STATE CAPACITY; DRIVERS OF CORRUPTION AND ANTI-CORRUPTION INTERVENTIONS: CONCEPTUALISING CORRUPTION IN INDIAN CONTEXT- A RATIONAL CHOICE APPROACH

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ABSTRACT

This context based study argues that unfair distribution of power; weak anti-corruption enforcement and illegal rent seeking act as drivers that sustain corruption in India. This study shows that the drivers identified in this study can help to conceptualise corruption in Indian context. This study demonstrates that India needs to make sincere efforts to address the drivers that promote and sustain corruption in order to achieve its developmental objectives. Another significant aspect of is study is that it has deciphered the relationship between existing anti-corruption framework; scope for illegal rent seeking and rent allocations and distribution of power with incidence of corruption in India.

INTRODUCTION

Corruption Control and Contextualizing the Phenomenon: Absence of single agreed definition to corruption makes conceptualizing the problem a contentious issue in academia as well as in policy arena. Corruption is a complex problem affecting all societies and has different causes and consequences (Rodriguez & Sanchez, 2018); still, all societies do not exhibit similar degrees of corruption (Gould & Reyes, 1983). Like the level of development, incidence of corruption also shows variation across jurisdictions. Theoretical approaches like, functionalism; rational choice; humanism etc., study corruption from different perspectives. Due to inherent differences in these approaches, there exist divergent views with regard to defining corruption. Nonetheless, the neo-liberalism driven anti-corruption movement that emerged in the 1990s has pushed the world community to understand corruption and to develop anti-corruption interventions in the context of governance by identifying those behaviours that need to be criminalized for controlling corruption. In other words, the current anti-corruption movement focuses on those indicators that are critical for preventing corruption (OECD, 2012) and on promoting the new governance agenda.

This narrow conceptualization of the problem has been a subject of criticism on the anti-corruption movement. Still, the anti corruption movement has succeeded in its efforts to link corruption with governance agenda to a large extent primarily because of the prevailing global understanding that corruption undermines governance. While successfully expanding the idea of good governance, the anti-corruption movement also has promoted academic research on corruption. In the past three decades, corruption research and measurements have evolved more sophisticated tools and there are many multinational efforts like the UNCAC[1] for addressing corruption. Further, the anti-corruption movement is trying to contextualize corruption and corruption measurements in order to make corruption control efforts more effective. Due to persistent efforts by the international community issues like bribing foreign public servants; stolen asset recovery etc, have been recognized to be components of anti-corruption interventions in many jurisdictions. Game theory based prescription leniency programmes has also been introduced in certain anti-corruption legislations like, United Kingdom's

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[1] United Nations Convention against Corruption.

Bribery Act, Foreign Corrupt Practices Act of the USA etc. Also there are regional efforts like, the African initiatives to contextualize corruption. In a nutshell, corruption is now considered to be a challenge that needs to be fought and there is acceptance both in academia as well as in the policy arena to the idea that corruption needs to conceptualized with respect to particular contextual settings for making the corruption control efforts more effective. This work attempts to provide a rational choice approach for understanding corruption in the context of State capacity; Drivers of Corruption and Anti-Corruption Interventions in India primarily by reviewing the existing literature.

