



CORRUPTION IN PROTECTION OF ENVIRONMENT: NEED FOR AN EFFECTIVE LAW FOR ACHIEVING THE SUSTAINABLE DEVELOPMENT GOALS

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“Corruption is criminal, immoral and the ultimate betrayal of public trust. It is even more damaging in times of crisis- as the world is experiencing now with the COVID-19 pandemic. The response to the virus is creating new opportunities to exploit weak oversight and inadequate transparency, diverting funds away from people in their hour of greatest need.”

- UN Secretary-General, António Guterres

ABSTRACT

Humans cannot neglect to protect the environment. The realization of protection of environment first was sensed by the nations individually. After World War II, the world nations began to establish national frameworks to protect the environment. But the world nations began to unite and cooperate to establish international frameworks from the United Nations Conference on the Human Environment 1972(Stockholm Declaration, 1972) . Though the protection of the environment is customary international law, it requires treaties and conventions legally binding upon nations. Although the international community agreed upon various regional and international conventions that reflected the international law principles such as precautionary principle and polluter pays principles, few countries, while incorporating them in their national regime, still failed to protect the environment. Though the problem is not in establishing international, regional or national legal mechanisms, issues like corruption at national, regional and international levels hinder the effectiveness of such mechanisms. Protection and distribution of natural resources are major challenges for nations because they have economic value. Corruption in the government sector, especially related to

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revenues from natural resources, will directly impact the environment. Thus, corruption is one of the vital reasons in hindering environmental sustainability. This paper analyses various important international conventions and issues in India, such as exploitation of natural resources and corruption by the public authorities. The present study reveals that good governance, justice, and individual participation in curbing corruption at all levels would help protect the environment and achieve the SDGs.

Keywords: *protection, environment, corruption, Government, Conventions, Sustainable Development Goals*

INTRODUCTION

Corruption is always a notorious problem at all levels of development. It can bring a devastating impact on the environmental sector. The utilization of natural resources plays a crucial role in protecting the environment from degradation. Generally, the States have control over the natural resources, especially in safeguarding, handling and distribution. In such a process, corruption gradually enters the system and interrupts the governance. Nations, for centuries, have been protecting natural resources, but after 1970, the states began to believe that international cooperation is a necessity in protecting the environment. The Declaration of the United Nations Conference on the Human Environment (1972 Stockholm Declaration) is an example of the first international initiative for combating the challenges of protecting and preserving the environment through summit diplomacy. After that, many successful international environment protection agreements were concluded and enforced by the world nations. The world nations in the 21st century established various legally binding mechanisms for protecting the environment. For instance, the United Nations Sustainable Development Goals (SDG) in 2015 created a wider opportunity for the nations to achieve the process of development without deteriorating the environment. This international cooperation also pondered the reasons that hinder the protection of the environment. Corruption acts as a hindrance in the progress of achieving the SDGs. For instance, SDG 16, specifically focuses on peace, justice and strong institutions.

For effectively executing the SDG 16, the judiciary and police play a key role, but these two are most affected by corruption among the various institutions. But the international community, before establishing the SDG, has previously established different regional and international conventions to combat corruption. The United Nations Convention against Corruption, 1993 has 187 parties (as on 2020). Policymakers need to implement the law to strengthen accountability and reduce corruption by monitoring the powers and authorities. Everyone is liable in front of the law and should be equally treated & punished without

distinction. Corruption is a widespread phenomenon in various sectors like forestry, fisheries and waste management, and it is a serious issue where social morals play a vital role. Generally, corruption is interpreted as the misuse of public power for personal interest, an incomprehensible and stratified idea that results in complexities in attaining economic and environmental development.³

The increase in desire among the people to lead a sophisticated life, and technological advancement in catering the people's needs, has resulted in a serious impact on the environment. As a customary international law, environmental protection are followed by nations. But the issues relating to environment cannot be resolved by states acting individually. The principle concerning state responsibility furnishes that States are liable for violating international law. In such cases, customary international law plays a vital role to claim against violating state, either by diplomatic action or by international mechanisms, where such laws are in place with respect to the issue of subject matter.⁴ Thus, safeguarding the environment under municipal law vests with the government-States. The responsibility is delegated based on the administrative hierarchy, where the State enforces its action through its legislative powers. Thus, relying on this system, the state establishes to its people, that it executes its power appropriately by organizing the activities of various sectors under its control. Therefore, corruption and power abuse becomes the reasons in devastating such system. Corruption in environmental protection is a universal problem prevailing in numerous developing nations and is growing at a massive rate. The environmental problems mainly emerge due to the factors like inappropriate managerial activities of an organization, lack of information and mindfulness among individuals.⁵

It is pertinent to note here that, according to a report on environmental accounts provided by the Ministry of Statistics and Programme Implementation, in India, the economic progress had a negative impact on natural resources such as forests, food, and clean air. The report claims that over the period 2005-15, when the average growth rate of gross state domestic product (GSDP) for nearly all states was about 7-8 percent, 11 states have seen a drop in natural capital. Only three states had their natural capital increase by more than 5%, while 13 states witnessed marginal growth in the range of 0-5 percent.⁶ According to the report,

³ Alexandra Leita, *Corruption and the Environment*, Journal of Socialomics, <https://www.longdom.org/open-access/corruption-and-the-environment-2471-8726-1000173.pdf>

⁴ MALCOLM N. SHAW, *INTERNATIONAL LAW*, Cambridge University Press.

