciplinary matters. The proposed law that would repeal Judges (Enquiry) Act 1968 inter alia seeks to empower National Judicial Council for imposing minor measures. The proposed National Judicial Council should be 5 member bodies consisting of Chief Justice of India, two senior most judges of Supreme Court and two chief justices of High Court. In the proposed Bill for National Judicial Council, any body can complain to 5 member committee. The process of enquiry in the case of impeachment proceeding has certain stages.

In a bid to ensure transparency in the functioning of judiciary, the government of India proposed during later part of 2008 proposed to set up National Judicial Council to prove complains against judges of higher judiciary. A meeting of Union cabinet headed by Mr.Monmohan Singh Prime Minister decided to introduce judges (Enquiry) Amendment Bill 2008 in Parliament. This Bill seeks to establish National Judicial Council with power to investigate complaints against judges of higher judiciary and recommended suitable action after following prescribed procedure. It is said by that the council will decide on the penalties on erring judges and judges will be member of said committee. The cabinet has also decided to withdraw originally concerned judges (Enquiry) Bill 2006 introduced in Loksabha on 19.12.2006. The withdrawal of original Bill was in consonance with recommendation made by Parliamentary Standing Committee on law and justice in these regards. The committee had earlier asked the government to expedite the process of enacting law on judicial accountability.

Chairman, Law Commission of India had sent on 04.02.99 166th report on the Corrupt Public Servant (Forfeiture of Property) Bill to the
then Union Law Minister. The subject was taken up by the commission suo moto. In view of the fact that corruption in public life has struck deep roots in our society including its administrative apparatus, which is causing immense loss to the state, to the nation and the public interest. There is crying necessity for a law providing society that existing law i.e. the Prevention of Corruption Act 1988, known source of income is inadequate since such forfeiture follows conviction for the relevant offences. The proposed approach is recognized by parliament in the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1997. In order to give shape to the recommendation of the commission, a Bill entitled the Corrupt Public Servant (Forfeiture of Property). The commission has expressed view that recommendation made by it will arm the state with an effective and powerful weapon to fight corruption which is posing serious threat to Indian economy and to the security and integrity of state.

Law commission of India by its 29th report during 1966 submitted that scientific and technological progress in business world has led to the birth of white collar crime. The reason for colossal increase in white collar crime in recent years is to be observed in developing economy and technological growth in developing country. In China and Arabian countries, capital punishment has been imposed against corrupt officers. If such type of stringent punishment is inflicted on offender, there must be deterrent effect of prospective offender on the ground of corruption. Lengthy procedure of trial and lethargic attitude of investigating agencies have not brought fruitful result in curbing corruption and process conviction be speeded up.

D. ROLE OF PLANNING COMMISSION:

In regard to integrity of government servant, planning commission following under Government of India made suggestion on reforms of public administration. “As a matter of ordinary administrative
practice, an official who does not have a reputation for honesty should not be placed in a position in which there is considerable scope for discretion. Further it is always implicit in the unwritten code of conduct for those who hold responsible position whether political or official that the public should always have absolute confidence in their disinterestedness and impartiality. In their social relations and all their dealings, they must, therefore, be especially careful to see that there is no ground or occasion to suggest that some individuals have greater access to or influence with them than others.”

E. REPORT OF ADMINISTRATIVE REFORMS COMMISSION:

Administrative Reforms Commission headed by Sri Veerappa Moily in its 4th report on ethics in governance submitted to Prime Minister on 12.12.2007. The said report recommended that Lokpal be given constitutional status and should be renamed as Rastriya Lokyukta and report stated that Prime Minister to be kept out of ombudsman’s jurisdiction. The commission recommended steps to bring about transparency and accountability in the government at all levels in order to curb corruption. The commission further recommended the abolition of scheme such as Member of Parliament local area development scheme and Member of Legislative Assembly local area development scheme and laid down code of ethics for civil servant and setting up for appointment of judges for enforcement of ethical conduct in higher officials and also fights against corruption. The said commission recommended that Rastriya Lokyukta’s jurisdiction be extended to all union Ministers and Members of Parliament. Rastriya Lokyukta to be headed by Ex Justice of Supreme Court, one eminent jurist as member and CVC as Ex official members. Administrative Reforms Commission suggested new legislation i.e. Corrupt Public Servant Bill (Forfeiture of Property) to remove corruption.
F. ROLE OF ELECTION COMMISSION:

Election Commission of India has taken some steps to control criminalization of politics. Election Commission has not allowed convicted people from contesting election to the state legislative assembly or parliament and at the same time, it has compelled political leaders involved in crime to disclose all charges pending against them and directed them to settle cases. The N.N.Vohra Committee set up by Government of India has submitted report that mafia control the election with the tacit support of corrupt bureaucrats and said network was running parallel government making the state totally ineffective.

G. ROLE OF CENTRAL GOVERNMENT:

The Central Government established Central Vigilance Commission following recommendation of Santhanam Committee and the said committee was formed to review the growing menace of corruption in administration. CVC was established when the corruption was rampant. With the good intention, the government also increased power of Central Bureau of Investigation and its role working alongside the CVC in anti corruption measure. However the government continual application of single directive resulted in the hindrance of the two main watchdog and enforcement bodies in the land.

Anti corruption measures are the responsibility of Union government. In order to curb the menace of corruption, Government of India has taken following steps by setting up different departments.
i. Administrative Vigilance Division in department of Personnel and training.

ii. Appointment of Chief Vigilance Officer in various department, public sector, Undertaking and Nationalized Bank.

iii. Central Bureau of Investigation.

iv. Central Vigilance Commission.

The Government of India has taken some steps to make above organization more effective. Previously Central Vigilance Commission was not statutory body like UPSC and C&AG. The jurisdiction and function of statutory body can only be amended by the Acts of parliament after following procedure where as function and jurisdiction of non statutory body can be passed by the order of executive. According to Santhanam Committee dealing with anticorruption work by the executive is not healthy procedure. So, in order to give more power and effective functioning, Central Vigilance Commission would be independent of government. The commission could deal comprehensively with the Prevention and curbing of Corruption and to maintain integrity amongst government servants without being influenced by the interference of the Government. The power of Central Vigilance Commission is to be exercised in fair way. The then Home Minister Late Lal Bahadur Shastri while laying the scheme of Central Vigilance Commission on the table of Parliament observed that CVC was to be fearless champion to the man of integrity and source of terror to corrupt officer. With these views, punitive and preventive measure is to be adopted. The sole purpose of Central Vigilance Commission was to improve the vigilance health of country. The Government of India in 1997 established independent review committee to maintain the functioning of Central Vigilance Commission and to study the working of CBI and enforcement directorate. Independent review committee submitted its report at the end of 1997 and recommended that CVC shall be treated as statutory body. Previously CVC was one man commission but
subsequently by the ordinance of 1999, the above commission has become multi member commission headed by Central Vigilance Commissioner. The function of commission is advisory and its advice is not binding on the disciplinary authority but it should not be overlooked. If concerned department does not act on the advice of commission, reason for such non acceptance should be intimated to the commission. This serves as effective check on the disciplinary authority in going against the advice of commission. The consultation with the commission indicates that public servants who are guilty will not escape from punishment and no honest public servant would be punished. The sole purpose of setting up Central Vigilance Commission is to improve the vigilance health of the entire country. There is problems that top level politician survive against political corruption owing to people indifference. The establishment of ombudsman institute like Lokyukta and Lokpal have remain ineffective in curbing corruption against high level political elite because people feel hesitant in lodging complain against them for fear of suppression and exploitation. Some effective’s steps have been taken.

i. Removal of several top officers who had acquired dubious reputation for arrogance and hunger for power.

ii. Elimination of several sitting legislature by not giving party ticket. Such legislatures have been denied party ticket that had indulged malpractices and amassed wealth disproportionate to known source of income.

iii. Passing of anti defection law which does not permit party defection which used to prompt parties to purchase legislatures for establishing and formation of government.

iv. Introduction of various reforms in administrative set up.
v. Banning independents as important steps to abolish political corruption. Election commission will have to think of minimizing the number of independents before election.

vi. The establishment of ombudsman institution like Lokyukta and Lokpal should be more effective in curbing corruption from the society.