Corruption Control as a Problem of Political Economy: In simple language, political economy is about the interaction between politics and economics. The development of economics shows that economic outcomes are determined by political factors. Actually, from Adam Smith's Wealth of Nations in 1776 until John Stuart Mill's Principles of Political Economy in 1848, the study of economics was referred to as political economy (Princeton University, n.d). According to Adler (n.d), political economy refers to the combined and interacting effects of economic and political structures; and it investigates how power and authority affect economic choices in a society (Serrat, 2017). Thus, the focus of political economy is on the process by which it is decided what policy to adopt and on what policy choice will emerge from a specific political process (Princeton University, n.d). In essence, political economy based rational choice approach studies the behaviour of individual actors by analyzing formal as well as informal rules; underlying political power; bureaucratic agencies; and social and private organizations (World Bank, n.d). The challenges of distribution of power; institutions and their growth; principal-agent problems; problems of rent seeking also are explained by rational choice theory. Rational Choice approach see corruption as the result of decisions made by rational actors driven by their goal oriented behaviour. This theory assumes that constraints force the rational actors to choose the best available means to achieve their goals, undermining the socially optimal decisions. Noor (2009) argues that institutions can alter the range of possibilities available to the rational actors while making their decisions. This can lead to the argument that if the decision making process is so influenced that the alternatives available to individual actors are altered, the level of corruption in society can also be altered. This can strengthen the argument that distribution of power; state capacity and the strength of anti-corruption framework can be the determinants of corruption in the society; the corollary could be strengthening the institutions of state for corruption control. Arguing in the rational choice approach, Klitgaard (1988) argues that corruption is a crime of calculations and not of passion; and corruption can be deterred by societal disapproval. Noor (2009) supports the view of Klitgaard view by observing that corruption can be deterred by social disapproval as it is a social exchange too. There are studies showing negative correlation between the strength of institutions and incidence of corruption. The idea of good governance is also about building the capacity of the state by strengthening the institutions. Thus, the design and capacity of institutions can have determining effect on corruption and its prevalence in the society.

Corruption; State Capacity and Governance in Developing Countries: The relationship between corruption and governance has been well researched in the academia.

International organizations like the World Bank; International Monetary Fund etc have produced many studies on corruption control and governance. It has been shown by various studies that corruption undermines legitimacy of the state. The role of state in controlling corruption assumes significance, particularly in the market driven economy, as the market forces bring-in bigger rents and consequent illegal rent seeking or *vice versa*. Rents are the benefits given to individuals or groups as part of state policy and rent seeking is the resources that the individuals or group spend to influence the state to appropriate the rents (Khan, 2006). Rents or rent seeking *per se* are not undesirable as they may be aimed at specific objectives like, distributing resources to the under privileged through affirmative measures. But, weak or badly designed institutions can encourage unregulated rent allocations and illegal rent seeking. These can be the cause or effect of each other. In case, unregulated rent allocations and illegal rent seeking can promote and sustain corruption.

Evidently, there are differences in the level of incidence of corruption across jurisdictions. Studies show negative correlation between incidence of corruption and economic development. Developed countries show low incidence of corruption, whereas all developing countries, except few oil and mineral rich countries like Kuwait, Botswana etc, show high incidence of corruption. In fact, economic development is the function of capacity of the state to efficiently redistribute its resources. Noor (2009) argues that countries with high corruption exhibit poor state capacity in efficiently distributing their resources. State capacity has been shown as a critical requirement for good governance and corruption control by various studies. State capacity is essentially the degree of control that the state exercises over citizens, activities, and resources within their territorial jurisdiction (McAdam, Doug, Sidney, Tilly, 2001). In other words, state capacity is about capacity of the state to enforce its policies. For Cingolani (2013), the key to explaining state capacities is the distribution of power among many organizations, including the state which is one of the most powerful organizations. Thus, strength of institutions; distribution of power; presence or absence of discretions at decision making; level of rent seeking etc can be the indicators to explain state capacity. For Ababu (2013), state building essentially is about building the capacity of institutions of the state in order to make the state effective in discharging its core responsibilities. Capacity of the state to fairly distribute the resources; to enforce the rule following behaviour in the society has also been shown to be the determinants of state capacity. It has empirically been shown that developing countries are vulnerable to corruption because of the presence of weak institutional arrangements for corruption control and strong drivers of corruption (Khan, 2006), pointing the weak state capacity in developing countries. Khan attributes weak institutional arrangements and strong drivers of corruption to high incidence of corruption in developing countries. Drivers of corruption in developing countries can be rooted in specific socio-cultural contexts; but, they have definite impact on governance and as a result on the capacity of the state. The commonly identified drivers of corruption in developing countries are weak rule of law; lack of rule following behaviour, weak institutions; inadequately defined rules and unfair distribution of power etc.