⁵ *WCED, Our Common Future: Report of the World Commission on Environment and Development*, Sustainable Development Goals, <https://sustainabledevelopment.un.org/milestones/wced>.

⁶ Kiran Pandey, *India Loses Natural Resources to Economic Growth: Report*, <https://www.downtoearth.org.in/news/urbanisation/africa-to-house-86-of-the-world-s-poorest-by-2050-61671>. DownToEarth, 9 October, 2018.

monitoring natural capital is crucial and should be one of the determinants of sustainable development. Natural capital⁷ refers to the components of nature that provide people with valuable goods and services, such as forest stock, food, clean air, water, land, minerals, and so on. It has to be realized, that the natural resources which are legally exploited have also resulted environmental impact. Therefore, it is crucial to analyze the important international conventions and regional agreements relating to environmental protection. These conventions protect the environment where states are vested with legally binding obligations. Nevertheless, the world nations have many challenges in effectively executing the obligations, as the mechanism and institutions responsible for implementing the obligations were influenced by corruption.

MEANING OF CORRUPTION

Corruption is a huge global, national, and local problem since it jeopardizes development, peace, security, and environmental protection. Accepting corruption and corrupt practices destabilizes governments, the rule of law, and our democratic system. No community, wealthy or impoverished, can afford such a waste of resources. The world is under a compulsion to protect the environment from continuing human existence. Therefore, fighting corruption must be intensified at all levels of governance.

The World Bank and Transparency International characterize corruption as "the misuse of public office for private gain".⁸ Further, it comprises of inappropriate and illicit act of public-service officials, including political and non-military servants, whose position or status provides chance in misusing Government's money and property.⁹

SUSTAINABLE DEVELOPMENT GOALS AND PROTECTION OF ENVIRONMENT

Corruption is a multifaceted issue; it has deep roots in bureaucratic and political institutions. Its impact on development varies depending on the circumstances of the country. However,

⁷ The natural capital accounting (NCA) method has been used, in this report, to account for income and costs associated with natural resource used, based on a framework approved by the United Nations in 2012 called the System of Environmental Economic Accounts (SEEA); (SEEA is a framework that integrates economic and environmental data to provide a more comprehensive and multipurpose view of the interrelationships between the economy and the environment and the stocks and changes in stocks of environmental assets, as they bring benefits to humanity. It contains the internationally agreed standard concepts, definitions, classifications, accounting rules, and tables to produce internationally comparable statistics and accounts. <https://seea.un.org/>)

⁸ The World Bank, *Helping Countries Combat Corruption: The Role of the World Bank, Poverty Reduction and Economic Management Network*, (Jan. 25, 2022, 11.40pm) <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm>

⁹ Petter Langseth, Prevention: An Effective Tool to Reduce Corruption. United Nations Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, https://www.unodc.org/documents/corruption/Publications/1999/Prevention_An_Effective_Tool_to_Reduce_Corruption.pdf.

while costs vary and systemic corruption coexists with great economic performance, experience implies that corruption is detrimental to growth. For instance, it prompts governments to intervene when they are not required. Furthermore, it jeopardizes their ability to develop and execute policies in areas where government action is required, such as in environmental control, health and safety regulations, social safety nets, macroeconomic stabilization and contract enforcement.

The United Nations, with the help of its specialized agencies, focuses on the development, protection and in maintaining peace and security. The United Nations Environment

Programme (UNEP), plays a crucial role in implementing environmental development activities globally, in various areas like ecosystem management, environmental governance, climate change, disasters and conflicts, chemicals and waste, resource efficiency and the environment under review.¹⁰

The Sustainable Development Goals, expressly acknowledge the interdependence of the economy, society, and the environment. The SDGs provide an astonishing opportunity to preserve our "natural capital" (which is a nature's gift to mankind), such as climate regulation, clean water, and biodiversity, nearly one-third of the SDG rely on nature for its accomplishment. As nations explore how to meet their obligations, under the SDGs, the Nationally Determined Contributions (NDCs) to the Paris Agreement, 2015, was enforced, which plays a crucial role towards the preservation of 'natural capital' to attain sustainable development. Before SDGs was established, the world nations were committed, in protecting the nature at regional and national level. The critical links between nature and human well-being are incorporated in its targets, practically in all of the SDG objectives. For example, increasing sustainability of fisheries under Goal 14 assists nations in reducing hunger under Goal 2, improving the resilience of the poor under Goal 1, and improving responsible production and consumption under Goal 12. Therefore, it is crucial to realize the significant role of SDGs in protecting the environment. Besides these SDGs 8 relating to decoupling economic growth from resource depletion and environmental degradation. Corruption affects the SDG 8, like the revenue legally generated through wildlife and relevant resources contributes to a country's economic growth.¹¹