Both Prime Minister and Chief Justice of India made strong speech during April 2008 for setting up special courts to tackle quickly the menace of corruption in public life. Asserting that corruption poses challenge to both government and judiciary. Chief Justice of India suggested to establish special courts to deal with corruption cases and Prime Minister also agreed that there is urgent need to do so. This will instill greater confidence in our justice delivery system at home and abroad. Chief Justice of India stressed the need for quick disposal of cases registered under Prevention of Corruption Act and favoured creation of special vigilance courts. Despite repeated efforts, allocation of fund for starting new courts is not very encouraging. Chief Justice asked State Governments to start more special courts to dispose of corruption cases. Prime Minister and Chief Justice of India were addressing conference of Chief Minister and Chief Justice of High Court from all over the country. After establishment of fast track court, we could dispose of large number of such cases. Even the number of courts is not sufficient to dispose of the cases, Chief Justice said. Both Chief Justice of India and Prime Minister expressed serious concern over range of issue including mushroom pendency of cases in county’s court abysmal existing infrastructure of court and severe problems besetting the judicial architecture and delivery of justice to common people. While stressing the need for serious judicial reforms at various levels,
Chief Justice of India demanded higher budgetary allocation to set up new courts to combat pendency of cases saying the present allotment is grossly inadequate. We have got an independent judiciary. We received rebuke from public for many things which we are not responsible. Chief Justice of India referring limitation under which judiciary works. Backing judicial reforms, Chief Justice of India said that adequate laws, institutional mechanism and sufficient infrastructure are required.

In order to curb corruption in the Indian Judicial system, the Parliamentary committee of justice has already studied the matter and has submitted detailed report along with the recommendations for providing more teeth to the proposed law related to service matter of High Court and Supreme Court judges. The proposed Judges Enquiry Bill with the provision of National Judicial Committee is the only weapon because it contains provision to take care of matters such as corruption in higher judiciary. It will be proved to be appropriate and adequate deterrent for all judicial officers. An enquiry can be initiated against setting judges as per provision of Judges Enquiry Act 1968.

In 1996, a meeting of Supreme Court Judges, Chief Justices of High Court, State Chief Ministers, Union Law Minister, and Prime Minister under Chairmanship of Chief Justice of India passed resolution for having a house proceeding for looking into complains against judges. At the meeting, it was decided that certain judicial ethics would be followed by revealing the properties and assets possessed by judges. Therefore, in accordance with that the proposal for five member's judicial commission was floated. To avoid infringing upon the independence of judges, basic features of constitution, the executive was kept away from hearing.

Incidentally it is stated that the then Janata Government had taken certain drastic steps to eradicate corruption from the administration and to wipe out economic inequality caused by hoarders, black marketers and
smugglers. People throughout the country appreciated such action. Now duty casts upon the leaders to clean the administration of the dirt, inflict exemplary punishment on the bureaucrats and top administrators who connived with dishonest leaders by making unholy alliance with them and looted public money.

Prime Minister of India asked CBI to pursue high level corruption cases urging agency to go for big fish and not focus on petty cases. There is pervasive feeling today that while petty cases get tackled easily, the big fish often escape punishment. Prime Minister while addressing 17th biannual Conference of CBI on 26.08.2009 and state anti corruption prone area and individuals so that available national resources for anticorruption efforts are not dissipated. Prime Minister also asked CBI that high level corruption should be pursued aggressively. Anti corruption bureau should give utmost priority to corruption in higher places and go for rapid fair and accurate investigation of such allegation. Prime Minister further said that pervasive corruption in our country tarnishes our image to an important extent and anticorruption bureau should set targets for early disposal of cases. Government of India has decided to set up CBI courts and CBI director remarked that agency has decided to complete all investigation within a year. More than 9000 cases, charge sheet by CBI are presently pending in the whole country. He further stated that there is need to lay down specific time limit to complete trial of corruption cases.

Judges of Supreme Court and High courts seem to have accepted to public pressure with Chief Justice of India saying that they are ready to go with central stand alone legislation mandating declaration of assets of judges. Mr. Mon Mohan Singh's Government proposal to allow to lift the veil of screen surrounding assets of judges virtually had the prior consent of Chief Justice of India. Chief Justice of India said that Law Minister appreciated Chief Justice of India of the proposal in bringing about the legislation making declaration of assets and liability regularly to Chief Justice
concerned throughout India in addition to being Income Tax payee. Chief Justice of India said that “what I had conveyed to Law Minister was that judges were in different footing than politician and bureaucrats and needed protection from vexatious litigation and consequent harassment. Law Minister has understood the concern of judges. A few days ago Mr. Veerapa Moily had expressed similar view that judges could not be equated with politician and bureaucrats when it comes to declare assets”.

Government of India felt that anti graft laws need to be amended. Chief justice of India pointed out delay in granting sanction to prosecute corrupt government officials. Law minister Mr. Veerapa Moily on 13.09.2009 said that there was a need to revisit constitutional provision giving protection to civil servants. There is gainsaying that provision of Art 311 of constitution of India would require revisit, this needs to be done. Mr. Moily’s remarks assume significance against backdrop of justice Balakrishnan pointing out the procedural delays like granting sanction in initiating action against corrupt official. Mr. Moily also referred to Santhanam Committee on Prevention of Corruption which had remarked that Art 311 of constitutional of India as difficult to deal effectively with corrupt civil servants. This Art grants certain rights and protection to government employees which enforcement agencies feel are often used to delay prosecution by corrupt official.

Prime Minister of India also expressed deep anguish regarding colossal corruption throughout the country. Even after Art 311 was amended, the panoply of safeguard and procedure still available is interpreted in such a manner as to make proceeding protracted and therefore effect the ultimate analysis. Mr. Moily said while addressing seminar on fighting crime relating to corruption. He suggested repealing Art 311 & 300 and said that new legislation need to be passed under Art 309 to provide for terms and condition of service of public servants including protection against arbitrary action. He further said “we need to redefine and revisit the criteria to obtain sanction.” He said that Law Ministry has initiated steps on many of these issues. This is the
way and there should be multi pronged attack on corruption. Every loophole has to be plugged. Some times, there is loophole in the law and some time in the procedure declared by courts. He further expressed concern over the poor rate of conviction in bribery cases observing that it reflects very badly on the country’s judiciary and investigating agencies. He said that various wing of government find alibi for their lapses by passing the buck to this democratic institution. If one of the democratic institutions lacks space or extra constitutional authority occupies space, realization of its own authority and discharging its sphere of responsibility developing accountability and responsiveness are the real solution. So the conflicting situation is eroding democratic policy.

It has been reported that union government has formulated code of conduct for all Central & State Ministers to check the menace of corruption. In the said code of conduct, it has been stated that all Ministers either Cabinet or State Ministers must declare their assets, liabilities and business interest of their own and their family members annually to Prime Minister. Similarly in the State, Cabinet or State Minister must declare their statement similar to union minister before Chief Minister of concerned state.

**H. ROLE OF INDIAN FILM INDUSTRY IN CURBING CORRUPTION:**

Indian film industry released film some films regarding crusade against corruption. The film which had highest impact on the general people regarding menace of corruption was Satyakam. The above film was directed by Hrishikesh Mukherjee and famous actor Dharamendra acted in this film with full heart. The film showed tragic picture of individual crusade against the menace of corruption. Besides, the above film depicted the entire scenario of present day society. In addition to Satyakam, many films such as Meri Aawaz Suno, Aajka MLA, Ardh Satya have also highlighted the present
picture of corruption of the entire society. Recently the film Gangajal has also depicted the rampant corruption in Bihar. Honest S.P. being Hero of this film acted against crusade of corruption. While discharging function as S.P. in this film, he had to face lot of pressure from higher officials including Minister in discharging function. Ultimately, S.P. being Hero of this film got success against the menace of corruption and the culprits were punished. But in real life, can any one expect such success?

I. ROLE OF TRANSPARENCY INTERNATIONAL:

According to global survey released by Transparency International on 09.12.2010, India is one of the most corrupt nations in the World. The survey titled the global corruption barometer survey says that about 54% Indian pain bribes during 2009. The survey found that India is 9th most corrupt Country in the World during 2009 in the ranking of 86 Countries. In the survey, Indian political parties are stated to be most corrupt ranking 4.2 on the scale of one to five, police 4.1, Parliament 4, Civil Servant 3.5, Private Sector, NGO & Judiciary 3.1, Media 2.8 and religious body 2.9.

