

# **Research Paper on Corruption in Indian Judiciary–National and International perspective**

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## **ABSTRACT:**

The corruption in civilized society is disease like cancer which if not detected in time is sure to spread its malignance among the polity of the democracy. It poses threat to the concept of constitutional governance and shakes the very foundation of democracy and rule of law. The purpose of the present study is to evaluate the cases of corrupt judges, suggest some measures to put a check on corruption committed by the judges, judicial officers and employees of the Courts at Supreme Court of India, High Courts, District & Sessions Courts and other courts and tribunals in India. The detection of corruption has become a big problem. This phenomenon surprisingly is not limited to a particular area, city, or country. It is throughout the world. The Constitution also provides checks against misbehaviour by judges. Article 124 (4) states that “A judge of a Supreme Court shall not be removed from his office except by an order of the President passed after an address by each house of parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of the House present and voting has to be presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity” Similar provisions exist in Article 217 clause 1 (b) for the removal of Judge of a High Court. The detailed process is laid down in the Judges (Inquiry) Act, 1968.

**Key words:** Corruption, judicial officers, staff, politician, bureaucrats, NGOs, civil society, world, international, bribe, graft,

## **Introduction:**

The corruption is a disease like cancer which has been spreading all over the world as a whole in almost all the public offices and even judiciary has not been escaped from this menace. The judicial system in every State must be impartial and the judges have been given the seat of judgment so that they may provide justice to the people without any fear and favour. The question arise that some of the judges have been bent upon to misuse the powers in the temple of justice as they have no accountability and pronounce coloured judgments under influence in connivance with corrupt bureaucrats, politicians and non-governmental organization in the society in corrupt manner by accepting huge bribe through illegal means for which the judicial system has become corrupt. The impeachment procedure is there for the judges which is practically impossible under Constitution of India.

**Dr. B.R. Ambedkar founding father of the Constitution of India stated:** We dare those who try to expose corruption within judiciary Lokayukta etc. For we judges all that matter is our greed. India and our Constitution gives us protection for fulfilling our lust and greed. We judges are of one GENRE as opposed to bureaucrats and politicians, it breeds corruption; we are not bothered= It broods disrespect of law + judgments + court.... Indian citizens.

**History of Corrupt Judges after Independence of India<sup>1</sup>:** Many public servants are leading luxurious lifestyles, beyond the legal sources of their income. The law forbids public servants from accepting gifts, hospitality, favours beyond the value of rupees one hundred (Rs. 100) , as it may be a form of bribe.

**1949: Mr. Justice Sinha only Judge impeached<sup>2</sup>;** In 1949, justice S.P. Sinha of Allahabad High Court was removed under the Government of India Act, 1935, just on the basis of his judgment. That's the only instance of the removal of a judge in India courtesy Good Judges & Constitution

Framers: Our Fore-Fathers represented by Constituent Assembly of India framers of Constitution of India then in 1949 (year before Constitution came into existence) impeached Mr. Justice Sinha; finding him "guilty of improper exercise of Judicial functions, the cumulative effect of which was to lower the dignity of his office and undermine the confidence of the public in the administration of justice..."

**1979 : Chief Justice Mr. K. Veeraswami**<sup>3</sup>; Chief Justice of India permitted Central Bureau of India to file case of Dis-proportionate of Income / wealth against Chief Justice Madras High Court Mr. K. Veeraswami ( father-in-law of Mr. Justice V. Ramaswami ). 30 years elapsed. Sheltered by Courts' easy-go-tactic.

**1991-93: Mr. Justice V. Ramaswami** (son-in-law of Chief Justice Mr. K. Veeraswami<sup>4</sup>: Sawant Committee Report had held he is guilty of several charges. In 1991, when SC justice V. Ramaswami was held guilty by judges in nine charges out of 12. Supreme Court of India also upheld guilty of 3-4 charges & recommended to Parliament for further action. Parliamentarians failed in their Duty to Impeach the Sitting Judge of Supreme Court Mr. Justice V. Ramaswami; not rising to the Heights of Eminent Constitution makers; but chose to have unholy alliance with Corruption in Judiciary vis-a-vis Legislature & Government.<sup>5</sup> Supreme Court which upheld Charges of Mis-Behaviour also, we opine, failed to prosecute him under Contempt of Court Act & relevant Laws. It also failed "To Do Complete Justice" by invoking Article 142. Criminal Judge was allowed to go scot-free; both by Parliament & Supreme Court.