¹⁰ Why does UN Environment Programme matter?, UN ENVIRONMENT PROGRAMME, <https://www.unep.org/about-un-environment/why-does-un-environment-matter>

¹¹ Natural Resources and Pro-Poor Growth. OECD. <https://www.oecd-ilibrary.org/docserver/9789264060258-en.pdf?expires=1651741233&id=id&accname=guest&checksum=3640BA5AADF2827888F7295ED7B1355C>

RULE OF LAW AND UNITED NATIONS

Corruption in the environmental sector can have disastrous consequences. Corruption is a multifaceted social, political, and economic issue that affects all nations. Corruption weakens democratic institutions, suppresses economic growth, and contributes to political instability. By distorting electoral procedures, perverting the rule of law, and creating bureaucratic quagmires whose sole purpose is to seek bribes, corruption undermines democratic institutions. Corruption also impacts while executing environmental programmes. For instance, corruption takes place in granting permits and license while exploitation of natural resources and law enforcers bribed for overexploiting the natural resources. The best example is sand mining. It is now widely recognized that anti-corruption measures go beyond criminal justice systems and are critical to establishing and maintaining the most fundamental good governance structures, such as domestic and regional security. Further, the rule of law and social and economic structures are effective and responsive in dealing with problems and using available resources as efficiently and with little waste. The UN convention was established in 2003, which is the only anti-corruption instrument, that focuses on five wide regions under preventive measures, criminalization and law enforcement measures, international participation, asset recovery, technical assistance and data exchange. This Convention, additionally gives various types of corruption – bribery, trading in influence, abuse of functions, and different acts of corruption in the private sector. When it comes to the environmental protection issues, most world nations, based on their national legislation, have established pollution control and monitoring agencies responsible for monitoring pollution and protecting the environment.

According to Article 19 of the UN Convention, Each Member State shall consider implementing such legislative and other measures as may be necessary to establish the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or another person or entity, as a criminal offence when committed intentionally. Additionally, Article 21 and 22 of the UN Convention against corruption, obligates state parties to consider adopting legislative measures against persons engaged in private sector, commits offences such as bribery and embezzlement of property in the private sector. The nations can well adopt these operative provisions for controlling corruption in the environment protection bodies at national level. Transparency, civil society participation assists governments in guaranteeing the extensive use of resources, resulting in better service delivery and accountability, both of which contribute towards environment development and economic growth.

INTERNATIONAL CONVENTIONS

The international community before nine decades, had begun to concentrate on protection of environment and realized that it can be achieved only through international cooperation.

There are many international conventions which are established to protect the environment such as:

- i. **The Convention on International Trade in Endangered Species of Wild Fauna and Flora, (CITES) 1973:** The widespread trend of many important animals, like elephants and tigers, are becoming endangered. This results in a need for enforcement of this Convention. However, in 1960s, as a binding instrument, the concept of CITES was initially implemented to eradicate wildlife trading. The trade on plants and animals is carried out for their end product such as food, exotic leather goods, wooden musical instruments, lumber, tourist curios, and pharmaceuticals. Thus, overexploitation through trade causes habitat loss, and many species turn into. Since, through trade, wildlife is overexploited for their products; moreover, it crosses national boundaries to save the wildlife from becoming extinct, CITES was established. This Convention has shown a various levels of assurance in saving beyond 37,000 wildlife, and plant species regardless of trade for animal species or for its end product.
- ii. **The Minamata Convention on Mercury, 2013:** This Convention focuses on safeguarding the environment and well-being of humans from the detrimental consequence of Mercury.
- iii. **The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989:** An international treaty, which is intended to minimize the risk of harmful waste and disposal of them among nations.
- iv. **Rotterdam, 1998:** The Rotterdam Convention was adopted by a Conference of Plenipotentiaries in Rotterdam, Netherlands, on September 10, 1998, and came into force on February 24, 2004. The objective of the Convention is to encourage Parties to share responsibility and help safeguard human health. Further, the Convention aims to protect the environment from potential harms in the international trade of certain hazardous substances; and contribute to the environmentally sound use of those hazardous substances by promoting the exchange of information about their characteristics, establishing a national decision-making mechanism for their import and export, and publicizing these

decisions to State Parties. The Parties incorporated the Prior Informed Consent (PIC) system on the ecological grounds. The Convention builds up legally enforceable obligations by Prior Informed Consent (PIC) procedure, initiated by UNEP and FAO in 1989 and ceased in 2006.¹²