Statesman reported on 18.09.2009 front page news of 24 hrs road strike on the day costing rupees forty lakhs on daily bribes. If it is calculated on yearly basis, the amount will reach to the tune of rupees 147 crores. It is reported that Indian Policemen is flourishing more in bandits in uniform does not seem to concerned most of us and they are busy looting from truck drivers. Berlin based transparency International called it also makes India’s growing aspiration for global leadership such as permanent seat in United Nation Security Council. The world body does not need such a leader of nation that has policeman operating openly on highway robbery. Such type of rampant corruption does not exist in USA, UK, Japan, Germany Russia, Brazil, France, Italy, Canada and China. So police corruption is merely the top of mountain of corruption in public life. Without zero tolerance attitude
towards corruption of any kind at any level and determination to fight it at the individual level. India won’t do anything but an inefficient corruption ravaged. Anti corruption makes basic economic sense for transporting delays from policeman harassing truckers cost the economy rupees 115 crores in a year according to truckers association. The other major reason for tolerating corruption is not realizing how much corruption itself destructive. Both the giver and taker of bribes suffer fear of being found out and corruption is inseparable companion. The nagging, torturing fear also breeds cowardice corruption and cowardice feed each other.

There are honest people in the society but their numbers are less in comparison with dishonest people. Maharastra Government has taken significant steps towards by sending IAS Officer Trainee by 10 days training in Vipassana meditation course. Many companies have started sending employee on paid leave to attend such courses.

Myanmar has borne principal Vipassana, a teacher, Sri S.N.Goenka a former business leader himself advices living honestly as one can like lotus keeping itself clear while growing itself in the mud. Goenka tells business people that the consumer is the god who gives bread and butter. Therefore even by mistake do not cheat him in quality. Do not give any adulterated product to any one. This much you can do. Can’t you? Because wealth alone is no use without self respect. Mumbai, the Indian financial capital understands this better. It is broader perspective, why Mumbai has seven Vipassana Centre including Dhamma Pattana Vipassana Centre to serve business related community. Austerity is good but being corruption free is much better. For remedy to policeman looting truckers, transparency Inter National has suggested following steps:-
i. Single inspection squad at interstate post to give no.

ii. E truck transport computerization transport office and inter linking throughout entire country.

iii. On line registration of vehicles and permit facility.

iv. Drop boxes for paying road and other taxes.

v. Independent and decentralized vigilance.

vi. Uniformity of the rules throughout the country.

J. REPORT OF HYDERABAD ECONOMY COMMITTEE:

Ld. Court usually depends on strong evidence of the case although there must be strong doubt. In order to alleviate such problems, report of Hyderabad Economy Committee is furnished below:–

“Corruption, it is said, is often difficult to prove. All the more reason why there should not be least hesitation in investigating every matter in which there is ground for complaint. Punishment too for corruption should be exemplary, the least being dismissal from service. There is, in that matter of corruption, one clear criteria on which can be of great assistance in assessing the possibility or otherwise of its existence. Reputation can be taken as almost conclusive. It may be said of an officer who has not that particulars fault that he is harsh or rude or lazy but it may be laid down almost as a rule that over a period, it will not be said of an officer who is honest that he is dishonest. Consequently, when a strong aroma of corruption has gathered round an officer very rarely will it be wrong specially and thoroughly to investigate his action, his financial position of such of his relatives and close friend as seen to have acquired a some what large share of good things of the world. No such
officer should in any case be kept in any position of responsibility or influence”

K. REPORT OF MALIMATH COMMITTEE:

A committee headed by V.S. Malimath, former Chief Justice of Keral High Court appointed by the government of India submitted a report in 2003 and suggested reforms to the criminal justice system. The main recommendation of such committee is that the criminal justice system should aim at finding truth but not just shifting through evidence to see whether the prosecution has established guilt beyond reasonable doubt. The committee recommended that the concept of proof beyond reasonable doubt which is a gateway route of offenders be done away with. If the Bofors case is to be tried after the Malimath recommendation becomes law, the Hinduja could be asked to file written statement like civil cases explaining every one of accusations made by prosecution. Committee recommended that the judges could ask questions to the accused on every aspect in which the accused could be bound to answer. Failure or refusal would permit drawing of adverse inference.

L. REPORT OF VARIOUS COMMITTEE AND COMMISSION:

There are certain reports such as P.B. Rajamanna’s report of the corruption enquiry committee of 1947-48, report of disciplinary enquiry committee of Uttar Pradesh later known as Pant committee’s report and Sarker committee’s report against high officials of Iron and Steel Ministry, Sri C.D. Deshmukh’s report on the establishment of an independent tribunal to deal with cases of corruption in election are some of the instances which showed highly respected persons in the society worked on the existence of such menace and went deep into the problems to find out the cause and remedies. They have offered their valuable suggestions for minimizing
corruption in the administration and social life. Late Morarji Desai, the Ex-
Prime Minister of India established Administrative Reforms Commission. He
had offered valuable suggestions to improve the administrative machinery of
the entire country.

Dr. Rajendra Prasad Ex President of India wrote “every law
court is infested with number of Amlas, subordinate officers, peon etc, each of
whom has to be paid a certain fee not authorized by law but not for that reason
any less vigorously exacted, as the litigant knows that a refusal to pay these
prerequisite of the myrmidons of the law is sure to cost him more than those
prerequisite, besides entailing on him a lot of works, trouble and perhaps
insult”

In the words of Professor A.H. Samjee of Simon Frazen
University, in the way of thinking, the simplifying of the law and procedure
and the raising of the salaries of administrator will no doubt help but in the
final analysis there was no substitute for vigilant public. That is because
neither politician nor businessmen nor indeed administrators themselves
suffered as much as a result of corruption as did public.

The approach to enquiries against ministers has been reflected
in the advise by Pandit Jaharlal Nehru Ex Prime Minister of India during
1964 on the charge of corruption against the then Chief Minister of Punjab.
The advice of Jaharlal Nehru was released to the press in October 1964 which
is as follows:-

“Some time ago the President received deputation led by some
leaders of opposition parties in the Punjab Assembly. The deputation
presented a memorandum to the President containing number of charges
against Chief Minister Punjab. The President was pleased to send the
memorandum to me for such steps to be taken as must be considered necessary. I forwarded the copy of memorandum to the Punjab Government for their comments. Later these comments were sent to me in detail."

Instead of sending such memorandum to the state government against whom allegation of corruption has been made, an enquiry could have been made by Central Agency in order to create faith amongst general people. Unfortunately this has not been done.

A healthy development is that OECD countries have come up with anti bribery convention. The then USA Vice President Al Gore called a meeting in early 1999 of 99 countries to talk about fighting corruption globally. While global public opinion may be turning against corruption what we have to curb the menace of corruption from our country.

In the words of former United Nation Secretary General Kofi Annan “Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law leads to violation of human rights, distorts markets, erodes the quality of life and allows organized crimes, terrorism and other threats to human security to flourish.”

United States of America President Barack Obama has repeatedly urged during his campaign, it is when we learn to reason with those who disagree with us that we actually learn more about ourselves.

It is to be mentioned in this connection that OECD Countries have come up with anti bribery convention. The then USA Vice President Al Gore called a meeting during 1998 of several countries to talk about fighting corruption globally. While global public opinion may be furnished against
corruption and we have to curb the menace of corruption from our
country. CBI with the strength of CVC is authorized to take independent
action. A corrupt politician whether in power or in opposition, is liable for
criminal act under the provision of Prevention of Corruption Act like other
citizen. So in order to bring corrupt politician to ban, we require the full
strength of CBI to speed up investigation process and also speed up
prosecution process. To do such noble act, we have to deal with jhola, dada
and lala. If we are in position to tackle at least babu and neta, corruption can
be reduced to tolerable level.

In 1974 Hong Kong tackled this problem by setting up
independent commission against corruption. ICAC brought down corruption
by taking effective steps. Singapur has been able to bring down corruption
which is on the cleanest government in the world. Similarly Italy and France
had made special efforts to bring down corruption. Mayor of New York took
drastic steps and brought down the level of corruption. What we need to check
corruption is that determined planning coupled with determined efforts. In
order to bring down corruption from the society, we require three things.
Powerful, efficient and unbiased investigating agency like CBI, general
awareness of the people and young generation to fight corruption. If above
three elements come together, we can expect substantial result in respect of
eradication of corruption from the society.