Corruption in India: Corruption is as old as human history and no society was free from corruption in the past. History shows that corruption was a problem even in the ancient

societies of Jews; Japanese; Chinese; Greeks and Romans. In India, Kautilya in his *Arthashastra,* written in 200 BC, spoke about forty different types of corruption and embezzlement of public resources by public servants. The medieval Indian society was also not free from corruption. During the British era, the public servants, Indians as well as Britishers, involved in corruption and as a result, the colonial rulers criminalized certain behaviours of public servants in the Indian Penal Code in 1860. Subsequently, the special Act, the Prevention of Corruption Act, 1947, enacted after independence, incorporated the provisions related with corruption from the Indian Penal Code, 1860 besides making certain new provisions. The Prevention of Corruption Act has undergone few amendments in the past seventy years with the latest made in 2018. After independence, multiple scams involving high ranking public servants have been reported in India. There were allegations of corruption against Prime Ministers; Chief Ministers of many States and Union and State Ministers in the past. Enquiry commissions like, Gupta Commission; Shah Commission; Sarkaria Commission etc. were constituted to enquire into the allegations of corruption at high levels. The independent India has seen many instances of corruption where the roles of high ranking political figures were alleged. The Jeep Scandal (1948), the Mudgal Episode (1951), the Mundhra deals (1957 - 58), Biju Patnaik Scandal (1964), the Bofors Deal (1986), the Hawala Scandal (1990), the Animal Husbandry Scam (1990), the Telecommunication Scam (1996), the Jharkhand Mukti Morcha Scandal (1993), the Indian Bank Scam (1991-95), the Cement Scandal (1982), the Sugar Scandal (1994), the Urea Scam (1996), the Treasury Fraud Scandal in Assam (1995), the OIL pipeline theft scam in Assam (2003-04), Oil for Food Scam (2005), Irregularities in Spectrum and Coal block allocations etc., are the few to cite for example.

In the past, many political figures that held high offices have been convicted for the offences related with corruption. Mr. P.V. Naasimha Rao, the then Prime Minister of India; Ms. J Jayalalitha, Mr. Om Prakash Chautala, Mr. Lalu Prasad Yadav, the then Chief Ministers of Tamil Nadu, Haryana and Bihar respectively have been convicted for offences ranging from bribery to accumulating assets disproportionate to their known sources of income. These illustrations can hold good to argue that the Indian anti-corruption framework is strong enough to bring even the most powerful to book. But, the prevalence of corruption in India presents gloomy picture about the capacity of the state to fight corruption. In the corruption perception Index, India averaged 75.67 from 1995 until 2018, reaching an all time high of 95 in 2011 (Transparency International., 2019). In ease of doing business, India stands at 77 and in global governance Index at 124 (World Bank**.** 2017). These figures present the argument that there are certain structural drivers that the existing anti-corruption framework could not tackle in the Indian context. It is fact that developing countries, in general, have high incidence of corruption in spite of their corruption control efforts. As already discussed, corruption control in developing countries is difficult irrespective of their level of economic development because of the presence of structural drivers that sustain corruption. Structural drivers in developing countries can distort the policy and capacity of the state to control corruption. While talking about corruption in India, Bhushan (2011) argues that corruption in India has grown to alarming proportions because of policies that have created enormous incentives for its proliferation. This view necessarily is about