- v. **Stockholm Convention on persistent organic pollutants (POPs):** This Convention was implemented on Persistent Organic Pollutants, on meeting of diplomats - 22 May 2001 in Stockholm, Sweden; Further this came into force on 17 May 2004. This Convention safeguards human health and the environment from hazardous pollutants.
- vi. **The Vienna Convention for the Protection of Ozone Layer and Montreal Protocol 1985:** This Convention was enforced to safeguard the health of humans and protect the environment from the harmful effects of the ozone layer.
- vii. **The Convention on Migratory Species, 1979 (CMS)** It is one of the important Conventions in protecting Migratory species, also known as Bonn Convention. CMS's prime objective is to protect the species living within or passing through the State parties national boundaries. As a United Nations environmental treaty, CMS provides a universal forum to safeguard the migratory animals and the ecosystems from depletion. India is a party to this Convention since 1983.
- viii. **The Carpathian Convention, 2003:** One of Europe's biggest mountain ranges, is said to be the Carpathians, which is an area of exclusive natural valuables of tremendous vision, having ecological significance, and forms a source for important rivers. It creates a significant environmental, social, economic, cultural, and living environment in the heart of European people. The Parties of this Convention, share a goal of pursuing comprehensive policy and collaboration in order to ensure the Carpathians' conservation and long-term growth. Also, in improving the quality of life, and conserving natural resources. Therefore, this Convention aimed to promote feasible growth and protect the Carpathian area. Seven Carpathian states signed it in May 2003.
- ix. **The Bamako Convention, 1991:** The Bamako Convention is an African convention prohibiting importing hazardous (counting radioactive) squander into Africa. This Convention, invites parties for bilateral, regional and multilateral agreements on minimizing the harmful waste, which is a prime objective of this Convention. Bamako

¹² Rotterdam Convention, UN ENVIRONMENT PROGRAMME, <http://www.pic.int/TheConvention/Overview/tabid/1044/language/en-US/Default.aspx>

Convention is also an impact of :

- a. The Basel Convention's failure to restrict the trade of dangerous waste to least developed countries (LDCs);
- b. The realization that few developed nations were trading hazardous wastes to Africa (*Koko* case in Nigeria, *Probo Koala* case in Ivory Coast).

12 states from African Union negotiated the Convention, and it came into force in 1998. This Convention prohibited the imports of all hazardous and radioactive waste into the African continent. Further, the Convention also aimed in minimizing and control the transboundary movements of hazardous wastes within the African continent. Notably, the Convention establishes the precautionary principle. The countries are banned from importing hazardous waste, radioactive wastes, and all forms of ocean disposal.

- x. **The Tehran Convention, 2003:** This Convention assures the Marine Climate of the Caspian Sea, otherwise called the "Tehran Convention" named after the city, entered into force by the five Caspian littoral States in 2003. It is a legally binding regional agreement mandated for the general requirements and institutional mechanism for protecting the environment in the Caspian region. Further, this umbrella legal instrument also extends its protection in preserving, restoring, and protecting the Caspian Sea species and inhabitants. This Convention applied the precautionary and polluter pays principle to fulfil its prime objectives.

Illegal logging is a transnational economic crime that is directly connected to corruption. There are obvious negative consequences such as damage and degradation to the environment, impact on society, and economic consequences that affect a particular nation and the world at large. For instance, conserving forests as a carbon sink is currently a top priority for the international community due to climate change. In such a situation, where wrong done or damage caused to the environment by a few states results in consequence affecting people in general, and the world community together is under compulsion to combat such consequences. The UNODC Transnational Organised Crime Threat Assessment, in its 2010 report stated that the operation of illegal logging involves many actors, including officials and has become problematic to disentangle legitimate and illegitimate commerce. The international community also insists upon states considering that issues like illegal logging and corruption cannot be combated by one country alone. Even such countries have appropriate domestic legislation, and only international cooperation can eradicate all forms of environmental crimes. Though there are many international

conventions and regional agreements, corruption is one prime issue hindering national and international initiatives to protect the environment.

CORRUPTION AS A HINDRANCE TO ENVIRONMENTAL SUSTAINABILITY

India's prime concern is maintaining high economic growth while still ensuring environmental sustainability and social justice. Unfortunately, the mandate of environmental sustainability does not coincide with the high growth rate of the last decade. Cities in India have polluted air, toxic waterways, and poorly handled hazardous waste. This may be due to the widening gap in environmental legislation and regulatory institutions to counter the adverse effects of the environment due to the rapid industrialization that has developed over time. Environmental regulations are designed to ensure that resources are used sustainably and efficiently. The responsibility of regulatory bodies is to safeguard the environment against degradation through an organized monitoring mechanism, enforcement and compliance procedure. However, within the administrative foundations, there are inherent constraints in regulatory institutions such as the Union ministry of environment and forests (MoEF), the Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs). Thus, such institutions need to be recognized and eliminated to guarantee the substantial establishment of environmental directives in the country.¹³