Santhanam Committee on Prevention of Corruption in its report
(1964) has expressed idea since behaviour of citizen is vital condition for the
growth of healthy public life. This committee recommended that preventive
measure should be taken to reduce corruption in effective manner. Some
important recommendation of Santhanam Committee like training code of
conduct, standard behaviour of Member of Parliament, Member of Legislative
Assembly and declaration of assets have not been fully accepted. After some
time, above committee has recommended that some punishment is to be
inflicted if allegation made against Minister proved to be false.
It has been reported in the Statesmen dated 25.01.2011 that Government of India has refused to disclose the name of number of Indians who have deposited crores of rupees in foreign bank. It is surprising that such colossal amount of unaccounted tax payer money may have tacit support of Government of India. Due to such attitude, such types of corrupt people are roaming freely with the protection of government machinery. Now the question may come who will bail the cat? Whether general people or judiciary will come forward to issue direction upon Government of India to disclose the name of foreign bank account holder of Indian people.

The report says that USA, UK, Ireland, Canada, Finland, Newzeland, Italy, Spain, Sweden, France & Australia have been able to recovered unaccounted money which was deposited in foreign bank but surprisingly Government of India has not taken any drastic steps to bring back billion of rupees of tax payer money which has been deposited in different foreign banks. It is unfortunates that Prime Minister & Finance Minister have expressed their inability to disclose the name of such persons by giving some unconvincing reason such as international treaties and secret clause.

Apex Court on 27.01.2011 asked Government of India as to what steps have been taken against individuals or firms having foreign accounts. Above directions have been issued on the basis of public interest litigation filed by Mr.Ram Jethmalini, eminent lawyer of Supreme Court. Apex Court further directed government not to restrict its problem on the aspect of tax evasion only and expose its ambit by indicating the source of money which might have originated from antinational activities. Apex Court further directed that” looking at the issue from taxation point of view is only one aspect. Some names have been given to you in respect of bank what steps have you taken? Have you set the law in motion? They are Indian people and are amenable to Indian law.” It is further directed “that is serious matter which we are concerned about you know the names. Where money is lying still you
are taking about double taxation issue. Court was not convinced with argument of Ld. Solicitor General and directed that where has the money come from? It might be because of arms deal smuggling narcotics drug trafficking or something else. There are more serious issues when you know the name, what action you have taken”.

Apex Court sought for replies from Government of India, Reserve Bank of India and Central Vigilance Commission on a petition seeking direction upon Government of India to ratify United Nation Convention against corruption. Mr. Jetmalani Senior Advocate submitted before Apex Court that Government is not at all serious on the issue saying the Pune based businessman Mr. Hasan Ali facing probe for his foreign bank account.

M. RIGHT TO INFORMATION ACT 2005:

In order to curb the menace of corruption, Parliament passed Right to Information Act 2005. Citizen should be made aware about the utility, implication and usefulness of RTI Act. One of the basic objectives of the above Act is to curb the menace of corruption from the society. With a view to bring transparency and democracy requires an informed citizen and transparency of information which are vital to its functioning and also to curb corruption and to hold government and their instrument accountable to be governed. It is incumbent on the government to make citizen aware that RTI Act has furnished them with weapon to express view. Parliament passed the above statute which has provided sufficient opportunity to the citizen of India to know the detail functioning of Government of India. The purpose of passing Right to Information Act is to fight corruption, inefficiency arbitrary use of power by the public servant. Because Sec 2 (f) (i) & (iv) of Right to Information Act provides that person has the right to get all information on
any file, noting except certain information on the ground of security and sovereignty of the country.

Parliament took initiative by passing Right to Information Act 2005 in order to combat corruption from the society. It has been observed that due to lack of evidence or improper investigation, cases of corruption are dropped. Due to such act, corrupt official go scot free. Now one can put to an end by using the provision of RTI Act. Such Act provides required information about all acts of government department. By using the Act, citizen can ask as to why BPL Card has not been issued. In every government department, there is public information officer who is responsible to provide information to the citizen on demand. The citizen who approaches public information officer is not under obligation to give any reason. The applicant under RTI Act must be provided information by public information officer within 30 days. If public information officer refuses to give reply or improper reply, applicant has remedy to file appeal before State Information Commissioner. So after passing of RTI Act, it has provided ample opportunities to know various schemes of different department of government of India.

Right to Information Act 2005 has become boon and strong weapon in the hands of Citizen of India in fighting against corruption. With the help of provision of RTI Act, general people have been able to expose corruption in better way. As a result, National Rural Employment Guarantee Scheme has been implemented to some extent. It is to be noted in this connection that government of India has made an attempt to amend RTI Act and purpose of such amendment is to weaken the statute. But with the awareness of public opinion, amendment of above statute has not been made possible. Due to stringent provision of RTI Act political leaders of all parties are facing much problem and they are trying to put pressure on the government to amend RTI Act with a view to weaken the existing provision of RTI Act.
The source of right to information does not emanate from Right to Information Act 2005. It is right that emerges from constitutional guarantees under Art 19 (1) (a) of Constitution of India. Right to Information Act is not repository of right to information. Its repository is the constitutional guarantees under Art 19(1) (a). The Act is merely an instrument that lays down statutory procedure in the exercise of this right. Its overreaching purpose is to facilitate democracy by helping to ensure citizens have the information required to participate effectively in the democratic process and to help government accountable to be governed. In construing such a statute, the court should give it widest operation which its language will permit. The court will also not readily read words which are not there and introduction of which will restrict the rights of citizen for whose benefit the statute has been enacted.

N. PREVENTION OF CORRUPTION ACT 1947:

After Second World War, when the government expenditure had been increased, several corrupt officers had amassed huge wealth by illegal means without leaving any evidence. The existing provision of Indian Penal Code was not adequate to punish corrupt government servant. This has necessitated passing of Prevention of Corruption Act 1947 by Parliament. When above Act came into force, disproportionate assets were not substantial offence. It was only rule of evidence in any trial for a specific allegation of corruption.

In order to make it more effective and to make provision of Prevention of Corruption Act was enacted in 1947. There were ample opportunities for unscrupulous officers who had amassed huge wealth. The existing provision of Indian Penal Code was not found adequate to tackle this problem. This necessitated passing of Prevention of Corruption Act 1947. Possession of disproportionate assets was not then a substantive offence. The essential feature of this Act is that it makes obligatory for the court to make
certain presumption of guilt against the accused. It is complete departure from normal rule which the prosecution is required to prove beyond doubt all the ingredients of an offence. Normally the accused is innocent in the eye of law till the guilt is proved.

O. SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS ACT 1997:

Supreme Court in Delhi Development Authority v. Skipper Construction Co. Pvt. Ltd\(^1\) had stressed on its need for a law providing forfeiture of properties acquired by holder of public office by indulging corrupt and illegal activities is a crying necessity in the present state of society. Parliament has passed SAFEMA (Smugglers and Foreign Exchange Manipulators Act 1997) whose validity has been upheld by Apex Court in the aforesaid decision of larger constitution bench. Such a law has become absolute necessity if the canker of corruption not to prove the death knell of this nation and it has already reached fatal dimension. Now it is for the Parliament to act in this matter if it really means business.

P. JUDGES ENQUIRY BILL AND CODE OF CONDUCT OF JUDGES:

It has been reported in the Statesman dated 22.10.2009 that Government of India intends to come with a comprehensive Bill to deal with the complaint of corruption against judges. Union Law Minister Mr. Veerapa Moily said that Government would not like to see any tainted person become judge. Elevation of Sri P.D.Dinkaran Chief Justice of Karnataka High Court has been kept in abeyance over allegation of corruption. Mr. Moily referred to 1992 and 1998 decision of Supreme Court which led to the memorandum of procedure relating to Supreme Court collegiums that appoint judges to higher

\(^1\) AIR 1996 SC 172005
judiciary. There have been demands from political parties that appointment of judges should revert back to the government. Supreme Court had laid down code of procedure 1997 (to deal with conduct of judges). But there was no statute to enforce it. With the happening around, it is necessary to resurrect the credibility and reputation of judiciary in the country. Mr. Moly indicated that comprehensive bill to deal with corruption complaint against judges of higher judiciary may be tabled by the Government in Parliament. The judge’s enquiry Bill 1968 deal with impeachment process of judges but nothing else. There are few complaint of corruption against judges. He further remarked that it should be replaced by comprehensive judge standard and accountability Bill. He further said that the impeachment of judges was the sovereign right of Parliament and it would continue even after the new Bill comes into force.