the problems associated with rent allocations and rent seeking in India. There are studies showing that anti-corruption interventions in developing countries are not effective because of weak regulatory framework and that regulatory capacity of the state is critical for development. Khan (2006) argues that economic development itself is a movement from the environment of unregulated to regulated rent allocations. Thus, in order to achieve developmental objectives, detailed rules about allocating resources in the society are a precondition. Regulated rent allocations, in turn, can help to control corruption by restricting the scope for discretions and rent seeking. Developed countries have detailed rules about allocating their resources and rent seeking whereas the structural drivers prevalent in developing countries, including in India, constrain them from making efficient regulatory framework for corruption control. Like any other developing country, India also has its standard anti-corruption framework for controlling systemic corruption. Even the Indian Penal Code, enacted in 1860, contained provisions related with corruption control and recovering the stolen assets. In the post independence era India created specialized anti-corruption agencies to exercise the Prevention of Corruption Act. Many collective action efforts, particularly the technology based interventions, are also in place in India. The biometric based Unique Identity Number *"Aadhaar"* is being considered to be a potent weapon for corruption control in social welfare schemes. Transparency legislation, the Right to Information Act has also been enacted for opening up the public institutions. India is an active partner in many of the international initiatives, like UNCAC, Jakarta summit etc, that aim at controlling corruption. In compliance with global stolen asset recovery initiatives, India has enacted legislations like the Prevention of Money Laundering Act, Fugitive Economic Offenders Act, etc. Thus, the ideas of transparency; reduced discretions etc have been infused in the Indian anti-corruption framework already. Still, India could not record appreciable progress in various corruption measurements and corruption control continues to be a challenge for governance in India.

State Capacity, Rent Seeking and Rule of Law in India: Now that India is emerging as one of the fast growing economies, comparison can be made with its neighbor China, the another fast growing economy, particularly on the aspect of state capacity. When China and India were founded in 1949 and 1947 respectively, their levels of development were near similar. In the early 1950s life expectancy and literacy rates were better in China and India respectively in comparing with each other. But, after thirty years, i.e. in 1979, China made rapid progress in human resources development and stood at twelve percent higher than that of India. In 2010, China progressed further and did show a difference of twenty seven percent in comparing with India. In sectors like infrastructure; information & technology, space science etc. China's progress in comparing with India is phenomenal. In the past seventy years, there is political stability in both the regimes and India had the advantage of democratic institutions. Still, India could not progress at the pace China has moved ahead. Studies attribute the difference in the capacity of both the countries in mobilizing and redistributing the resources to meet their policy objectives to the differences in their performance. Pritchett (2009) argues that India's capability for implementation-intensive activities of either service delivery or imposition of obligations has not been consistent in comparing with China. Pritchett further says that India has many examples of weak capability for implementation in education; health, policing,

and regulatory enforcement. As a result, India is registering negative growth in state capability. To cite for example, absenteeism rates of health workers in the Indian states Rajasthan and Karnataka range from 40 to 70 percent (Andrews et al, 2017). They further argue that India is a flailing state with capable elite organizations and yet very poorly performing organizations in other aspects. Variations in the capacity of institutions across the Indian states can show poor state capacity in resource mobilization and redistribution in India. There are studies about the sub-optimal performance of bureaucratic organizations in India. It has been shown by Cingolani (2014) that the secret to a developmental state is the existence of high levels of embedded autonomy, a combination of internal bureaucratic coherence within agencies and external connectedness with key industrial sectors. In this front also, Cingolani argues, India is a partial success. Poor state capacity demonstrates poor governance; weak institutions and unregulated rent allocations. The poor state capacity can encourage illegal rent seeking and can make the state policies vulnerable to distortions. As discussed already, rent seeking refers to the resources spent by the individual or groups to influence the state in order to appropriate the resources of the state. Rent seeking expenditures can be in the forms of bribe; party funding; lobbying etc., uncontrolled rent seeking expenditures can result in increased incidence of corruption. In India, rent seeking expenditures did show rising trend in the sixties and seventies (Ahluwalia 1985). During the liberalization era also there were evidences that rent seeking expenditures did not come down. (Harriss &White, 1996). Khan (2006) argues that there was a significant increase in corruption in India in the nineties following liberalization. Various corruption indicators also show that corruption has not come down in the post liberalization India. According to Khan (2006) political party funding remains to be one of the areas that incur significant rent seeking expenditure in India. He further argues that, in India, the number of competing factions seeking rents is high as a result, for anyone with resources to spare the organizational power could cheaply be purchased. This vulnerability of organizational power for illegal rent seeking acts as a structural driver for sustaining corruption by promoting strong patron-client networks in India.

