



ANTI BRIBERY LAWS AND THE ONE WORLD CORPORATE SECTOR

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ABSTRACT:-

Anti-bribery laws prohibit activities which is illegal and immoral like payment of anything of value by persons or entities to state or foreign government officials to obtain benefit. The rules and regulations of corporate entities to prevent corruption practice is most important. These corporate entities focuses more on all kinds of corruption and has strict anti-bribery policy. There will be link between anti-corruption laws and how the corporate entities tries to prevent it. The main aim would be to enlighten the different challenges and solutions through anti bribery laws to blend international rules and standards with the global corporate sector. The base of my research would be gathering information by researching all the aspects of theoretical and practical by explaining the fair competition and transparency in the conduct of work in corporate world. The evolution of Anti- bribery laws in India, UK and USA and the changes in the globalized economy. The foremost aspect of this dissertation is comparison analysis of different bribery laws in three countries (USA, UK and India). There will be discussion on how United Nations Convention against Corruption (UNCAC) and the OCED Anti Bribery Convention probing into corporate entities. Scrutinizing the role played by regulatory bodies and law enforcement agencies in Indian and International corporate sectors. Extensive research will be there in my dissertation to understand the impact of bribery laws on domestic and international corporate and how these affects both domestic and foreign investors. In the Global World economy, anti-bribery laws which is a moral obligation with legal obligation India, USA and UK have strict laws with respect to corruption practices in corporate world. In India, The prevention of corruption Act (PCA), 1988, which was amended in 2018 with heavy penalties, In USA, the foreign corrupt practices Act (FCPA) plays important role and in UK it is Bribery act 2010, these are paramount laws on anti-bribery legislation.



KEYWORDS: global corporate sector , legal obligation India , egulatory bodies and law enforcement agencies.

LITERATURE REVIEW**Controlling the Global Corruption Epidemic by Robert S. Leiken**

“American firms have lost to transnational bribery approximately \$11 billion in foreign contracts since 1994, according to a September 1996 Commerce Department report-and the annual procurement market in developing countries is approaching \$1 trillion. In the globalized late 20th century, Americans can no longer afford merely to deplore foreign corruption--or to shrug it off as a necessary cost of international business”¹.

¹Leiken-ControllingGlobalCorruption-1996.pdf

THE UK BRIBERY ACT 2010 AND ACCOMPANYING GUIDANCE: BELATED IMPLEMENTATION OF THE OECD ANTI-BRIBERY CONVENTION by Cecily Rose

"The OECD's Good Practice Guidance on Internal Controls, Ethics, and Compliance ('OECD Guidance') appears to have helped shape the domestic guidance that the UK Government finally issued on how companies should prevent the bribery of foreign public officials.¹² Part III of this article explains how the OECD guidance, despite its non-binding form, successfully penetrated the domestic legal system of the United Kingdom, where it actually retained its non-binding form. The UK guidance does not technically oblige companies to implement its principles, but the incentives for doing so are considerable."²

Tackling International Corruption No Longer Taboo John Brademas and Fritz Heimann

"The OECD convention, by making foreign bribery a crime, will strengthen efforts to end tax deductibility. The convention will also cause companies in OECD countries to adopt corporate compliance programs, just as U.S. companies did after the passage of the Foreign Corrupt Practices Act in 1977. Corporate self-regulation will multiply the effectiveness of government antibribery law enforcement. It will also enhance the World Bank's efforts to prevent bribery. Wider adoption of corporate compliance programs by foreign companies will make it possible for the World Bank and other international financing institutions to insist on such programs as a condition for bidding on major procurement projects".³

CHAPTER OVERVIEW

This dissertation is divided into four parts. The First part answers the question that What is corruption and how it affects international business by discussing the opinions different scholars.

The second part discusses different provisions in INDIA, UK and USA i.e. prevention of corruption Act 1988 in India .UK bribery Act and Foreign Corrupt practices Act of 1977 and comparative analysis in all three countries.

The third part discusses meaning, importance, scope and role of UNCAC and OCED to prevent corruption internationally in corporate world.

The fourth and FinalPart deals with how different International organization curb prevention and what are the measures taken by these organization.

RESEARCH QUESTION

- i. What is corruption? How does it affect international market?
- ii. Comparison of anti-corruption laws in USA , UK and India.
- iii. How United Nations Convention against Corruption (UNCAC) and the OCED Anti Bribery Convention probing into corporate entities?
- iv. What are other measures taken by international organization to curb corruption?