**1995: A.M. Bhattacharjee:** The chief justice of the Bombay High Court was forced to resign in 1995 after it was found that he had received Rs.70 lakh as book advance from a publishing firm known to have links with the underworld.

**1996: Ajit Sengupta:** The Calcutta High Court judge made it a routine to issue ex parte, ad interim stay orders on anticipatory bail pleas from smugglers having links with the Mumbai underworld. He was arrested in 1996 for FERA violations after retirement

**1994 to 1997: A.M. Ahmadi:** When he was **Chief Justice of India** (October 1994-March 1997), his daughter, a lawyer in the Delhi High Court, caused eyebrows to be raised for getting "special" treatment from certain judges. When some members of the bar sought a resolution banning lawyer relatives of judges from staying in the same house, the CJI got members to defeat the motion.

**2000: A.S. Anand: As Chief Justice of India. (a) He was accused of using his position to get the subordinate judiciary to rule in favour of his wife and mother-in-law in a suit that had been barred by limitation for two decades** called as Tangled Plot. Also read Ram Jethmalani's "BIG GOS, small men ". **(b) Supreme Court, while he was CJI, directed a CBI probe after a dispute arose over his age in 2000. The investigation report was not made public.** This arose due to scan copy published in Ram Jethmalani's " BIG EGOS, small men ".

**2002: Justice Arun Madan- Sex for acquittal:** In November 2002, Sunita Malviya, a Jodhpur-based doctor, alleged that a deputy registrar of the Rajasthan High Court had sought sexual favours for himself and for **Justice Arun Madan** to "fix" a case in her favour. Justice Mr. Arun Madan. Case of Lady Sunita Malviya. In this case **status:** A committee set up by former CJI G.B. Pattanaik found prima facie evidence against Madan, who does not attend court anymore. Judge Resigned

**Cash-for-job:** Three judges of the Punjab and Haryana High Court sought the help of disgraced PPSC chief R.P. Sidhu to ensure that their daughters and other kin topped examinations conducted by the commission. Judges were **M.L. Singh, Mehtab Singh Gill & Amarbir Singh** Status in this case: Two inquiry panels indicted the judges. Gill and Amarbir Singh have resigned M.L. Singh continues, though no work is allotted to him.

**2002-03: Three Judges Mysore Sex Scandal** (alleged): On Sunday, November 3, 2002, three judges of the Karnataka High Court, along with two women advocates, allegedly got involved in a brawl with a woman guest at a resort. The police arrived but reportedly didn't take action. Judges are N.S. Veerabhadraiah V. Gopalagowda & Chandrashekaraiyah. **Status in this case: The three-judge inquiry committee appointed by the CJI filed its report. Gave clean chit.**

**March 2003** - Sumit Mukherjee scandal of the Delhi High Court. **Delhi High Court Judge Resigns<sup>6</sup>: Suspected of collusion with Property Developers. Raids by CBI on corrupt higher officials in Delhi Development Authority (DDA), found Draft Judgement-N-Court Records**

**2009: Tehlka Magazine:** In September 2009, the Supreme Court lawyer Prashant Bhushan, in an interview to Shoma Chaudhury of **Tehlka** magazine, said "half of the last 16 chief justices were corrupt". The comment invited the apex court's contempt. Now, Bhushan's father, the noted jurist Shanti Bhushan has joined issue.<sup>7</sup>

**2010: Eight chief justices were corrupt:**<sup>8</sup> On 17<sup>th</sup> September 2010 the former Law Minister Shanti Bhushan on Thursday created a sensation in the Supreme Court when he moved an application accusing eight former Chief Justices of India of "corruption", and dared the court to send him to jail for committing "contempt of court". The eight allegedly corrupt CJIs feature among a list of 16 prepared by Bhushan-comprising Justices Ranganath Mishra, K N Singh, M H Kania, L M Sharma, M N Venkatachalliah, A M Ahmadi, J S Verma, M M Punchhi, A S Anand, S P Bharucha, B N Kirpal, G B Patnaik, Rajendra Babu, R C Lahoti, V N Khare and Y K Sabharwal. Terming eight among the list as "definitely corrupt", Bhushan put their names in a sealed cover and submitted it to the Supreme Court and virtually dared it to open it and read out the contents. The veteran lawyer, who became famous by successfully arguing for setting aside the election of [Indira Gandhi](#)<sup>9</sup> in 1975.