It has been shown by Khan (2006) that lack of rule following behaviour promotes corruption and that corruption can distort the legislative process; the principles of legality and legal certainty. Further, Reps (2013) argues that corruption can introduce arbitrariness in decision making. Thus, corruption and Rule of Law are highly correlated. Lack of rule of law has been attributed to many corruption cases reported in African countries and in developing countries (El-Ayouty, 2003). The position of India in the rule of law index is also a concern. According to world justice project, India stands at 62nd among the 113 countries surveyed in Rule of Law index (World Justice Project, 2018). Absence of or disregard for rule of law can promote illegal rent seeking and arbitrary rent allocations which can ultimately result in rent capture by the powerful. Congleton and Kar (2008) argue that most of the rent-seeking models are motivated by the presence of government that can be influenced to create and assign rents. In the market driven economy rule of law or rule following behaviours can be determined by powerful organizations like the rulers; political parties; business corporations etc. This can partially explain the involvement shown by many multinational organizations to control corruption aiming at fair market opportunities. But, for making such initiatives the organizations need to be

competitive and should be able to withstand without patronage. But, the powerful organizations in developing countries rely on illegal rent seeking and patronages as they are not competitive and the numbers of powerful organisations are smaller in developing countries. While studying about corruption in developing countries Mustaq Khan (2006) argues that the most powerful organizations in developing countries do not want rule of law because of their business model of relying upon patronages. India is not an exception to this argument. In the Global Competitiveness Index, developed by the World Economic Forum, India stands at 58th rank and remains among the worst performing BRICS countries. Low competitiveness is again acts as a structural driver that sustains corruption by impacting the rule following behaviour in India. Rulers also constitute the powerful organizations, according to political economy. The extent to which the rulers are constrained by the rules to follow the rule of law can also be an indicator to explain the capacity of state. There are studies showing the influence of networks engaged in grand corruption, crony capitalism, political patronage etc., in policy formulation. Pethe et al., (n.d) argue about the power of interested groups/ politicians in creating laws that serve their own interests. Here Lambsdorff makes a very pertinent point by arguing that rules restricting those who govern often don't exist or insufficient. This is because governments usually don't have incentives for restricting themselves (Lambsdorff, 2002). There could be many rationalizations for not making rules that may create constraints to the rule makers and bureaucrats. Scope for discretions and unregulated rent allocations can explain the tendency to make rules that do not constrain the rulers in developing countries.

Distribution of Power: Distribution of power in society is a strong determinant of corruption as it has the capacity to compromise the redistributive efficiency of the state. Scholars have attempted to define corruption in the context of distribution of power in the society. According to Khan (1996) corruption is a behaviour that deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power, or status. For Amundsen (1997), corruption is a particular state society relationship; and state is the weaker part in this relationship. Amundsen further argues that redistribution of resources in society follows the distribution of power. So, political power and redistribution of resources are interrelated and thus, distribution of power is one of the strong determinants of corruption in society. Developing countries remain vulnerable to unfair distribution of power among various organizations. For example, strong clientelist networks and mafia groups have been held reasons for state degradation in Bangladesh and Russia. Even local, ethnic and regional groups, etc., can buy preferential treatments from the state through political bargaining in the African countries. The low income countries, particularly the colonized countries where economic and political organizations were organized on ethnic lines (Amundsen, 1997) show the pattern of politicians being richer than average citizens, explaining the unfair distribution of power and interest in the society. In India, the colonial masters created the landlords community to collect land revenue on their behalf. As a result, the landlords enjoyed political power in resource redistribution. After independence, the landlords' community enjoyed clout over Indian politics due to their influence they had under the colonial rulers. Similarly, the distribution of political power in India shows the control over politics by political families. There are evidences