INTRODUCTION

What is corruption? How does it affect the international market?

Corruption is "an illegal activity(bribery, fraud, financial crime, abuse,falsification, favoritism, nepotism, manipulation, etc. conducted through misuse of authority or power by the public(government) or private(firms) officeholders for private (firms) officeholders for private gain and benefit, financial or otherwise."⁴ In simple words we can understand corruption as the person or firm conducting any form of illegal activity, any misuse of power or authority in violation of existing rules and regulations or acting beyond legal limits, and misuse of position of power by a person or firm to reap personal benefits. Instead of beneficial to the nation.

²Rose-UKBRIBERYACT-2012.pdf

³Brademas-TacklingInternationalCorruption-1998.pdf

⁴Corruption in international business: A review and research agenda - ScienceDirect

Corruption is a multi-facet phenomenon that happens because of a number of factors that can be divided into 2 facets micro and macro level. At the micro level, we focus on people who are engaged in corrupt practices. People can behave in corrupt behavior because of the individual incentives, inequalities in power and privileges, and so on. Whereas at the macro level which has a dynamic interaction between corruption and the market where corruption occurs⁵.

Carmichael (1995) points out three scenarios that affect multinational companies which are involved in corruption in a host country. Firstly, companies that are not able to engage in a new business transaction or finish an existing one without giving a bribe. Secondly, Countries that have weak legal institutions, and lastly when a multinational enterprise is involved in corruption⁶.

There is a group of scholars who have given their opinions like Collen, Chen, and Parboteeah (2015) that manager-controlled firms are more likely than shareholder – controlled firms to engage in bribery. Another set of people like Guvenli and Sanyal (2012) According to them men are more prone to take bribes than women. And last set of group Sanyal, Guvenli explains that countries that have power distance or long-term orientation is low and individualism is high are less involved in corruption.⁷

In the corporate world, many countries seem to demand bribes in any kind of business. International businessmen and women in a number of countries where they expect bribe demands. Companies have to face the real possibility of being pushed by paying more and more bribes. Bribery demeans markets. Economist Paolo Mauro, “Corruption and growth which has a link between high levels of corruption and low levels foreign direct investment”⁸.

Prevention of corruption Act 1988

In India, the government plays an essential role in performing various sovereign functions. It becomes important to prevent corruption either in government or private sector. The foremost law in the Prevention of Corruption Act, 1988 (hereinafter known as ‘PCA’). It came after the shortcomings in Prevention of corruption Act 1947⁹. The new act has a broad scope, it includes government employees, ex-public servants, professors, and employees of scientific and cultural institutions. Which criminalizes taking/giving of any undue advantage while performing public duty dishonestly. The most important definition is divided into public duty and public servant. 1. Public duty- This means a duty which is done for the benefit of the state, the public or the community at large. State means a corporation established by or under a Central, provincial or State Act. And an authority or a body owned controlled or aided by the Government company which is defined in Sec 617 of the Companies Act, 1956. 2. Private duty- This is not defined in PCA but depends on the deciding factor at the threshold and in the act itself under clause 2(c)¹⁰.

The term “Public Servant” includes any person in the service of government, a local authority, judge, arbitrator, or any other person performing a public duty”. In the recent Judgement by the Supreme Court (2020) in the case of **State of Gujarat V. Mansukh Bhai Kanji Bhai Shah (2020) 20 SCC 360**,¹¹ the issue, in this case, was whether a trustee in the board of deemed-to-be university is a public servant or not under section 2(c) of the PCA. It was held that the object of the PCA has a wider scope and it includes those who perform public duties and not are public servants. Another case of

⁵ The impact of corruption on economic growth in developing countries and a comparative analysis of corruption measurement indicators (tandfonline.com)

⁶ Corruption in international business: A review and research agenda - ScienceDirect

⁷ ibid

⁸ How Bribery and Other Types of Corruption Threaten the Global Marketplace - Knowledge at Wharton (upenn.edu)

⁹ Anti-Corruption 2024 - India | Global Practice Guides | Chambers and Partners

¹⁰ Prevention of Corruption Act, 1988 (legalserviceindia.com)

¹¹ State of Gujarat V. Mansukh Bhai Kanji Bhai Shah (2020) 20 SCC 360

Sanjaykumar Agarwal V. CBI 2023,¹² held that the professionals appointed under the insolvency and bankruptcy Code, 2016 “(IBC) would come under the ambit of PCA.