ADMINISTRATIVE ABUSE RESULTS IN ENVIRONMENT DEGRADATION – ISSUES IN TAMIL NADU, INDIA

In India and in many countries, there is administrative abuse in the public sector. Likewise, corruption in environmental protection agencies in India, are building greater problems in efficiently executing the duties entrusted with the environmental protecting agencies. The social activist K.R.Ramaswamy @ Traffic Ramaswamy filed public interest litigation against Tamil Nadu Government regarding violations in granite quarry and Madurai Bench of Madras High court appointed Mr.U.Sagayam an IAS officer as special/legal officer to look into the probe. The granite quarries in Madurai, Tamil Nadu violated, and the scam went to nearly 16,000 crore rupees and resulted in environmental degradation. In another incident, Periyasampuram in Tuticorin District of Tamil Nadu in 2015, Mr.Victor Rajamanickam, a renowned Geologist in the country, filed a public interest litigation before the Madras High Court and revealed the 1 Lakh crore illegal beach sand mining to the country. The said two

¹³ Nivit Kumar Yadav and Anil Roy, *Turn Around, Reform Agenda for India's Environmental Regulators*, Center for Science and Environment, 1, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiU6sLzuabwAhWqxTgGHXbyBiEQFjAFegQICBAE&url=https%3A%2F%2Fwww.cseindia.org%2Fcontent%2Fdownloadreports%2F479&usg=AOvVaw0b4Q2RDVK8ynSjYx44sTcH>

incidents in Tamil Nadu happened due to corruption and administrative abuse, which causes a threat to the environment and improper use of natural resources results in environmental degradation. As of December 2020, the Directorate of Vigilance and Anti-Corruption has arrested about 33 government staff for corruption in various departments in Tamil Nadu. A superintendent's (in the environment department) house was on a raid by DVAC, and they seized property worth Rs 1.37 crore. This includes unaccounted money of Rs.88,500, 3 kilograms, 10 carats of diamonds, fixed deposits of Rs 37 lakh and 18 property documents. Another incident in Vellore (a district in Tamil Nadu) where a raid in the zonal officer's residence (who worked in State Pollution Control Board), by DVAC, seized property worth Rs 3.5 crore, 450 sovereign gold and 6.5 kg silver.¹⁴ The above issues establishes as a fact that how corruption has almost invaded in to environmental governance.

India sanctioned the United Nations Convention against Corruption 2003 which implies reaffirmation of Government's obligation to battle defilement. Therefore, India is vested with a liability in undertaking robustly administrative legal reforms to authorize the law enforcement authorities to recover the properties obtained through the practice of corruption. Lately, defilement and conceivable enemy of debasement measures have been widely spoken at public, global and multilateral levels.¹⁵

The Government of India, in 2010, appointed a Commission of Inquiry as a result of repetitive corruption allegations reported in several states on the mining of iron and manganese ore at a large scale. After the investigation, the Committee was responsible for submitting a report within 18 months.¹⁶ As a result, two reports were submitted by the said Committee, one, based on illegal manganese and iron ore mining across India; the second one on illegal mining in Goa. In reaction to it the Supreme Court imposed a temporary ban on all mining activity in the State. The report stated that the State and the Ministry of Environment and Forest (MoEF) were accused of permitting illegal mining in Goa, exposing the region's ecosystem and ecology at risk. According to the report, around 90 mines were operating without the required permit from the National Board for Wildlife, and 33 of them were within 1.5 kilometres of wildlife sanctuaries. Former Karnataka mines and geology department head M E Shivalinga Murthy has been charged with providing fake licences to the Associated Mining Company

¹⁴ Tamil Nadu: Since October, DVAC arrests 33 govt staff for corruption, TIMES OF INDIA, <https://timesofindia.indiatimes.com/city/chennai/since-oct-dvac-arrested-33-govt-staff-for-corruption/articleshow/79767711.cms> .

¹⁵ Na Jiang, International Anti-Corruption Cooperation: Main Features and Trends, Vol 2, Issue 4, Intellectual Properties Rights: Open Access, 2014, <https://www.longdom.org/open-access/international-anti-corruption-cooperation-main-features-and-trends-ipr.1000121.pdf>

¹⁶ *China Mining: Indian Illegal Mining Investigation Ends without Explanation*, RIGHTS + RESOURCES, <https://rightsandresources.org/blog/china-mining-indian-illegal-mining-investigation-ends-without-explanation/>.

(AMC), which former minister Gali Janardhan Reddy owns. After further investigation, the mines and geology department identified six of its top officers involved in AMC's illegal iron ore mining.¹⁷

As an international initiative, combating corruption requires international cooperation. United Nations Convention against Corruption, 2003 and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention), 1997 are the important United Nations legally binding instruments involved in combating corruption in the wildlife related trade and business.

UNITED NATIONS CONVENTION AGAINST CORRUPTION, 2003

While corruption is not the only factor deteriorating the environment, there are other issues such as inadequate governance leading to ineffective policy creation, management, monitoring, and enforcement, which can manifest as issues with environmental sustainability. Particularly, in many developing countries invested with moderately bountiful natural assets, defilement is viewed as a significant offender in ecological corruption.¹⁸ Corruption can occur both during the earliest phases of resource exploitation and at the time of operation. Whether executed at the national or in the international level, these offences will pave the way for the loss of resources and habitats and affect the ecosystems and livelihood of local populations. Thus, the United Nations Convention against Corruption (UNCAC) is useful for all stakeholders. It is the first, anti-corruption agreement, urging state parties to develop legal and policy frameworks in line with universally acknowledged standards and an international system to combat corruption effectively.