In 1997, Parliament adopted reinstatement of values and in house procedure for accountability. In house procedure for taking suitable remedial action against judges who by their act of omission or commission do not follow universally accepted value of judicial life including those included in the reinstatement of values of judicial life. In this procedure, it was resolved that in the first place, the allegation against judge would be examined by peers and not by outside agency and thereby independent of judiciary would be maintained. Secondly the awareness that there exists a machinery for examination of complain against judge would preserve the faith of people in the independence and impartiality of judicial process. The committee has approached the task assigned to it in this perspective. In December 1999 Chief Justice unveiled 16 point code of conduct for judges that would help usher in transparency and probity in the judiciary. (India today “judges by Farjand Ahmed December 20 1999) commenting on the need for such code the then Chief Justice of India Dr. A.S. Anand said “the judiciary is an institution which survives on credibility unbefitting conduct of any judge at any level affects the credibility of the institution as a whole. Eternal vigilance by the judges is therefore necessary.”

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2 195 report of law commission of India, the judges (enquiry) Bill 2005 P-334
Unfazed by its failure to table a Bill all the issue of judge’s assets in Rajya Sabha, Government of India is planning to list comprehensive Judges Enquiry Bill for discussion in the Parliament. The proposed Bill will lay down procedure to take action against members of higher judiciary for their misconduct. The present Judges Enquiry Act 1968 deals with solely impeachment procedure. It does not deal with other cases of complain against judges. Mr. Veerapa Moily Union Law Minister said that “declaration of assets made by judges under judge’s declaration of assets bill which the Government could not table in Rajya Sabha will be treated as legal document”. And if a complain is made against judges, it could be used to investigate the matter under comprehensive Judges Enquiry Bill. Under the present Judges Enquiry Act 1968, impeachment is the only way. Impeachment is extreme steps if there is complain, the Government cannot do anything as there is no provision for inquire into it, Moily said. He further said that new bill will inject the measure of accountability in the judiciary as there will be a law into the complain. He further said that not much have been done on judicial reforms since independence. This Bill is just part of judicial reform and it is not just one chapter.

Q. RIGHT TO EDUCATION ACT 2009:

Parliament has taken effective efforts by passing Right to Education Act 2009. Prior to that, Right to Information Act and National Rural Employment Guarantee Act were passed. Right to Education Act is historic legislation. The Act provides free and compulsory education up to Class VIII and is a fundamental right of every child in the country. All children irrespective of their gender and social status will get access to education. With the help of education they can determine which is right or wrong. Education is necessary for eradicating corruption from the society because public servants and political leaders take the opportunity to exploit general people due to lack of education.
R. PREVENTION OF CORRUPTION ACT 1988:

There is no specific provision in Prevention of Corruption Act 1947 in respect of power of appeal, revision to High Court were governed by Sec 465 CrPc. Now Parliament enacted Prevention of Corruption Act 1988 by repealing Prevention of Corruption Act 1947. At present under Prevention of Corruption Act 1988, special provision in respect of power of appeal and revision has been incorporated in Sec 27 of Prevention of Corruption Act 1988. So power of appeal and revision contained in CrPc shall be subject to provision of Prevention of Corruption Act 1988. As per Sec19 (3) © of Prevention of Corruption Act 1988, no order of conviction and sentence can be reversed or altered by court of appeal or revision even on the ground of absence of sanction unless in the opinion of court a failure of justice has been committed thereby. (*CBI v. V.K. Sehgal*


To tackle and curb such menace of corruption, Anti Corruption Law (Amendment) ACT 1964 was passed and subsequently Sec 5(i) (e) was incorporated in Prevention of Corruption Act 1988. Now as per Prevention of

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3 AIR 1999 SC 3706
Corruption Act 1988, the possession of disproportionate assets continues to be offence under Sec 13 (i) (e). Now Prevention of Corruption has prescribed punishment for possession of disproportionate assets and court can impose fine which was not an offence under old Act. Discretion of court in respect of imposing punishment to less than one year has been deleted and if Ld. Court convicts a public servant for possession of disproportionate assets, a minimum sentence of one year has to be passed. So in order to make law more effective, Parliament has passed Prevention of Corruption of Act 1988. The sole purpose of passing Prevention of Corruption Act 1988 by the Parliament is that relevant provision of the above Act more effectively to curb the menace of corruption amongst public servants from the society.

The term public servant as contained in Sec 21 of Indian Penal Code has undergone major changes and has been enlarged to great extent and with the interpretation of above Sec, large number of employees would come under the purview of public servant. The definition of public servant under Prevention of Corruption Act 1988 has now removed infirmities under Prevention of Corruption Act 1947 and in view of above interpretation, employees of Nationalized Bank, Member of Legislative Assembly and Member of Parliament would come under the purview of public servant. So after passing of Prevention of Corruption Act 1988, existing anti corruption laws have become more effective and strengthened. In order to curb menace of corruption, existing provision has been streamlined. The definition of public servant has been widened. Special provision has been made for day to day trial, with a view that the proceeding is completed within short period. So Prevention of Corruption Act 1988 is comprehensive legislation incorporating all offences of corruption laying down special rules of procedure to combat corruption arming investigating agency with sufficient power and denying dilatory tactic by accused persons.

With the enactment of Prevention of Corruption Act 1988, the scope of criminal law (Amendment) ordinance 1944 has been fairly enlarged.
The property has also been made liable for attachment. Any conspiracy to commit or attempt to commit an offence has been brought under the provision of Prevention of Corruption Act 1988. In addition, all pending investigation or prosecution punishable under Prevention of Corruption Act 1947 can be continued and Prevention of Corruption Act 1947 shall not be bar for instituting any investigation. It shall be deemed as if Prevention of Corruption Act 1988 has not been passed. After passing Prevention of Corruption Act 1988, a person charged under the above Act is a competent witness for his defense and can give evidence on oath to disprove charges leveled against him.

The appointment of Santhanam committee in 1962 has opened the door in the crusade against corruption. After making exhaustive enquiry, the committee submitted comprehensive report on all aspects of the problem and suggested various steps to curb the menace of corruption. Most of the recommendations made by above committee have been accepted. Based on the recommendation of Santhanam committee, Anti Corruption Law (Amendment) Act 1964 was enacted with a view to make Anti Corruption Law more effective and to ensure speedy trial of cases. Prevention of Corruption Act 1988 is social welfare legislation which has been enacted to remove corruption of public servant. The essential feature of this Act is that it makes obligatory for the court to make certain presumption of guilt against accused. It is complete departure from normal rule which the prosecution is required to prove beyond doubt. The burden of proof is shifted to accused instead of prosecution. It was made obligatory to accede minor sentence of imprisonment when convicted. By introducing new Act i.e. Prevention of Corruption Act 1988 by the parliament, the investigating agency has been relieved of the burden of investigation into the source of income. Now the burden lies on the accused to prove that the source is lawful. Besides, it has to be proved that he had already given intimation to the department about the income. Any income which is not lawfully acquired will not come under the purview of this provision. Thus illegal income cannot be considered as legal
income. So act of legislature has got far reaching consequence and investigating agencies can deny its benefits of such claim.

Prevention of Corruption Act 1988 provides for an offence of criminal misconduct in case of public servant. If public servant habitually accepts or attempts to obtain any valuable thing without price which he knows to be adequate from any person who has or is likely to have some official dealing, he is guilty of criminal misconduct. Prevention of Corruption Act 1988 prescribed punishment from six months up to maximum five years whereas Indian Penal Code laid down the maximum imprisonment of three years without prescribing any minimum limit.

Clause (d) (i) of Sec 13 (1) of Prevention of Corruption Act 1988 provides that if a public servant obtains for himself or for any other person any valuable thing or pecuniary advantage, he is guilty of criminal misconduct. This offence has not been provided in Indian Penal Code. Motive or reward has no relevance for an offence under this clause. It would be sufficient if it is proved that the public servant has obtained valuable article or pecuniary advantage by abusing his official position. Clause (e) of Sec 13 (1) of Prevention of Corruption Act 1988 provides that if public servant was in possession of disproportionate assets to the known source of income for which he could not satisfactorily account for, the court will presume that public servant is guilty of criminal misconduct.