In the case of **Sri Kailash S Raj others v. state of Karnataka and Another 2023**¹³, The Karnataka High Court dealt with a petition filed by a public servant, private individuals of a private company and, two employees of INR 90 lakhs was made, to quash a first information report registered under various provisions of the PCA for allegedly bribing the public servant for gaining government tender. As it is a case of a commercial organization seeking to bribe employees to obtain a government tender so PCA can consider this case as it was observed that bribe giver should also be punished like bribe taker. The trial under this act is dealt with by “Special court” and “Special Judges and the punishment under this section includes imprisonment from six months to ten years.¹⁴

The central government and state government are empowered to appoint special Judges by notification in Official Gazette in any offense which is punishable under this Act, or any conspiracy to commit or attempt which has any abetment specified under the Act. Also he should be qualified as a session judge or Additional session judge 1973, Any offence which is mentioned in Section 3(1) shall be tried by the Special judge within the prescribed area.

There have been amendment in Prevention of corruption Act, 2018 (“the Amendment Act” which got president’s assent on 26th July 2018.¹⁵ With this Amendment, there is a supply-side offence which acts qua bribing of a public servant. In 2018 Act, any person can punish who gives or promises to give an undue advantage to another with the intention to induce or reward or public servant for the improper performance of public duty¹⁶. Bribe giver has defense available if they have been compelled to provide an undue advantage by public servant and the report which incident has enforcement agency within seven days. In the ambit of amended PCA, the offence of bribing a public servants commits by a commercial organization for obtaining or retaining its business or an advantage in the conduct of business. The corruption enterprises which largely covered by the Companies Act, 2013 Section 447 of the Companies act gives an expansive definition of “Fraud” which includes any act of bribery and corruption within the spheres of the company. Auditors and directors are duty-bound to report of any suspected fraud in the company to the Central government¹⁷. Fraud in Companies Act is penalized and punishable with imprisonment for a minimum period of six months and extend up to ten years. The amendment has its drawbacks such as the previous sanction for investigation affords undue protection to public employees which may not withstand judicial scrutiny. Bribe-giving could be utilized by public officials which prevents corruption from being reported. No provision for whistleblower protection. Any legitimate is an exemption to excessive assets that could misinterpret to cover any source of income which taxes are paid. Benefits after retirement have not been addressed. The bill added a new Section 17A which prevents investigating authorities from starting an inquiry or investigation into the offence under this Act which has received prior consent and the quantum of fine for commercial organizations are not mentioned¹⁸.

Bribery act of UK

The primary legislation in the United Kingdom is bribery and corruption is the Bribery Act 2010 which came into force on 1 July 2011. This includes criminal offence of bribery another person (Section 1)¹⁹, having an intention to induce which person to performs improperly or knowing or believing that

¹²Sanjaykumar Agarwal V. CBI 5th April 2023

¹³Sri Kailash S Raj others v. state of Karnataka and Another 2023

¹⁴Anshu-Maheswari-IJLDAI.pdf (thelawbrigade.com)

¹⁵Prevention of Corruption (Amendment) Act, 2018 (taxguru.in)

¹⁶The Prevention of Corruption (Amendment) Act, 2018 (upscwithnikhil.com)

¹⁷PDFFile5b276acda1ecf3.64214733.pdf (icai.org)

¹⁸ ibid

¹⁹Bribery Act 2010 (legislation.gov.uk)