**In 2009:** 58 MPs of the Rajya Sabha moved a motion for impeachment of Calcutta High Court Judge Soumitra Sen for his involvement in financial misappropriation. Probe panel was set up by Rajya Sabha chairman [Hamid Ansari](#) in February 2009. It was headed by SC judge Justice B Sudershan Reddy and had as its members Punjab and Haryana High Court Chief Justice [Mukul Mudgal](#) and noted Jurist [Fali S. Nariman](#). The Committee said the charges were duly proved.

**2011: Soumitra Sen,** a former judge at the Kolkata High Court became the first judge in the India to be impeached by the [Rajya Sabha](#), the Upper House of the Indian Parliament for misappropriation of funds. Justice Sen has been bearing the allegation for appropriating Rs 32 lakh as a court-appointed receiver in 1993 in a lawsuit between Steel Authority of India Limited (SAIL) and Shipping Corporation of India over supply of fire bricks. The Chief Justice recommendation was made shortly after a three-judge inquiry committee had established Sen's misconduct in depositing the money in his personal account. Sen retained the money even after being appointed as the High Court judge in 2003. It was in 2006 after HC order, he returned money.

August 17, 2011: It was a historic day in Rajya Sabha where a motion was moved to impeach a judge of Kolkata High Court and removed him from his post. At 3 pm on Wednesday, the motion was moved by Communist Party of India-Marxist leader Sitaram Yechury. Rajya Sabha impeaches Justice Soumitra Sen.

**2008: Nirmaljit Kaur,** a High Court judge: Uttarakhand High Court Justice **Sells for Only 15 Lakhs! Rs 15-lakh parcel.**<sup>10</sup>

In August 2008, a parcel containing Rs 15 lakh, allegedly meant for Justice Nirmal Yadav of the Punjab and Haryana high court, had been handed over to Justice Nirmaljit Kaur. On November 11, 2010, the high court had given the nod for justice Yadav's prosecution. The President had granted her prosecution sanction on 1st March.2011 two days before she retired from the Uttarakhand high court. The charge sheet furnished by the CBI against Nirmal Yadav, under sections 11 and 12 of the Prevention of Corruption Act, Section 120 of (criminal conspiracy), Section 193 (false evidence), Section 192 ( concocting false evidence ), Section 196 (using false evidence) and Section 199 (false testimony), was filed by CBI on 4th March 2011. The five more individuals were indicted in this case, namely Delhi based hotel businessman Ravinder Singh Bhasin, Rajiv Gupta (businessman, Chandigarh), Nirmal Singh and Sanjeev Bansal (advocate). Yadav had personally appeared in court only once (August 27th, 2013), and had been evading personal presences in court on more than a dozen occasions, citing the same medical reasons.

**2009: Paul Daniel Dinakaran Premkumar** was the Chief Justice of the Sikkim High Court. The charges framed by the probe panel include: possessing wealth disproportionate to the known sources of his income; unlawfully securing five Housing Board plots in favour of his wife and two daughters; entering into transactions prohibited and punishable under the Benami Transaction (Prohibition) Act, 1988; acquiring and possessing agricultural holdings beyond the ceiling under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961; illegal encroachment on government and public property to deprive Dalits and the poor of their right to livelihood; violation of the human rights of Dalits and the poor; illegal construction in breach of the town planning law and planning permit; misuse of official position to unlawfully secure property and facilitate other illegal acts for personal gain; abuse of judicial office to pass dishonest judicial orders, contrary to settled principles of law, to favour a few individuals or for his own unjust enrichment, at the cost of the public exchequer and the country's natural resources; constituting Benches and fixing rosters of judges to facilitate dishonest judicial decisions and making arbitrary and illegal appointments and transfers. He resigned from the post following allegations of corruption and subsequent impeachment proceedings. On 28 August 2009, the Supreme Court of India announced that Dinakaran would be elevated to a Supreme Court Judge, but this was halted due to allegations of corruption and surrounding controversy. Dinakaran subsequently refused to go on leave when asked by Chief Justice of India [K.G. Balakrishnan](#) and was transferred to the Sikkim High Court. On 29 July 2011 he resigned from the post of Sikkim High Court Chief Justice.