Normally it is the duty of prosecution to prove beyond doubt and the accused is not required to prove that he is not guilty. Under Prevention of Corruption Act 1988, when it has been established that the accused has received any gratification or valuable thing without adequate consideration, that the court is bound to presume that the gratification or valuable thing was received with motive or reward. The prosecution has to prove receipt of gratification by the accused. It is not required to prove anything more. It is up
to accused to prove that he had not accepted gratification other than legal remuneration. Even the mere receipt of money is enough to raise the presumption. Thus before lunching prosecution, one has to rule out a possibility of defense put up by the accused person, which if proved may amount to preponderance of probability in his favour. The quantum of proof expected of the accused is less than that expected that prosecution which has to prove the case beyond reasonable doubt.

The Prevention of Corruption Act 1947 and Prevention of Corruption Act 1988 beget the idea, scope and significance of the word corruption in independent India. Four types of matters have been prescribed which amount to misconduct.

i. Habitual acceptance of gratification.

ii. Obtaining valuable thing without valuable grounds

iii. Misappropriation

iv. The misuse of position in order to obtain pecuniary advantage.

The Act was the expression of an effort to eradicate corruption in public services. But the Act was no innovation in the sense that certain parts of it are founded upon certain section of Indian Penal Code. But Prevention of Corruption Act can be termed as more effective provision for prevention of bribery and corruption. Five years later, it was felt necessary that certain provisions of Prevention of Corruption Act need to be changed for strengthening with a view to get speedy justice. Accordingly, Criminal Law Amendment Act 1952 came into operation. Indian Penal Code, Prevention of Corruption Act and Criminal Law Amendment Act govern concept and significations of corruption in administration. They are supportive and supplementary to each other. After passing Prevention of Corruption Act
1988, the definition of public servant has been changed. The main features which form the concept of corrupt Civil Servant in these laws are as follows:

i. Public servant obtaining valuable thing from citizen in processing or business transacted by such public servant.

ii. Public servant taking gratification with respect to an official act.

iii. The present enactment of corruption attaches importance to both preventive and punitive aspects

Under Criminal procedure code most of the offences relating to public servants are not cognizable. This provision has been made deliberately as the public servants are required to work diligently without fear or favour and sometimes in the discharge of their duties; they have to function under difficult circumstances. They should not be exposed to harassment of investigation conducted by police or CBI. This provision in the Act lays the onus of proof on the prosecution but it does not provide punishment for various kind of criminal misconduct committed by public servants in the discharged of his official duties.

The term public servant as enumerated in Sec 21 of Indian Penal Code has undergone major changes which as now being considerably enlarged and broad based to include large number of persons or employees within the ambit of definition of public servant. The definition of public servant under Prevention of Corruption Act 1988 now removes the lacunae under Prevention of Corruption Act 1947 and the employees of Nationalized Bank could also be covered by introducing Sec 2 © (iii) of the Act. The words or an authority or a body owned or controlled or aided by government have been added by way of abundant precaution. Definition of public servant has
been further enlarged under Sec 2 © (ix) of the Act. Even the office bearer of cooperative society of Central and State Government receiving financial aid have been brought within the purview of the Act. For the purpose of interpretation of public servant, it is stated that public duty is the duty performed in which the state the public or community has an interest. A public servant is he who holds an office by virtue of which he is authorized to perform duty. The post held by him need not be an office of profit. An office necessarily implies that there is some duty to be performed. Public duty has been defined under Sec 2 © (viii) and Sec 2 (b) which is very comprehensive and detailed provision and makes all persons who hold office by virtue of which they are authorized or required to perform any duty in which the state, the public or community is interested. Conditions mentioned under the Act are to be satisfied. A public servant would have committed a criminal misconduct when he habitually accepts any gratification other than legal remuneration as a motive or reward from any person. He also commits criminal misconduct when he is possession of assets disproportionate to the known source of income. But when one commits offence habitually, he shall be punishable with imprisonment for a turn of not less than two years which may be extended to seven years. He shall also be liable to fine as per Sec 14.

But where a public servant induces a person by way of money or gratification as a reward for service rendered that public servant would have committed an offence under the section. A more stringent punishment has been provided in the Act to deal with cases exclusively pertaining to abuse of position by public servant. In addition to charge of abuse official position and consequent pecuniary advantage derived by public servant, an element of dishonesty will have to be established against him. Mere error of judgement or act of discretion will not be enough on the part of government servant but his willful abuse of position which resulted in undue benefit to him will have to be proved. Prosecution should also establish dishonest intention on the part of public servant. The court requires some more concrete evidence to infer dishonest intention; mens rea is a essential ingredient of statutory criminal offence.
Sec 13(2) of Prevention of Corruption Act 1988 prescribes punishment of disproportionate assets and court can impose fine. However, the discretion of the court to impose sentence less than one year has been deleted. If court convicts a public servant for possession of disproportionate assets, a minimum sentence of one year has to be imposed. Integrity in public service is most vital to any country, particularly developing country like India. Prevention of Corruption Act 1947 and its amendment 1964 vide Sec 5 (3) and Prevention of Corruption Act 1988 imposes onus on the public servant to prove that his assets which were suspected to be disproportionate to the known source of his income were satisfactorily not acquired by dubious means or corrupt practices. If the accused persons cannot satisfy for possession of assets disproportionate to the known source of income, the court shall certainly presume that the accused person is guilty of criminal misconduct and that he has amassed wealth by corrupt and dubious means. This law has been made more stringent by making possession of disproportionate assets a criminal offence. The possession of disproportionate assets is a substantive offence by itself.

As per Sec 17 of Prevention of Corruption Act 1988, a police inspector in Delhi, an Assistant Commissioner of Police in Mumbai, Kolkata, Chennai and Dy. Supdt. Of Police in elsewhere can investigate offence punishable under Prevention of Corruption Act 1988. But it has been observed by Central Vigilance Commission that provision of Prevention of Corruption Act do not commensurate with the level of corruption prevalent in the country mainly due to either there is no CBI Branch or the people are hesitant to take initiative in arranging traps provided a person give written complain or approach local police or CBI in conducting successful trap. Secrecy should be observed and CBI should complete documentation within two months and make available legible photocopies of our documents to disciplinary authority for purpose of disciplinary proceeding.
With the passing of Prevention of Corruption Act 1988, the existing anti corruption laws have been made more effective and strengthened. In order to combat menace of corruption effectively, existing provisions have been streamlined. The definition of public servant has been widened. Offences under Indian Penal Code have been incorporated and penalties for committing offence have been enhanced. Order of trial court upholding prosecution shall be final. Provisions have been made for day to day trial of cases so that the proceeding could be expedited. Minimum punishment of imprisonment has been introduced suitably by amending the Act. Alternative punishment provided in Indian Penal Code has been dispensed with.

Sec 7 of the Act provides that if public servant accepts or agrees to accept any gratification as a motive or reward to show favour or disfavour to a person, it shall be punishable with imprisonment which shall not be less than six months but may extend to maximum period of five years. Imprisonment of not less than six months has been made mandatory and compulsory. The courts will have no discretion in this regard and fine is no more optional before the courts.

During December 2008, Parliament amended Sec 13 of Prevention of Corruption Act 1988. Such amended provision has made the job of prosecuting agencies more difficult. As per existing provision of Prevention of Corruption Act 1988, public servant had to declare asset to his superior if his properties obtained disproportionate to his known source of income. The burden of proving the acquisition of such property has been deleted and after amendment the onus is on prosecuting agencies to prove that accused public servant has accumulated assets beyond known source of income.
S. REPRESENTATIVE OF PEOPLE ACT 1951:

Representative of People Act is required to be strengthened. The incongruities of Sec 8 of above Act should be eliminated. Persons convicted for offences like murder, rape other serious offences should be permanently disqualified from contesting election. Liberalization of economic policy will not only give an impetus to the economy but will also strike at the cord between business and politics. The Industrialist did not carry favour to the politician for permits, contract and license. The Industrialist should take a lead and declare the contribution and donation made to the political parties. Tata and Birla group have set up example by setting up trust to fund the election in transparent and accountable manner.

Though Representative of People Act mandates declaration and submission of party account, it has failed in achieving transparency as window dressing is adhered to. Political parties should accept subscription by way of cheque instead of cash. Supreme Court direction in *Union of India v. Association for Democratic Reforms*⁴ should be followed and implemented in letter and spirit. Legislature both Centre and State should discourage to protect corrupt politician. The role of legislature is to protect and follow the constitution instead of subverting the constitution. Every political party should not give nomination to tainted person. Any political party having such person should be banned. All political parties should avoid unfair means in the total election process.