taking benefit would itself amount to the improper performance of an activity²⁰. Financial advantage can be interpreted not only in form of cash inducements but also gifts and Serious Fraud Office(SFO) which issued statements of policy that confirms facilitation of payments like illegal under the Bribery Act²¹. In business world SFO is recognized in place for genuine expenditure by businesses which is real in conviction on the evidence, wherein SFO will prosecute in the public interest. Bribing another person includes offering, promising, or giving a financial or inducing or rewarding improper conduct or knowledge of it's a case of corruption. Section 4 defines "improper performance" by any activity done by public official²². Section 5 mentions standard of relevant expectation to be a "reasonable person"²³. An individual who requests, agrees, accept a financial which constitutes improper conduct being bribed (Section 2) are committed if they request, agree to receive or accept, financial advantage, improper performance and a relevant function or activity²⁴.The advantage may be received by another person which believes that the performance of the function is improper. bribing foreign public official(Section 6)²⁵(they should have close connection with UK, British citizen, British Overseas Territories citizen, ordinary resident in the UK, or a body incorporated in the UK) A foreign public official holds an individual who holds a legislative,administrative or judicial position in a country or territory outside the UK, which exercises a public function for or on behalf of any country or territory outside the UK or any public agency or public enterprise of a territory, or agent of an international public organization. and Failure by a commercial organization to prevent bribery (Section 7)Any commercial organization of corporate offence is guilty if fails to prevent bribery of an associated person, or foreign public official which has an intention or retaining business or taking advantage in the conduct of business in commercial organization²⁶. A commercial entity which has wide meaning and includes partnerships, limited liability partnerships and bodies corporate that carry on businessIn Corporate world the prosecution must proof mental element which means directing mind of the corporate body²⁷. For senior officers, they need to proof that they have given consent. In the corporate sector the offence is committed by a person who is associated and have intention or retaining business for that organization. There has to be adequate procedure to prevent corruption. Section 9 of the Act requires the Secretary of state to publish guidance about the adequate procedure²⁸. Key principles which needsto beconsidered. a) proportionate procedure -To prevent bribery which is proportionate to the bribery risk which was faced by the organization, scale, nature and complexity of the organization's activities, b) Top level commitment - Senior management needs to be committed to prevent bribery and a senior person who has responsibilities for anti-bribery program, c) Risk evaluation -The organization should carry internal and external exposure to bribery, d) Reasonable care -Due diligence on persons performs services for on or behalf of organization which is applied with proportionate with risk based approach and may check. e) Communication- Bribery prevention policies should communicate clearly internally and externally which should have continuous training.(f) Examination - It should be monitored and reviewed to see if policies and procedures are followed.The SFO confirms that self reporting by a company is not going to act as an automatic protection against prosecution. In self reporting cases, public interest factor is taken into consideration which is a part of the "genuine proactive approach which is adopted by the corporate management team when the offending is brought to their notice"²⁹.

²⁰The Bribery Act 2010- An Overview - Stevens & Bolton LLP (stevens-bolton.com)

²¹ibid

²²Bribery Act 2010 (legislation.gov.uk)

²³Bribery & Corruption Laws and Regulations | United Kingdom | GLI (globallegalinsights.com)

²⁴Bribery Act 2010 (legislation.gov.uk)

²⁵ibid

²⁶The Bribery Act 2010- An Overview - Stevens & Bolton LLP (stevens-bolton.com)

²⁷Summary of the UK Bribery Act 2010 | United Kingdom | Global law firm | Norton Rose Fulbright

²⁸Bribery Act 2010 (legislation.gov.uk)

²⁹Corporate self-reporting - Serious Fraud Office (sfo.gov.uk)

Self reporting is an obligation that requires evidence of any internal investigation which is conducted by emails, evidences of banks and witness accounts³⁰. There is no certainty that a prosecution will not be following each case that will turn its own facts. It is possible to limit risk and damage that follows from a prosecution. In the year 2013, May a bill to that deferred prosecution agreements (“DPAs”) which receives royal assent. An agreement between a prosecutor and a commercial organization in respect of specified economic and financial crimes like bribery and corruption is known as DPA³¹. If wrongdoing has to be in compliance with agreed terms then in return the prosecutor will defer a criminal prosecution. The terms required of DPA will be narrowed to particular alleged wrongdoing like payment of a financial penalty, disgorgement of profits, monitoring requirements and changes that can be implemented in a compliance programme. Avoiding prosecution and potential criminal conviction is a primary incentive for the corporate and if the time has expired then prosecutor should be in compliance with the agreed terms and conditions where criminal charges may go down³².

According to Joint Prosecution Guidance on the Bribery Act 2010, issued on 30 March 2011, the SFO is the primary agency in England and Wales for investigating and prosecuting overseas prosecution. In England and Wales consent is taken from the Director of Public Prosecutors the Director of the SFO has the power to initiate the proceedings³³. In Scotland, is Lord Advocate has the responsibility and in Northern Ireland, the Director of Public Prosecution for Northern Ireland and Director of SFO have the responsibility³⁴. The Penalty under this act is a maximum of 10 years imprisonment or unlimited fine. A commercial organization convicted under the Act with an unlimited fine. A person can be deprived of the proceeds of crime. This can be part of sentencing of individuals and commercial organizations in cases of bribery and corruption. In *FHR European ventures LLP & Ors V. Cedar Capital Partners LLC*³⁵, the Supreme court decided that “bribes and secret commissions held on trust by an agent for his principal”.³⁶