showing that Indian politics is dominated by political dynasts; landlords; businessmen; contractors and people from wealthier background (Banerjee & Pande, 2006). According Chandra (2014) twenty percent of Lok *Sabha* members, elected in 2004, came from political families; this percent rose to twenty nine in the 2014 national elections. Though the percentage of representatives from various political families came down to twenty one in 2019 elections, still it is not a wipeout, as argued by Chandra. She further argues that parties across the political spectrum engage in dynastic politics; and that the internal party democracy in India, if untouched, will continue to produce dynastic politics (Chandra, 2014). Though dynastic politics has been a political issue in India, it continues to dominate the Indian politics and many political parties and governments have been/are headed by persons from political families. Gender discrimination in power distribution is also visible in the Indian context. The sixteenth Lok *Sabha* had only sixty two women members of parliament which made up only 11 per cent of the entire strength. In 2014 national elections a mere 668 women candidates were in fray out of a total of 8251; and of the 668, 206 were independent candidates (India Today, 2018). Lesser representation of women in the Indian parliament continues to remain a concern as their percentage of representation remained in single digits until 2009. The following area chart depicts the state of women representation in the lower house of Indian parliament from 1962.
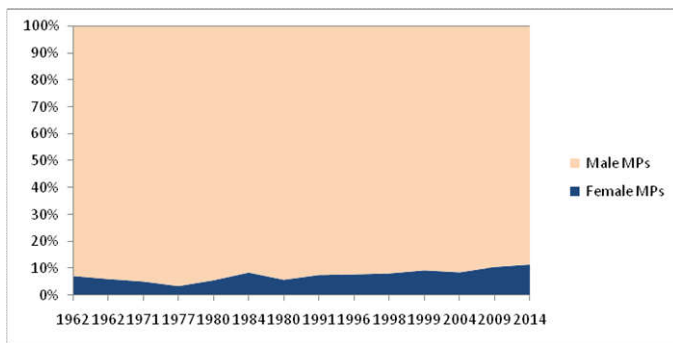
Source: Shree D N, 2019

The above table shows the unequal distribution of political power between genders in India. Dollars, Fisman & Gatti (1999) provide evidence that female under representation in politics has negative correlation with corruption. Legislation for women reservation in the Indian parliament and in State assemblies has not been made so far in India. Women have been given thirty three percent reservations in the local body elections across India. But, there are apprehensions about power exercised by women in the local bodies because of the problem of them being held as proxies by the male members in their families (Buch, n.d). Still, it is a good beginning towards distributing the political power between genders in India. In her study about women empowerment and their political participation in Bihar, one of the Indian states, Rai (n.d) argues that there are more restraining than facilitating factors for the entry and participation of women in political arena and that such restrains are diverse. This shows that the Indian society is still not prepared for equal distribution of power between genders.

The next typical feature of power distribution in India is the relevance of ethnicity in politics. Chandra (2004) argues that patronage politics has made ethnicity a relevant factor for the allocation of resources in India. There are constitutionally guaranteed affirmative measures in the form of reservations and preferential treatments to various socially and economically weaker sections in India. While studying political corruption and ethnicity in Uttar Pradesh, one of the most populous states of India, Banerjee and Pande (2006) argue that a significant rise in ethnic politics leads to increased political corruption, both as measured by voter perceptions of candidates and the candidates criminal records. In his quantitative study about the Indian voter's behaviour, Vaishnav (2015) presents evidence of high correlation between positive caste bias and tolerance for candidates facing criminal cases. Similar evidences have been presented by Lumumba (2018) about political tolerance for corruption and crime among African ethnic groups. Another disturbing aspect of power distribution in India is criminalization of politics. Forty three percent of the newly elected members of *Lok sabha* in 2019 have criminal cases against them. This is a twenty six percent increase as compared to 2014 elections (The Hindu, 2019). In addition, allocation of public resources across Indian villages varies with the population shares of landed and landless households (Foster, 2004) where the wealthy appropriate bigger share. Foster collected evidences in this regard across Indian states. Unequal distribution of resources in education system is also visible across Indian states. Huge variations in the literacy rate and educational opportunities available to various economic and social groups across various states in India can illustrate the problems in education sector in India. Inequality in adult schooling in India has been shown to be much higher than that of countries like Sri Lanka, China, Indonesia and most of the Latin American countries (Bardhan, n.d).