It is known to everybody that why political parties field criminal element for standing in election. It has been observed that criminal with muscle power win the election which results into the loss of clean candidate. In this way, criminals win in every election. Do we expect true democracy by electing criminal people? Does it reflect the true will of citizen?

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⁴ AIR 2002 SC 2112
Representative of People Act only prohibit candidate convicted of certain offences but Election Commission cannot prevent under trial prisoner. Even candidate who have been convicted by trial court and its appeal is pending, are being allowed to stand in the election. There have been number of instances that under trial prisoners have contested election while in prison and won the election. Surprisingly political parties have not taken any steps to stop such malpractices. But in order to cleansing society from virus of corruption, under trial prisoners what ever be the gravity of offence should be debarred for standing in election either in Parliament or State Legislative Assembly or any other local body established by law.

T. ROLE OF UNITED NATION:

It has been reported that near about $1500 billion has been deposited in Swiss Bank by Indians which is equivalent to rupees 675000 crores. It is evident that one parallel economy is running in the entire country. Suitable legislation should be made to bring back above black money from Swiss Bank with a view to utilize above money to meet social needs of general people of the country. It is surprising to note that United Nation Convention against corruption was held in 2003. Art 51 of treaty helps to return the assets. India is signatory to the treaty but Government of India has not ratified the agreement, although other countries like USA and UK have ratified it. So question may come? Does it indicate that government is not serious in curbing corruption from the society?

U. INDIAN PENAL CODE 1860:

During 19th Century, British Government passed Indian Penal Code 1860 to construct proper legal criminal system. By the end of 20th
century, India had created number of offices promulgating anti corruption measures such as administrative vigilance division in the department of personnel and training, CBI Vigilance unit in the ministry, department of government of India and CVC. Prevention of Corruption Act 1988 which modified Indian Penal Code is the main source of substantive anti corruption law. Indian Penal Code 1860 acts as main instrument for checking crime and administration of justice. Prevention of Corruption of Act replaced Art 161 to 165 A of Indian Penal Code remain essentially unchanged from that in earlier penal code. Generally public servant commit corruptive act by exchanging official act or favour for any gratification.

V. SERVICE LAW ON CORRUPTION:

Corruption laws must have wider ambit. An enquiry departmentally conducted is called domestic disciplinary proceeding. Question is elaborate drill of step by step process is laid down rules which is to be faithfully followed before penalty can be imposed on official concerned on the charge of misconduct and breach of rules in serious charges of criminal nature. It is quite obvious that where corruption charges could be established in court of law, the department concerned would not bother to first test the same by the own disciplinary proceeding so that when these are considered against official and were dismissal or removal from service could be the only penalty, the same official may be proceeded under relevant provision of Anti Corruption Act for conviction. A civil servant is straight way charged with criminal offence and prosecuted. He is then being convicted by court and dismissed from service by separate order. Dismissal from service following conviction even on such lesser offence is based on the rules of civil service. Such a dismissal by department concerned could not be disputed or contested in the court of law on the ground of civil penalty did not proceed on the basis of enquiry or in the other hand if conviction itself is set aside on appeal it may enquire disciplinary authority to withdraw its dismissal order but then it can go
ahead at once to impose the same penalty for same offence by following full fledged enquiry procedure if materially on departmental records would justify such a finding of guilt. Here too, if the setting aside of conviction or appeal has been made on clear cut ground of entire charge having been phony affairs or prejudice department will have to steer claim of that entire field it can before launching disciplinary proceeding on the same charge of corruption. Why should department proceed to handle such an offender instead of always

i) Going to court on charge sheet of corruption

ii) Securing his conviction and then issuing order of dismissal. We could say that where the department does not go to court, it means it does not have viable case from the point of view of adequate evidence l.that civil servants so handled is intended to be dropped down cheaply because after dismissal, he may not be prosecuted on the same corruption charge where he will have been deprived of his status being civil servant.

It is imperative therefore to denounce and formulate a policy and lay down law that a viable corruption charges a civil servant necessarily be prosecuted straight way in the court of law so that corrupt person face consequence of crime alleged against them and properly proved. But such a law should also provide that where acquitable are the outcome or where conviction are set aside, further departmental proceeding launched in the style of inquisition. The principles of jurisprudence against onslaught of panel law but honoured and practices as living entity.
W. DELHI SPECIAL POLICE ESTABLISHMENT ACT 1946:

Delhi Special Police Establishment Act 1946 was passed by Parliament giving power to investigate certain offences committed by public servants. Prevention of Corruption Act 1947 was passed for effective Prevention of bribery and corruption and making the offence as criminal misconduct. It was felt that there should be central investigating agency for exclusively investigating important cases of hoarding, profiteering consumption and bribery etc. It derives its police power from DSPE Act 1946 and Central Government is empowered to extend its power and jurisdiction.

During war, special police establishment dealt with cases of bribery and corruption mostly within in work and supply department of the government. In 1946, Parliament passed Delhi Special Police Establishment Act which replaced Special Police Establishment with DSPE gave it legal sanction and switched its superintendence from the war and supply department to Central Government. CBI was the successive police organization to Delhi Special Police Establishment.

X. CENTRAL VIGILANCE COMMISSION ACT 2003:

In pursuance of judgment passed by Apex Court in Vineet Narain Case, Central Vigilance Commission Act was passed in 2003. After passing above Act, Central Vigilance Commission has become statutory body. Prior to that, it was non statutory body. United General Assembly passed resolution in 2003 adopting United Nation Convention against Corruption. The Government of India though signatory to the above convention has not ratified it. Government of India has ignored some of the provisions contained in Art 6, 30 & 36 of United Nation Convention against corruption. Moreover,
Central Vigilance Commission Act 2003 conflicts with Art 30 of United Nation Convention against corruption.

Y. LOKPAL BILL

A fast unto death campaign initiated by social activist Mr. Anna Hazare for drafting Jana Lokpal Bill received overwhelming response from different section of people throughout India and Indian people residing abroad. Anti corruption campaign initiated by Mr. Hazare ended after 98 hours fasting on 09.04.2011 when Government of India issued Gazette notification for constitution of 10 members committee. Out of ten members, five belongs to Central Government and remaining five members belongs to Civil Society Group. Sri Pranab Mukherjee union Finance Minister has been appointed as Chairman of drafting committee.

Under present Lokpal Bill, Lokpal is neither authorized to investigate against Prime Minister nor does it has jurisdiction over Parliamentarian and said Bill will not have any power to enquire into the matter suo moto unless it is routed through Speaker of Lok Sabha or Chairman of Rajya Sabha. Present Lokpal cannot receive complain of corruption directly from public. It is merely an advisory body and its recommendation is not binding in nature. Such Lokpal can be compared with toothless tiger that cannot bite at all.

Lokpal Bill is pending since last 43 years and said Bill has been cleared by union Cabinet on 28.07.2011. The main feature of Lokpal Bill though not Jana Lokpal Bill, is that setting up the institution of Lokpal to prove allegation against union Minister or Group A Officer and above without having to obtain any sanction have been included. The Bill to be introduced in the Parliament very shortly. This Bill keeps out Prime
Minister, Judiciary and the conduct of Member of Parliament's in Parliament from its purview. It also does not include Officer's below Group A. Lokpal has not provided for establishment of Lokyakta in the State. The above Bill has not also included any provisions to bring back black money deposited in different foreign banks.

Lokpal Bill will have its own investigation and prosecution but it has no power to prosecute. The bill also provides power for enquiry into the allegation of corruption against Prime Minister after he/she vacates office. Lokpal will comprise a chairperson and eight other members. Fifty percent of them will come from judicial wing. Lokpal will have five years term and would be removed by the President on the reference of Supreme Court. The Bill so cleared by union Cabinet has been rejected by Civil Society Group headed by Mr.Anna Hazare. So time has come to union Cabinet to decide issue as raised by Civil Society Group keeping in view of the fact that India is reported to have been placed in 87th Rank as per Corruption Perception Index 2010 as surveyed by Transparency International.