Foreign Corrupt Practices Act of 1977(FCPA)

In the United States, both U.S Department of Justice (“DOJ”) and the US Securities and Exchange Commission (“SEC”) enforce the US foreign Corrupt Practices Act of 1977 (“FCPA”), a statute targeting corporate bribery overseas³⁷. The FCPA emerges during a period of globalization in International business³⁸. In the year 1970, corporate bribery scandals involves all the USA companies which has public outrage and raised questions of American business practices in foreign countries and prohibits willful use of mails and other interstate commerce³⁹. In aerospace company had paid millions of dollars in bribes for the security foreign contracts that need for legislative action to address corrupt practices in international commerce⁴⁰. The Main Features of FCPA are, a) Anti-bribery provisions of FCPA which prohibits US companies like citizens and foreign entities from offering, promising, authorizing, or giving value to foreign government official or foreign political parties by obtaining or retaining. U.S entities can be held liable for bribery offenses which is committed abroad. b) The accounting provision of the FCPA which requires companies registered with the Securities and Exchange Commission (SEC) which maintains accurate books and records to establish which maintains adequate internal accounting

³⁰ibid

³¹ibid

³²ibid

³³Bribery Act 2010: Joint Prosecution Guidance of The Director of the Serious Fraud Office and The Director of Public Prosecutions | The Crown Prosecution Service (cps.gov.uk)

³⁴Lord Advocate: role and functions - gov.scot (www.gov.scot)

³⁵LLP & Ors V. Cedar Capital Partners LLC

³⁶Bribery & Corruption Laws and Regulations | United Kingdom | GLI (globallegalinsights.com)

³⁷Bribery & Corruption Laws and Regulations | USA (globallegalinsights.com)

³⁸ ibid

³⁹Criminal Division | Foreign Corrupt Practices Act (justice.gov)

⁴⁰Bribery & Corruption Laws and Regulations | USA (globallegalinsights.com)

controls⁴¹. It prevents concealment of bribery payments through falsified or misleading financial statements. The enforcement of FCPA is primarily by two federal agencies, The Department of Justice(DOJ) and Securities and Exchange Commission(SEC). The DOJ is responsible for prosecuting criminal violations of FCPA. And SEC can oversee enforcement of civil actions which is related to provisions of accounting. These agencies have specialized units which focus on resources to inquire and prosecute FCPA violations. DOJ and SEC results in increase in number of FCPA investigations, prosecutions and settlements. Cases which are of high profile like Siemens AG, Alstom SA, and Petrobras, US authorities hold corporations accountable for corrupt practices. The FCPA has implications beyond USA. The FCPA promotes multinational corporations to implement compliance programs and due diligence procedures which mitigate the risk of FCPA violations. This act includes domestic concerns, issuers and certain persons and entities. FCPA deals with criminal and civil enforcement. SEC deals with civil enforcement authority limited to U.S. and foreign public companies listed on stock exchange. The FCPA has created liability for companies and individuals. (1) prohibition from companies and individuals from bribing foreign government officials by offering or promising to give money or something to obtain business. (2) prohibition from falsifying books and records. It also focuses on foreign corruption⁴².

In FCPA, Criminal charges can be solved by trial, a guilty plea, a deferred prosecution agreement, a nonprosecution agreement or declination. Whereas civil laws can be enforced can be solved by trial, a deferred prosecution agreement, a nonprosecution agreement, a cease-and-desist order, a civil injunction, or declination. The FCPA has been criticized greatly. FCPA has large extrajudicial jurisdiction which has aggressive enforcement which burdens U.S. companies that operate in foreign states. FCPA has small and medium-size enterprises(SMEs) which limit resources⁴³.

Comparative analysis between Anti-corruption laws in INDIA, UK and USA.