Anti-Corruption Framework and Anti-Corruption Agencies in India: As already discussed in this work, India has corruption control measures in place from 1860 when the Indian Penal Code was enacted. Subsequent to Independence in 1947, the anti-corruption agencies armed with the Prevention of Corruption Act, 1947 became the primary weapon of the state for corruption control. India has twenty eight anti-corruption agencies at the levels of State Governments and one at the level of the Union Government with jurisdiction over all the Union Territories. These specialized anti-corruption agencies investigate the offences falling under the Prevention of Corruption Act, enacted originally in 1947. But, the Indian anti-corruption agencies could not achieve professional excellence like in the case of anti-corruption agencies of certain developing countries like Malaysia, Singapore, and Hong Kong etc. In a comparative study of six anti-corruption agencies, it has been shown that the Indian Anti-Corruption agencies lack strategic focus in corruption control. For effective anti-corruption enforcement functional independence to anti-corruption agencies has been shown to be a critical requirement. Successful anti-corruption agencies like, ICAC[2] of Hong Kong CPIB[3] of Singapore, ICAC of New South Wales and OGE[4] of U.S.A show that they have functional independence for taking action against the corrupt. Functional independence includes the power to *suo-moto* investigate; and also to prosecute the corrupt irrespective of the position the accused holds. Countries like Hong Kong have given their ACAs the power even to incarcerate suspects in case of risk of flight (Heilbrunn, 2009). The Malaysian anti-

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[2] Independent Commission Against Corruption
[3] Corrupt Practices Investigation Bureau
[4] Office of Government Ethics

corruption law mandates their ACA to examine the practices, systems and procedures of public bodies in order to facilitate the discovery of the offence (Malaysian Anti Corruption Commission, 2016). This facilitates the Malaysian anti-corruption agency to tackle larger conspiracy aspects while investigating corruption cases.

The Principal-Agent theory propounds that corruption will increase with increase in the number of opportunities and incentives for corruption available to public officials (Persson & Bo., n.d). This proposition is about the relationship between corruption and the opportunities available to engage in corruption. It has been argued in various studies, particularly those based on political economy, that the risk of detection and consequent punishment can deter a public servant from engaging in corruption. Anti-corruption agencies are essentially the arrangements to investigate and prosecute the public servants charged with offences related with corruption. For Klitgaard and De Souza (2010) destroying the opportunity structures for corruption and punishing the offenders through legitimate measures (Klitgaard, 1998; De Souza., 2002) are at the core of anti-corruption agencies. But, many countries have not been given functional independence to their anti-corruption agencies and there is global movement for functional independence to anti-corruption agencies.

The Jakarta summit held in Indonesia was dedicated to discuss the provisions required for independent anti-corruption agencies. UNCAC also has provisions dealing with independent anti-corruption agencies. There are studies about the effectiveness of anti-corruption agencies that do not have independence. Pinsker (2001) argues that the weak legitimacy of the Russian anti-corruption agency is due to its dependence on approvals from government before investigating higher officials. Similarly, (Quah (2017) attributes the creation of weak anti-corruption agencies of South Korea and the Philippines to unwillingness of the governments in fighting corruption. As rightly argued, by O' Donnell (2006), efforts to strengthen the rule of law, by challenging an environment of impunity are critical to controlling corruption. This requires functionally independent anti-corruption agencies. But, the Indian Anti-Corruption agencies, right from their very inception, remain dependent upon government authorities for instituting Investigations for the public servants above certain ranks and for prosecuting the public servants in corruption related matters. According to the amended Prevention of Corruption Act, the anti-corruption agencies can take action without prior approval from the government where the Anti-corruption agencies apprehend a public servant while committing the offence.

Effectively, the Indian Anti-Corruption agencies depend upon the government authorities to register investigations and to prosecute a public servant in corruption cases. The process of granting approvals are discretionary; have not been regulated and there are no sanction to the public authority that abuses the process of deciding permissions for initiating investigations or prosecutions (Government of India, 2018). Thus, dependence of anti-corruption agencies on state authorities for prior permissions for initiating investigations and prosecutions can result in delay or denial of approvals from the government. There are evidences of delay caused by the state authorities of even over twelve years for granting approvals to prosecute public servants on the charges of corruption (Supreme Court of India, 2001). Such delays have caused termination of the

proceedings irrespective of merits of the case. Absence of strong anti-corruption enforcement can compromise surety of detection. This may, in turn, promote illegal rent seeking when the permissions for investigations and prosecutions are exercised in discretionary environment.