**2012: Justice A.K. Ganguly:** sexual harassment case, Sexual assault case intern harassment case, Supreme Court, West Bengal Human Rights Commission, crime against women, sexual harassment at workplace:<sup>11</sup> Stella James, who graduated from NUJS Kolkata this year and now works at the NGO Natural Justice, Lawyers for Communities and the Environment, wrote about an alleged incident of physical, sexual assault by an unnamed, retired Supreme Court judge in late 2012. In a post that was published on the blog of the NUJS Journal of Indian Law and Society on 6 November, she wrote about trying to come to terms with her experience of 24 December 2012, Christmas Eve, ironically against the backdrop of the then-ongoing Delhi gang rape protests.<sup>12</sup>

**Ganguly gets Centre's clean chit in intern case:**<sup>13</sup> Justice (retd) Asok Kumar Ganguly: The ministry of home affairs (MHA) has cleared the air about Justice (retd) Asok Kumar Ganguly, saying there is no case against him. It has referred to the Delhi Police's feedback that there isn't adequate evidence to lodge an FIR against Justice Ganguly and no probe is on against him. Ganguly had resigned from WBHRC in January, just before the Union Cabinet passed a proposal for sending a presidential reference to the SC to remove him. The MHA has written to Swamy that the Delhi Police has said the probe into the sexual harassment complaint has been suspended since the complainant has not been cooperating with the police despite repeated appeals. The former Supreme Court judge was indicted by a three member apex court committee for "unwelcome conduct of sexual nature" towards a woman who was interning with him in December, 2012, though the allegations came a year later in a blog entry on a legal portal. The judge eventually resigned as chairperson of West Bengal Human Rights Commission.

**2014 :Justice Swatanter Kumar- Case of sexual harassment**<sup>14</sup>: The woman lawyer who has accused Justice :Swatanter Kumar of sexual harassment moved the Supreme Court on Tuesday asking that the defamation case filed by the retired judge against her and some media houses be moved out of Delhi in view of the "institutional bias operating in his favour". The woman has cited Justice Kumar's status in the legal fraternity, and said she was "hopelessly in a subordinate position" with respect to him in the legal battle pending between them in the Delhi High Court. The petition stated that Kumar, presently chairperson of the National Green Tribunal, has worked as a judge of the high courts of Delhi, Punjab and Haryana, and Bombay, besides serving as a judge of the Supreme Court. The woman has claimed that she was a law intern when the alleged incident occurred.

**Swatanter Kumar lashes back:** Former SC judge and National Green Tribunal head Swatanter Kumar – who was accused of sexual harassment by an ex-intern from NUJS Kolkata according to



Friday's media reports – sent a legal notice to three media houses demanding an apology from them within 24 hours for publishing “incredulous and false” allegations against him.<sup>15</sup>

#### **Transparency International's Corruption Perception Index:**

**In 2014** India ranked 85th out of 175 countries in Transparency International's Corruption Perceptions Index,<sup>16</sup> compared to its neighbors Bhutan (30th), Bangladesh (145th), Myanmar (156th), China (100th), Nepal (126th), Pakistan (126th) and Sri Lanka (85th). In 2013, India was ranked 94th out of 175 countries.

**According to Asia Pacific Business and Technology Report:** The Judiciary: A pillar of democracy- in dire need of reforms.<sup>17</sup>The Indian judicial system is independent and impartial. Rather, this is the only pillar of Indian democracy.

#### **Corruption widespread in India, says US report from Washington.<sup>18</sup>**

There is widespread corruption in India in all levels of the government including judiciary, said a US Congress-mandated report. "Corruption was widespread," said the annual Country Reports on Human Rights Practices for 2013 released by US Secretary of State John Kerry. According to the report, though the law provides criminal penalties for official corruption, the Indian government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. "Corruption was present at all levels of government. The CBI registered 583 cases of corruption between the months of January and November.

As per report, "The Central Vigilance Commission (CVC) received 7,224 cases in 2012. Of those, 5,528 were received in 2012 and an additional 1,696 remained from 2011. The commission recommended action on 5,720 cases" "The CVC operated a toll-free hotline to lodge complaints and a web portal to share information. NGOs noted that bribes typically were paid to expedite services, such as police protection, school admission, water supply, or government assistance."

These Judicial Officers have been vested with the discretionary powers for delivering justice to the people as per law of the land and using their good conscience. While handling the cases some of the judges are influenced through some known or unknown persons for their petty pecuniary gains.