The laws in all three nations India UK and USA have come up with laws to prevent corruption. There are slight differences in all three countries' legislations. In India, The Prevention of Corruption Act (PCA) of India needs to prove the motive for nonperformance during an official duty. Whereas the Foreign Corrupt Practices Act (FCPA) needed to prove that the accused had committed corruption willfully, knowingly, corruptly, and had a knowledge and intent to prove 'improper performance'. In the Bribery Act of UK mere basic knowledge of an act or intent would suffice to prove 'improper performance' by a person. The FCPA wants public companies to file periodic reports with the SEC and maintain accurate books and records. In the Bribery Act of UK, if the company has taken adequate procedure then it can be exempted. Whereas, FCPA and PCA will not exempt. In PCA no defense on the basis of local law and in the UK bribery Act and FCPA, a foreign official can be exempted from punishment if local laws are written. UK Bribery Act penalizes individuals and business from 10 years to unlimited penalties. In FCPA, greater penalties are imposed, from 2 million dollars for business to 250,000 dollars for individuals and 5 years in jail. PCA gives a sentence from 6 months to 7 years in the provision and whoever is a habitual offender can be punished for 10 years⁴⁴. One of the landmark cases in India is **State of Maharashtra Tr.C.B.I Vs. Balakrishna Dattatrya Kumbhar on 15th October, 2012 Aironline**⁴⁵ 2012 SC 627. The Supreme Court held that the importance of mens rea in corrupt offenses also defines criminal misconduct under the Prevention Of corruption Act. Another Case is **Ramesh Gelli V Central Bureau of investigation(2016)**,⁴⁶ in this case court needed strong evidence for legal

⁴¹An Introduction to the Foreign Corrupt Practices Act (FCPA) — Law Office of Melva M. Exner, LLC (mexnerlaw.com)

⁴²Bribery & Corruption Laws and Regulations | USA | GLI (globallegalinsights.com)

⁴³Bribery & Corruption Laws and Regulations | USA (globallegalinsights.com)

⁴⁴Comparative Analysis of International Anti-Corruption Laws-Legist - Legasis

⁴⁵State of Maharashtra Tr.C.B.I Vs. Balakrishna Dattatreya Kumbhar on 15th October, 2012 Aironline 2012 SC 627

⁴⁶Crl.M.P. Nos. 6416-6420 of 2016

procedure in corruption cases. This case explains about ensures a fair trial while prosecuting individuals accused of corruption. In U.K, **R v. Innospec Limited (2010)**⁴⁷ in this case Innospec, a chemical company had to face charges of corruption in Indonesia because of business practices over there. It holds companies accountable which are committed abroad. In the case of **Rv. Sweett Group (2016)**⁴⁸ has the first conviction under the bribery Act, In this case there has been corruption in the middle eastern countries. This case comes up with the importance of implementing anti bribery procedures in corporations to prevent corruption. In the United States , In the case of **United States v. Skilling(2010)**⁴⁹, Jeffrey Skilling, former CEO of Enron Corporation was convicted of securities fraud, conspiracy and, insider trading. It “prohibits “a scheme or artifice to deprive another of the intangible right of honest services”. In another important case is **United States v. McDonnell(2016)**⁵⁰ in which Supreme Court held that “without more, setting up meetings, talking to other officials, and organizing events are not” official acts” as defined by statute”.

How United Nations Convention against Corruption (UNCAC) and the OCED Anti Bribery Convention probing into corporate entities?

United Nations Conventions against corruption

This an instrument that is legally binding universally. It was Adopted by the Un general Assembly on 31st October 2003 and came into force on 14th December 2005⁵¹. The convention covers five different areas such as preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. The convention also focuses on bribery, trading in influence, abuse of functions, and other kinds of corruption in the private sector. Key Provisions with respect to corporate entities are First, Article 12 (Prevention of corruption in the Private sector) which encourages to adopt of anti-corruption policies in private companies. And collaborating between government sectors and businesses to prevent corruption. Secondly, Article 16 states the Bribery of foreign public officials which focuses on the Prohibition of bribery in international business transactions. And measures to establish liability for any legal person. Thirdly, Chapter V explains Asset recovery which deals with measuring assets which is obtained through corrupt practices. It makes sure that all the illicit assets are returned. It is nationally implemented by signatory states and monitors peer reviews conducted by UNCAC Implementation Review Mechanism (IRM).⁵² Two main elements of UNCAC are criminalization and law enforcement, in which state parties establishes criminal and other offenses which cover acts of corruption. It includes the bribery of national and foreign public officials, embezzlement, and money laundering. International cooperation in UNCAC is important for seizing, tracking, and returning assets through corruption. The convention has a legal basis for extradition, mutual legal assistance, and joint investigations across countries. Corrupt officials can not hide illicit gains as UNCAC gives power to states to cooperate for extradition and asset recovery. In asset recovery, there was one principle which can return stolen assets to the country from where it has been taken. The implementation of UNCAC has many drawbacks such as involvement of politics, differences in legal systems, complexities of international cooperation. In the year 2009, an implementation Review Mechanism was adopted which helps to evaluate the member states in implementing the provisions of convection.