Surprisingly, the UN Convention against Corruption does not define corruption as such. It rather outlines particular acts of corruption that should be taken into account in every jurisdiction covered by the UNCAC. Bribery and embezzlement are examples, but money laundering, and concealment, are obstructions of justice. In addition, when defining who might be considered potential participants in corruption, UNCAC takes a functional approach to the term "public servant": it incorporates any individual who holds an authoritative, managerial, or chief office or offers a public assistance, including workers of privately owned

¹⁷ ThinThuy Van Dinh, Addressing Corruption in Environmental Sector: How the United Nations Convention against Corruption Provides a Basis for Action, UNODC, https://www.unodc.org/documents/corruption/Publications/2012/Corruption_Environment_and_the_UNCAC.pdf.

¹⁸ Richard Damania, *Environmental Controls with Corrupt Bureaucrats*, Environment and Development Economics, Vol 7, Issue 3, CAMBRIDGE UNIVERSITY PRESS, <https://doi.org/10.1017/S1355770X02000256>.

businesses under government contract.

The United Nations Convention Against Corruption, Article 18 on Trading in influence provides "Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage so that the public official or the person abuses their actual or supposed influence to obtain from an administration or public authority of the State Party an undue advantage for the original instigator of the act or any other person;

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or another person so that the public official or the person abuses his or her real or supposed influence to obtain from an administration or public authority of the State Party an undue advantage."

(c) The UNAC under Chapter II explains the preventive measures that the State Parties can adopt. Further, the only way to bring down corruption in the non-renewable sector is by increasing accountability and transparency. But unfortunately, in mining, gas and oil asset-rich nations, over and over again, the abundance created by these assets isn't overseen straightforwardly. As a result, the conventional populace stays buried in destitution while not many fill their pockets with the returns of debasement.¹⁹

(d) Conversely, Article 13 of the UNAC, provides for the participation of society where the state parties are encouraged to promote the active involvement of individuals, public sector, non-governmental organizations and community-based organizations in preventing and fighting against corruption.

INDIA AND ITS INITIATIVES IN COMBATING CORRUPTION

In conformity with recent international practices laid down by the United Nations Convention Against Corruption, India enacted The Prevention of Corruption (Amendment) Act, 2018, which established its attentiveness to curbing corruption. Law enforcement authorities and the judiciary must set the example for the rule of law to be respected. In addition, judicial processes for the investigation and prosecution of corruption need to be expedited to offer credible deterrence. Supreme audit bodies, often independent bodies with the power to review government action (or inaction) and "follow the money", might be used more often to uncover and address corrupt acts. Although corruption may be sufficiently prevalent in some places as to seem like a way of life, as an African proverb says, "Many little people in many small

¹⁹ Supra Note 5

places undertaking modest actions can transform the world”.²⁰

India also has established a Central Vigilance Commission in 1964. In 2004 the Central Vigilance Commission was authorized as "Designated Agency" to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.²¹

The judiciary has also played a vital role in combating corruptions at all level. In *K. Veeraswami vs. Union of India and Others*,²² a complaint against the appellant, who was an Ex-chief justice in high Court, was brought before CBI under Section 5(2) read with Section 5(I)(e) of the Prevention of Corruption Act, 1947 was enlisted on 24.2.1976 and a F.I.R was the recorded in the Court in front of Special Judge on 28.2.1976. The appellant continued on leave from 9.3.1976 and resigned on 8.4.1976 on accomplishing the period of superannuation. The examination was completed, and a charge sheet was documented against the litigant on 15.12.1977 under the supervision of special judge. As per the charge sheet, the appellant in the wake of accepting the workplace of the Chief Justice on 1.5.1969, progressively initiated amassing of resources in the ownership of monetary assets and belongings, in his name and in the names of his significant other two children, lopsided to his revenue in the period between the date of his arrangement as Chief Justice and the enrolment date. Consequently, he carried out the offence of criminal wrongdoing under Section 5(1)(e), culpable under Section 5(2) of the Prevention of Corruption Act, 1947. In the interim, the appellant moved to the High Court under Section 482, Cr.P.C. to subdue the said criminal procedures. A Full Bench heard the proceeding, High Court, which dismissed the petition by 2:1, however, conceded a certificate under Articles 132(1) and 134(1)(c) of the Indian Constitution, taking into account the significance of the law involved. Further, the Court rejected the appellant's plea. It stated that Article 124 of the Indian Constitution is not a shield conferring immunity to a judge from being prosecuted on a corruption charge.