On 1st May 2003, CBI arrested **Justice Shamit Mukherjee** on the charges of "receiving illegal gratification for delivering an Order to favor litigant in DDA case" under Prevention of Corruption of Act. Delhi Special Court remanded the Judge for CBI custody for a week,<sup>19</sup> Complete story.<sup>20</sup>

**Judges Gods or Devil<sup>21</sup>:** We the People of India have appointed the Judges is to provide Justice & discharge duties in accordance with Law. To this end we are paying & **caring them as Living Gods**. If we withdraw the Faith, Confidence & Hopes bestowed upon them & their Offices; will it not be greater damage than the Corrupt/Criminal Judges demitting Offices on their own volition? We have appointed them as Lords / Gods but not as Devils. We shall not allow such Devils to continue. We shall Un-veil Veil of Corrupt Judges and if they chose to "Shall be Devils together & Doom together" then that's Dooms Day of Judiciary. Gods in Black Nighties

2011: **Indian democracy is in danger:** "India is in danger when 867 Judges who have never learned to obey law nor Respect Their-own Judgments; are given the Right-to-Command Indian citizens & Governments", As reported when 867 judges<sup>22</sup>, who have never learned to obey the law are given the right to commons' to make India Corrupt free; prosecute and jail 867 judges judiciary. Law Day Speech: CJI S.H. Kapadia "If anyone knows a Judge is believed to be corrupt; he should be named in Public; Take a Stand & Name him in Public & Tell the Chief Justice" 26 Nov 2011

**Judicial corruption at International Level:** Widespread bribery of judges around the world and inappropriate political interference in legal systems deny millions their right to a fair and impartial trial, or any trial at all, says the global anti-corruption group Transparency International.<sup>23</sup>

#### **Conclusions**

On the basis of above research it that conclusion has been drawn how the corruption has been spread and how to control it though out the world. The Judicial Standards and Accountability Bill was passed by the Lok Sabha (lower house of Parliament) on 29 March 2012. The official Lokpal

bill makes only marginal references to whistleblower protection, whereas the IAC version of the bill also burdens the Jan Lokpal with protecting the whistleblower without going into how this challenging task could/should be achieved. Anti-corruption laws in India Public servants in India can be penalized for corruption i.e. Indian Penal Code, 1860, Prosecution section of Income Tax Act, 1961, The Prevention of Corruption Act, 1988, The Benami Transactions (Prohibition) Act, 1988 to prohibit benami transactions., Prevention of Money Laundering Act, 2002., Right to Information Act, 2005 was enacted as a tool to effectively check corruption in our democratic system.,The Lokpal and Lokayuktas Act, 2013, Whistle Blowers Protection Act, 2011.etc. Civic anti-corruption organizations are also working for corruption free India: No doubt that a variety of organizations have been created in India to actively fight against corrupt government and business practices. Notable organizations include are: 1. Bharat Swabhiman Trust, established by [Ramdev](#), has campaigned against black money and corruption for a decade. 2. 5th Pillar is most known for the creation of the zero rupee note, a valueless note designed to be given to corrupt officials when they request bribes.India against Corruption was a popular movement active during 2011-12 that received much media attention. Among its prominent public faces were [Arvind Kejriwal](#), [Kiran Bedi](#) and Anna Hazare. Kejriwal went on to form the [Aam Aadmi Party](#) and Hazare established [Jan Tantra Morcha](#)., 3. Jaago Re! One Billion Votes was an organization originally founded by [Tata Tea](#) and [Janaagraha](#) to increase youth voter registration. They have since expanded their work to include other social issues, including corruption. 4. Association for Social Transparency, Rights and Action (ASTRA) is an NGO focused on grass-roots work to fight corruption in Karnataka.The Lok Satta Movement, has transformed itself from a civil organization to a full-fledged political party, the [Lok Satta Party](#). The party has fielded candidates in Andhra Pradesh, Tamil Nadu, and Bangalore. In 2009, it obtained its first elected post, when [Jayaprakash Narayan](#) won the election for the [Kukatpally](#) Assembly Constituency in Andhra Pradesh. Celebration of “International Corruption Day” Anti-corruption day 2014 on 9<sup>th</sup> December, 2014 at Hotel International. Lagos (Nigeria) at 10.30 a.m. To commemorate the United Nations mandated “International Corruption Day”, the National Competitiveness Council of Nigeria (NCCN) partnered with the Clean Business Practice Initiative (CBPI) to host a moderated panel discussion. It is clear from the above that steps are taken at national as well as at international level to curb this menace of corruption from the root for progress of the world as a whole.

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