⁴⁷Innospec Ltd, R v | [2010] EW Misc 7 (EWCC) | English and Welsh Courts - Miscellaneous | Judgment | Law | Case Mine

⁴⁸Sweett Group - Serious Fraud Office (sfo.gov.uk)

⁴⁹Skilling v. United States :: 561 U.S. 358 (2010) :: Justia US Supreme Court Center

⁵⁰McDonnell v. United States :: 579 U.S. ____ (2016) :: Justia US Supreme Court Center

⁵¹dl (justice.gov)

⁵²United Nations Convention against Corruption (unodc.org)

OCED Anti-Bribery Convention

The OCED Anti-Bribery Convention legally binds standards to criminalize bribery of foreign public officials in international businesses. It is on first international anti-corruption instrument on the 'supply side' of the bribery transaction. It came into force on 15th February 1999 and has 45 signatories which includes all OCED countries and 7 non- OCED countries. The Main provision that deals with corporate world is Article 1 Prohibition of bribery of foreign public officials which criminalizes the bribery of foreign public officials by individuals. Article 3 explains sanctions which focuses on the obligation of states which take measures to establish the corporate liability. It includes civil, criminal and administrative penalties. Article 5 states about enforcement which is conducted by OCED working group on Bribery.⁵³

Corrupt crimes like fraud and corruption harm the economy of the country and affect international business. Corporate crimes happen mostly in big companies rather than in small companies. According to OCED, the Foreign Bribery Report 2014 had 4% of sanctioned companies. Other offenses along with corruption are hard cartels and bid rigging. The business sector may have irregular practices, risk of misconduct and, fraud. The OCED has a number of instruments to fight against corruption. The G20, OCED 2015 comes up with the principle of corporate governance which deals with corporate governance policies with different economic objectives with the help of investor problems, capital formation and allocation. This could help prevent corruption in the private sector while some of the principles for larger than smaller companies, policymakers can raise awareness of good governance for all companies which have small and unlisted companies. Transparency and Disclosure attract a good amount of capital and help to maintain ethical behavior in the business. Multi-national enterprises had to face challenges and understand coherence between economic, social, and environmental objectives. The OCED guidelines of 2011 have voluntary principles and standards for responsive business conduct with applicable laws and international standards which are followed universally. The OCED recommendation is based on due diligence which manages the supply chain of the area which is highly conflicted area has high risk, which cultivate transparent mineral supply chains and have a sustainable corporate engagement to enable countries that benefits from the mineral resources and prevent extraction and have a trade of minerals by becoming a source of conflict, human rights abuses, and security given in OCED 2016 in which companies adopt OCED guidelines for multinational companies⁵⁴.

Various international organizations adopt measures to prevent corruption.

International Global initiatives, the first one is the **Corruption Perceptions Index (CPI)**-It is a rate at which countries are rated on a scale of 0 to 10. The CPI was created and used by transparency international, an international nongovernmental organization that was established in 1993 and focuses from 0 i.e. highly corrupt to 10 (clean).⁵⁵ According to these countries that have highest scores which is 9 are mostly rich countries and countries which have low scores are poor. Secondly, **The Global Corruption Barometer (GCB)**, measures public perceptions of corruption by surveying⁵⁶.

World Bank's Anti Corruption is a major challenge with a goal of ending extreme poverty by 2030 and sharing prosperity for the poorest 40 percent of developing countries. It recognizes corruption as service delivery, for example if an official asks for a bribe to perform routine services.⁵⁷ Measures are the following: a) **Integrity Vice Presidency (INT)**, an independent unit within world bank which investigates which is responsible to pursuing sanctions related to fraud and corruption in the World Bank financed projects⁵⁸. b) **Stolen Asset Recovery (STAR)** has a partnership

⁵³oecd-anti-bribery-convention-booklet.pdf

⁵⁴ibid

⁵⁵Corruption Perceptions Index (CPI): Definition, Country Rankings (investopedia.com)

⁵⁶Global Corruption Barometer - Transparency.org

⁵⁷Combating Corruption (worldbank.org)

⁵⁸Integrity Vice Presidency | World Bank

between the World Bank Group and the United Nations Office on Drugs and Crime which puts international efforts to end corrupted funds⁵⁹.