Whistle blowing in Indian context: Whistle blowing has emerged as one of the potent weapons to deter those in authority from committing misconduct. Eaton& Akers (2007) observe that whistle blowing involves the act of reporting wrongdoing within an organization to internal or external parties. Whistle blowing is powerful because the whistle blower has access to information concerning their workplace practices and are usually the first to recognize wrongdoings (UNODC,. 2004). According to Transparency International (2009), whistle blowing can help to detect abuse, fraud and corruption. There are differences in handling information in public and private sectors. When whistle blowing has become a powerful tool of compliance in private sector, government agencies are reluctant to encourage whistle blowing. Government agencies restrict their employees, through conduct rules, from sharing informations with others for various reasons. As a result, whistleblowers in government departments often face different forms of retaliation, like manufacturing a poor record; being threatened to silence, isolation or humiliation; setting them up for failure; Prosecution; eliminating from their jobs, or incapacitating their careers (Bhargava & Madala., 2015).

Thus, whistle blowing in government sector remains a high cost option and thus, is not a very effective tool of corruption control in public sector. According to OECD, the risk of corruption is significantly heightened in environments where the reporting of wrongdoing is not supported or protected (OECD. 2012). This argues in favour of promoting whistle blowing in public sector by providing necessary safeguards to whistleblowers. But, in private sectors, whistle blowing acts as a powerful tool of compliance. Compliance policies of many private organizations have provisions for reporting concerns and for reporting against retaliations. Private sector approaches whistle blowing as an opportunity to ensure that they deliver the best possible customer service (Whistle. 2017).This helps them to strengthen their compliance policies. India has brought-in whistleblowers protection Act in 2011. According to this Act, public interest disclosure is any disclosure by a public servant or any other person including any non-governmental organization before the Competent Authority (Monanty, 2018). As per this provision, employees can report to the competent authority in their organizations about wrongdoings. The provisions of the amended act (in 2015) also reiterate the same position. Thus, disclosing any information to anyone, other than the competent authority can be a high cost option in public sector in India.

Conclusion

Understanding a phenomenon with global norms in situations where there are strong contextual drivers has always been a challenge in academia and such efforts have often produced less comprehensive outcomes. Still, contextualization can help to evolve tools for addressing the problems where universal prescriptions remain less effective. One of the strong criticisms against the current anti-corruption movement and corruption measurements is the application of universalistic principles and practices on everyone (Dixit, 2016) irrespective of specific

contextual realities. According to Gephart (2009) the international anti-corruption campaign; and its underlying concepts and theoretical assumptions are contested as they undermine contextual issues. Bratis (2003) supports Gephart by arguing that the universalistic approach of defining and understanding corruption overlooks historical, cultural and social specificities that cannot be ignored while trying to understand corruption. Now, the anti-corruption movement and corruption measurements focus on understanding and addressing corruption with emphasis on local settings. This context based work has deciphered the relationship between existing anti-corruption enforcement framework; scope for illegal rent seeking; unregulated rent allocations and distribution of power in India with incidence of corruption in order to have better understanding about corruption in Indian context. In spite of being one of the best performing democratic countries among the developing countries, India continues to have low state capacity and weak regulatory institutions in the fight against corruption. Comparison of Indian and Chinese experiences shows that rule of law is not the panacea for all the problems faced by developing countries and that state capacity is one of the strong determinants of corruption. In the Indian context, social and political factors of the past still have their roots in the distribution of power and resources among various organisations; and the corruption control initiatives, based mainly on western experiences have not evolved to meet global standards. Functional independence and efficiency of Indian anti-corruption agencies remain to be concerns in anti-corruption enforcement in India.

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