

Corruption: Its Impact Upon Rule of Law in India

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ABSTRACT

Democracy is the foundation of freedom, justice, equality, and fraternity; which is intended for the welfare of the society and its citizens. This welfare of society and its citizens can be achieved by the people through the rule of law. Rule of law is a cardinal principal of democracy. It is essential for inherent dignity, equality and prosperity of the members of the society. The constitutional values, such as constitutionalism, absence of arbitrary powers and liberty of the people are imbibed in the concept of rule of law. There is a universal growth of broad discretionary powers of the administrative authorities to implement the developmental policies in India. It has generated the opportunities to misuse and abuse such discretionary powers by public authorities, resulting in corruption and a tendency to disregard individual rights and rule of law also. This paper seeks to assert that corruption undermines the rule of law and legitimacy of state itself.

Introduction

Law is considered an element of 'Dharma' in the ancient Indian traditions. Dharma was superior to all the rules and regulations. Dharma was king of kings. It was believed that it was not the king who ruled but 'dharma' which ruled the people. Every administrator was under the law. It was expected that the officials would function in accordance and compliance with the law already laid down.

After the independence, the Indian constitution has become the supreme law of the land. It is hoped that every Indian and official would work only in accordance with the constitution and would uphold its legitimacy and supremacy. Before entering into an office of importance, the individual takes an oath of allegiance and loyalty towards the constitution. Corruption is violation of that oath.

The exact meaning of corruption can't be drawn with accuracy and its meaning is still a matter of debate. There is no global consensus over the specific elements that constitute corruption leading most scholars to argue that attempting to define corruption in general is a futile exercise.¹ The generally accepted meaning in contemporary literature focuses on the abuse of public office or power for private gain.² Nevertheless though, this definition is quite wide in its import and generic in nature yet it serves a purpose. Corruption has a crucial bearing in India at all levels of decision-making processes in

governance. There is no denying that the social, economic and political consequences of corruption are disastrous for India.

Corruption has become the greatest menace to the public and political life in India. When India became free Jawaharlal Nehru in his historic tryst with destiny speech stated: "Long years ago we made a tryst with destiny and now the time comes when we shall redeem our pledge not wholly or in full measure but very substantially. The service of India means the service of the millions who suffer, it means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye"³.

But the history after independence tells another story. Corruption in public life has increased by leaps and bounds. When the British had enslaved India to make it its colony, its servants amassed wealth by corruption. The mischievously corrupt Warren Hastings was impeached by the British Empire for corruption. Edmund Burke in his address of the impeachment of Warren Hastings orated:

"I impeach him in the name of the people of India, whose rights he has trodden under foot, and whose country he has turned into a desert. Lastly, in the name of human nature itself, in the name of both sexes, in the name of every age, in the name of every rank, I impeach the common enemy and oppressor of all!"⁴.

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¹ See, for example, S.L. Joseph et al., *Castan Centre for Human Rights, Human Rights Translated: A Business Reference Guide* (2008).

² Asian African Legal Consultative Org., *Combating Corruption: A Legal Analysis* 9 (2005).

³ http://en.wikipedia.org/wiki/Tryst_with_Destiny.

⁴ C.Raj Kumar, *Corruption and Human Rights in India (Comparative Perspectives on Transparency and Good Governance)*, New Delhi : Oxford University Press-2011. p.xxi