Interpol helps to fight a range of crimes which is coordinated by the General Secretariat. It is managed by 19 police databases on crimes and criminals. It sets an Anti Corruption and Financial Crimes Unit which coordinates internationally to combat corruption and financial crimes and facilitates information exchange among member countries. Many training programs were held to train initiatives for law enforcement agencies⁶⁰.

The Global Programme against corruption is carved out of International Crime Prevention of the office for International Crime Prevention of the Office for Drugs Control and Crime Prevention of the United Nations Secretariat along with United Nations Interregional Crime and Justice Research Institute. It is divided into two main components which are, the research component and the technical cooperation component. The main aim is to help member states to prevent corruption⁶¹.

Regional Anti-corruption Initiatives, 1) **African Union Convention on preventing** and combating corruption with an objective of development in Africa by each state party, which prevents, detects, punishes and eradicates corruption in public and private sectors. Coordinate the policies and legislation between parties⁶². B) **The Inter-American Convention Against Corruption (OAS Convention)** was the first international anti-corruption Convention which was adopted in the year of 1996. It aims at preventing, and criminalizing, international cooperation and asset recovery⁶³.

Public- Private Partnerships and initiatives, Public- Private partnerships collaborate between a government agency and a private-sector company which can be used in finance, building and operating objects like public transportation networks, parks and, convention centers. Example: Canada's 407 Express Toll Route (407 ETR). This highway was PPP between the provincial governments of Ontario and a private consortium that is responsible for the design, construction, financing, and maintenance of a highway with a lease term of 99 years where permission to collect toll from users of the roadway. But traffic levels and toll revenues were not guaranteed by the government⁶⁴. a) Global Compact Network, it engages in anti-corruption efforts b) Collective action is an initiative against corruption that involves businesses and civil society. It also evaluates corporate behavior.

Extractive Industries Transparency initiative (EITI) is a global standard for the good governance of oil, gas and mineral resources. It is an international multi-stakeholder initiative which promotes transparency and accountability in gas, and mining sectors and the disclosing of government and company data in rich countries. Multi-stakeholder Engagement that examines role of governments, business and civil society in EITI⁶⁵.

CONCLUSION

Corruption is a pervasive term that has an effect on economics, societies, and governments worldwide. Corruption can be defined in many ways like fraud, bribery, and abuse of entrusted power for its own benefit. It can happen in government sectors, business, law departments, healthcare, education, and any other sector. To fight against corruption every country came up with their own laws. The anti-corruption laws of the USA, UK, and India represent diverse approaches to curb corruption. Each country has its own way of dealing with corruption. The fight against corruption needs to have continuous efforts, international cooperation is required to fight against corruption. Foreign Corrupt practices (FCPA) which existed in 1977 and prohibit bribery of foreign officials by the USA, companies

⁵⁹https://star.worldbank.org/sites/star/files/StAR_Brochure%20PDF_0.pdf

⁶⁰INTERPOL | The International Criminal Police Organization

⁶¹corruption_programme.pdf (unodc.org)

⁶²African Union Convention on Preventing and Combating Corruption | African Union (au.int)

⁶³9 Years of the Inter-American Convention Against... - Transparency.org

⁶⁴Public-Private Partnerships (PPPs): Definition, How They Work, and Examples (investopedia.com)

⁶⁵Extractive Industries Transparency Initiative | EITI

and foreign entities In the United kingdom ,Bribery Act 2010 criminalizes bribery in the public and private sectors of UK and UK citizens settled abroad. In India,the prevention of Corruption Act(PCA) which was amended in 1988 and 2018 is against public servants. UNCAC and the OCED Anti-Bribery Convention are involved greatly to prevent corruption with a focuses on corporate entities. UNCAC is a global binding entity in 187 countries which creates guidelines for member states to prevent corruption. Whereas the OCED anti-bribery convention came into the picture in 1997 which focuses on resisting bribery of foreign officials in International business. These conventions aim to create a unified front against bribery and corruption. There have been various measures adopted by organization like Transparency International, World Bank, Interpol, The United Nations Office on Drugs and Crime, and regional entities like the African Union and the Organization of the American States. All these legislations and organizations are designed to prevent corruption worldwide with the goal of making corruption free countries. All these legislations are needed to be amended from time to time to stay updated with all the changes in the countries.