In *A.C. Sharma vs. Delhi Administration*,²³ the question arises in this case, in setting up either Delhi Special Police Establishment (*SPE*) (for example, CBI) or the Anti-Corruption Branch of Delhi Police. These forces were denied of its ability, to examine the defilement bodies of

²⁰ Marceil Yeater, *Corruption and Illegal Wildlife Trafficking*, UNODC, https://www.unodc.org/documents/corruption/Publications/2012/Corruption_Environment_and_the_UNCAC.pdf

²¹ About Central Vigilance Commission, CENTRAL VIGILANCE COMMISSION, <https://cvc.gov.in/?q=about/background>

²² 1991 (3) SCC 655

²³ AIR 1973 SC 913

evidence against Central Government workers. Both SPE and Anti-Corruption Branch could explore, it involved interior managerial plan for the suitable position to direct the examine task as per the requirement of the circumstance. The Supreme Court held that the plan of DSPE Act 1946 doesn't either explicitly or by vital ramifications strip the legal police authority of their ward, power and capacity to examine into offences under some other *appropriate* law.

In *State of Maharashtra vs. Gajanan & Anr.*,²⁴ under Section 389(1) of the corruption case, stay of sentence and conviction by High Court facilitates the continuance of service of a public servant. The Supreme Court referred *K.C.Sareen vs. CBI Chandigarh*, where the Courts can consider the 'exceptional fact' to stay the sentence by the trial court and facilitate the public servant (who is accused for corruption) to continue to hold the civil post despite the conviction recorded against him. It was observed by the Supreme Court that "the High Court, in this case, has made no mention of the remarkable fact that, in its opinion, prompted it to suspend the conviction in the impugned order. The High Court also ignored this Court's directive that it must consider all factors, including the consequences of keeping such a conviction on hold. The High Court, in our opinion, did not take any of the circumstances as mentioned earlier into account when staying the conviction. It should also be mentioned that the Court's decision in *K.C. Sareen vs. Union of India & Anr.* (above) was later upheld, followed by the Court's decision in *Union of India vs. Atar Singh & Anr.* [SC 212, JT 2001 (10)], not proper and impugned order set aside". In *K.C. Sareen vs. CBI Chandigarh*²⁵ the Supreme Court observed that "When a public servant, who is convicted of charges of corruption, is allowed to continue to hold office, it would impair the moral of the other persons manning such office and consequently that would erode the already shrunk confidence of the people in such public institution besides demoralizing the other honest public servants who would either be the colleagues or subordinates of the convict person".

However, the Indian judiciary has exercised its power to curb corruption at all level. Still, there are few international best practices such as ARREST (Asia's Regional Response to Endangered Species Trafficking), a project where training is given under the framework of CITES and INTERPOL to the officers involved in monitoring wildlife trafficking which received combined training in navigation, patrolling, reconnaissance, raids, arrest and search which are necessary for forest rangers. In such regional mechanisms, the anti-corruption

²⁴ *State of Maharashtra vs. Gajanan & Anr.*, 2004 Cr.L.R.SC 242

²⁵ *K.C. Sareen vs. CBI Chandigarh*, (2001 (6) SCC 584)

portfolio should be an integral part so that the anti-corruption wing can effectively execute its initiatives in identifying and curbing officers, government officials and ministers involved in environmental corruption. The judiciary can suggest for such mechanisms based on Article 50 of the United Nations Convention against Corruption which obligates to adopt various forms of investigation techniques such as electronic or other forms of surveillance and undercover operations. In addition, Article 50.2, encourages state parties to enter into bilateral and multilateral agreements or arrangements to utilize special investigation techniques.

Corruption breeds and thrives in circumstances where governance and accountability systems are weak or non-existent. To reduce corruption in natural resource governance, it is necessary to improve accountability, integrity, and transparency throughout the whole system. Some forms of corruption may be seen as regular aspects of Government, law enforcement, and corporate operations in many nations. Some people may think it acceptable to break the law in order to benefit themselves, their family, or their friends, especially in nations where faith in governmental authority and law enforcement is low. There are many scams which are result of utilization of natural resources in India. For example, mining scandal in Karnataka. The Government realized that the mining activity helped the local communities a little but paved the way for environmental degradation. India is known for is largest production and exporting lucrative minerals such as mica, coal, barites, iron ore, bauxite and manganese.²⁶ Additionally, corruption also affects wildlife conservation. The 2015 Report by the World Wildlife Fund (WWF) and TRAFFIC Wildlife Crime Initiative states that corruption facilitates worldwide wildlife, forest, and marine crimes, and other harmful environmental consequences, jeopardising biodiversity and communities' livelihoods. Corruption threats abound across the global fish, forest, and wildlife supply chains, ranging from minor bribes for forged export licences and back-door access for poachers to highly-organized collaboration to circumvent labour rules on fishing fleets and political payoffs for new timber concessions.²⁷

THE UNITED NATIONS GLOBAL COMPACT²⁸

The United Nations began to protect the environment by focusing on various stakeholders. The United Nations Global Compact intended to organise a worldwide movement of sustainable businesses and stakeholders to achieve the world we desire. That's our vision for

²⁶ Paranjay Guha Thakurta, Why Mining in India is a Source of Corruption. <https://www.bbc.com/news/world-south-asia-14486290> . 12 August, 2018

²⁷ Strategies for Fighting Corruption in Wildlife Conservation: A Primer. World Wildlife Fund (WWF) and TRAFFIC Wildlife Crime Initiative Publication, 2015. P-4

²⁸ The United Nations Global Compact call the companies to align strategies and operations with universal principles on human rights, labour, environment and anti-corruption, and take actions that advance societal goals". <https://www.unglobalcompact.org/what-is-gc>

the future.