SUM UP:-

Corruption whether on the part of politician in power or civil servants must be sternly dealt with whatever cost we pay for it. Government of India has set up so many committees and commission in order to eradicate corruption from the society. The only thing lacking is strong determination and courage to adopt some of the valuable suggestions made in these reports and to execute them with iron hand. The people who are growing under poverty and rolling in the dust will breathe sigh of relief, when corrupt official throughout the country will be paraded with handcuff in broad day light and this exercise will create sense of horror in the minds of official. So, a common standard of morality and value education are sine qua non for curbing
corruption from the society. Cleansing corruption should start from higher echelons.

Santhanam committee recommended that preventive measure should be taken to reduce corruption in effective manner in the following way. In order to purify and to maintain transparency in the administrative set up, following steps are recommended

1. To make detailed examination of existing organization and procedure with a view to eliminate scope of corruption and malpractices.

2. To make surprise inspection and detect existence of corruption.

3. To keep watch on offences of doubtful integrity and to prepare update agreed list with assistance of CBI

4. To follow strictly service conduct rules in respect of integrity and fairness.

5. Proper declaration should be made in respect of property both movable and immovable gift in the name of spouse.

6. High administrative post should be manned by men of high integrity. Men with doubtful integrity should be eliminated.

7. Bonafide complain should be protected from harassment.
8. It should be ensured that delay practice is not adopted by charged official.

In order to remove corruption from Railway Organization, Government of India constituted Railway Enquiry Committee on 1947 to make general survey of working of Railway. The said committee was headed by Sri H.N.Kunzru and subsequently Sri J.V.Kripalani was appointed as Chairman since Sri Kunzru was appointed as Member of States Re-Organization Commission. The above committee expressed view that evil was there and should be tackled. The said committee highlighted corruption and inefficiency of police administration which have direct relation on the problems of corruption in Railway.

Administrative Reforms Commission headed by Sri Veerapa Moily in its 4th report on ethics in governance submitted to Prime Minister on 12.12.2007. The said report recommended that Lok Pal be given constitutional status and should be renamed as Rastriya Lok Yukta. The recommended steps to bring about transparency and accountability in the government at all level in order to curb the menace of corruption. The commission further recommended the abolition of scheme such as Member of Parliament Local Area Development Scheme and Member of Legislative Assembly Local Area Development Scheme and laid down ethics of civil servants.

Election Commission of India has taken some steps to control criminalization of politics. The said commission has not allowed convicted people for contesting election to the Parliament and State Legislative Assembly. Besides, the omission has compelled political leaders involved in crime to disclose all charges pending against them and directed them to settle cases.
Both Prime Minister and Chief Justice of India laid special emphasis and delivered speech during April’2008 for setting up special courts to tackle quickly the menace of corruption in public life. Chief Justice of India suggested to establish special courts to deal with corruption related cases and Prime Minister agreed with the said proposal. Both Prime Minister and Chief Justice of India were addressing a conference in presence of all Chief Minister and all Chief Justice of All States throughout India. Government of India felt that antigraft laws need to be amended. Chief Justice of India pointed out delay in granting sanction to prosecute corrupt public servant. Mr.Veerappa Moily Union Law Minister also referred to Santhanam Committee on Prevention of Corruption which had remarked that Art. 311 of constitution of India as difficult to deal effectively with corrupt civil servants.

A Committee headed by Sri V.S.Malimath former Chief Justice of Kerala High Court appointed by Government of India submitted its report on 2003. The said committee suggested that Criminal Justice System should aim finding truth but not just shift through evidence to see whether prosecution has established guilt beyond reasonable doubt. The committee recommended that concept of proof beyond reasonable doubt which is gateway route of offenders be done away with.

Apex Court by its order dated 27.01.011 asked Government of India as to what steps have been taken against individual or firm having foreign account. The above direction has been issued on the basis of public interest litigation filed by Mr. Ram Jethmalini eminent advocate of Supreme Court. Apex court further directed Government of India not to restrict the problems on the aspect of tax evasion only and also expose source of money which might have originated from antinational activities. Apex court sought for reply from Government of India, Reserve Bank of India and Central

Parliament expressed grave concern over rampant corruption amongst public servant which has become major cause of demoralizing society as a whole. Corruption has entered in every sphere of society and it affects social, political and economical strata of state and also destroys democratic value. General Law of the country has been made more stringent following recommendation of Santhanam Committee and Civil Service Conduct Rule has been greatly modified to accommodate many more new situation uncovered by the rule. In order to check against unauthorized accumulation of wealth and property by public servants revised form of property return both movable and immovable have been introduced in the whole revised CCS (Conduct) Rules 1964 and All India Service Conduct Rule have been more stringent.

Malimath Committee has recommended presumption of innocence and burden of proof. There is no provision in Indian Evidence Act prescribing particular on different standard of proof in criminal cases.

Indian Courts usually follows standard of proof laid down in English Law i.e. beyond reasonable doubt. But in several countries, the standard is proof of preponderance of probability. In order to make effective conviction, the committee after careful evaluation of standard of proof recommended in its place a standard of proof lower than that of proof beyond reasonable doubt and higher than the standard of proof on preponderance of probabilities.
Parliament took initiative by passing Right to Information Act 2005 in order to combat corruption from the society with a view to bring transparency and democracy requires an informed citizen and transparency of information which are vital to the functioning and also to curb corruption and to hold government and their incumbent accountable to be governed. Parliament passed above statute which has provided sufficient opportunity to the citizen of India to know the detail functioning of Government of India. To deal with corruption amongst public servant, parliament enacted new Act i.e. Prevention of Corruption Act 1988. It is quadruplicate legislation as it contains provision of Prevention of Corruption Act 1947, Sec. 161 to 165 of Indian Penal Code, Criminal Law Amendment Act 1952 and Criminal Law (Amendment) Ordinance 1944. The New Act i.e. Prevention of Corruption Act 1988 aimed to consolidated and amend the law relating to prevention of corruption and the matters connected therewith.

The definition of public servant has been widened. With the interpretation of Sec. 21 of Indian Penal Code, large number of employees would come under the purview of public servant. With the new interpretation, employees of Nationalized Bank, Member of Parliament and Member of Legislative Assembly would come under the purview of public servant.

Parliament has recently passed Right to Education Act 2009. This Act provides free and compulsory education up to class VIII and has become fundamental right of every child in the country. All children irrespective of gender and social status will gate free education. With the help of education, they can determine which is right or wrong. This is why education is necessary for eradicating corruption from the society because public servant and political leader take the opportunity to exploit general people due to lack of education. In 1997 Parliament adopted restoration of values and in house procedure for accountability and. in house procedure for
taking suitable remedial action against judges who by their act of omission or commission do not follow universally accepted value of judicial life. Government of India intends to come with a comprehensive Bill to deal with complain of corruption against judges. Union law minister Mr. Veerepa Moily said that government would not like to see any tainted person become judges. There has been demand from political parties that appointment of judges should revert back to the government. He indicated that comprehensive Bill to deal with corruption complains against judges of higher judiciary may be placed in Parliament. Judges Enquiry Bill 1968 deal with impeachment of judges but nothing else. He further remarked that it should be replaced by comprehensive judge's standard and accountability Bill. Because impeachment of judges was the sovereign right of Parliament and it would continue even after new bill comes into effect.

After passing Prevention of Corruption Act 1988, the definition of public servant has been enlarged. With the passing of Prevention of Corruption Act 1988, the existing anti corruption laws have been made more effective and strengthened. In order to combat menace of corruption effectively, existing provision have been streamlined. The definition of public servant has been widened. Offences under Indian Penal Code have been incorporated and penalties for committing offence have been enhanced and order of trial court upholding prosecution shall be final. Provisions have been made for day to day trial of cases so that proceeding could be expedited. Minimum punishment or imprisonment has been introduced suitably by amending the Act. Alternative punishment in Indian Penal Code has been dispensed with.

such property has been deleted and after amendment, the onus is on prosecuting agencies to prove that accused public servant has accumulated assets beyond known source of income.

After four decades, Lokpal Bill has been approved by Union Cabinet during last week of July 2011. The said Bill has provided setting up the institution of Lokpal to prove allegation against Union Minister's and Group A Officer's and above. But the said Bill has not included Prime Minister, Judiciary and conduct of Member of Parliament in Parliament. It has also not included the officer's below Group A level. Lokpal has been provided power to enquire into the allegation of corruption against Prime Minister after he/she vacates office.