- To achieve this, the United Nations Global Compact encourages businesses to:
- Develop plans and operations that are in line with the Ten Principles on human rights, labour and the environment; and
- Take strategic steps to achieve wider societal goals, such as the UN Sustainable Development Goals, with a focus on cooperation and innovation.

However, corruption in the environment may occur in the business related to utilization of natural resources. In such kind of business, sustainability originates with a principles-based approach. The UN Global Compact has come out with Ten Principles²⁹ where Principles 7,8, and 9 relate to business and the precautionary approach to environmental challenges, responsibility and utilization of eco-friendly technologies in business. Further, Principle 10 focuses on, any business must aim at avoiding and be against any form of corruption such as extortion and bribery. For example, the words of the President and CEO, Siemens “Fighting crime and corruption is important for sustainable development. At Siemens, with its 377,000 employees all around the world, there is zero tolerance for misconduct and violations of applicable laws. That is our clear message and the tone from the top. We systematically anchor integrity and compliance in our company culture. Beyond the boundaries of our company and in our support of the global fight against corruption, we are committed to Collective Action to promote fair competition. Thus, we will continue to drive the Siemens Integrity Initiative, which has so far committed more than US\$70 million in around 55 projects in all major growth regions and high-risk countries.”³⁰ This kind of company strategies will help to achieve the SDGs 13 on climate action, SDG 16 on peace, justice and strong institutions, SDG 17 partnerships for the goals and provides that the SDGs can be realized only with strong partnership and co-operation. The above SDGs are directly connected with the matters relating to environmental protection where the natural resources are utilized in business and trade.

CONCLUSION

Corruption is connected to environmental sustainability and economic and social growth. The corruption in the political system, is at the foundation of non-compliance with environmental legislation, which leads to poor environmental governance and weakens the implementation

²⁹ The Power of Principles. <https://www.unglobalcompact.org/what-is-gc/mission/principles>

³⁰ Promoting Anti-corruption Collective Action through Global Compact Local Networks, 2nd Edition, United Nations Global Compact, 2018. P-3.

of regulations as well as mobilization of the natural resources. Ranger service, unlawful dealing of imperilled species, water supply, oil abuse, fisheries, and dangerous waste administration are generally especially inclined to defilement. In certain situations, governments have enacted environmental legislation in accordance with applicable Multilateral Environmental Agreements. On the other hand, corruption distorts the execution of such laws. The ill-effects of corruption resulted in international organization seeking to implement good administration in developing nations. Such policies aim to promote openness, integrity, and accountability in both sectors (Government and private) to achieve continuous growth and better service provider to society. When both a corruption oversight agency and an environmental protection body exist, they should cooperate closely in assessing corruption risks and in developing codes of conduct for public officials in vulnerable sectors (Article 8 of UNCAC), or even develop a common strategy to prevent and combat corruption in the environmental sector. In addition, an effective prevention policy should include activities aimed at raising awareness of the consequences of corrupt practices in the environmental sector among the general public as well as other stakeholders, non-governmental organizations, law enforcement officers, investigators, prosecutors, judges, consumers and the private sector. The Indian judiciary can also be blamed for its inefficiency in deciding corruption-related cases discourages people from participating in combating corruption. Therefore, the lawmakers have to analyze Article 13 of the United Nations Convention against Corruption, which obligates the State parties to take appropriate measures in accordance with the domestic law in encouraging active participation of the public, individuals, non-governmental organizations, and other community-based organizations in combating corruption.

Additionally, it also mandates state parties to create awareness among public, schools and universities in corruption-related issues and involve them in decision making to combat corruption effectively. Improving transparency, accountability, democracy, and good governance are crucial for combating corruption in the environmental sector. Commitment from politicians and policymakers in resource-rich nations is required to enhance the legal structure and related institutions. It is crucial that people not exploit natural resources through illegal activities. Furthermore, local communities and the general public who use relevant products may help increase transparency in the process by learning how and with what type of environmental impact such products or outcomes are obtained.

Finally, it is the responsibility of society to curb corruption. Each corrupt transaction necessitates the presence of a "buyer" and a "seller". The Government deals with public officials, who participate in bribery and extortion, but it is the individuals offering bribes to

government officials to get specific benefits. Excellent administration, which incorporates a comprehensive obligation to law and order, is essential for ecological supportability and destroying the natural harm brought about by defilement. The legal structure of the country has an indispensable role in combating corruption. The extent of law enforcement determines the level of corruption. Conclusively, as under SDG 16, peace, justice and strong institution, it is difficult. We can't expect sustainable growth until there is peace, stability, respect for human rights, and good governance based on the rule of law in our society.
