C Raj Kumar, *Corruption and Human Rights in India: Comparative Perspectives on Transparency and Good Governance* (OUP India, 2011), ISBN 978-0-19-807732-9, 212 pages

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Corruption is universal. However, countries are differentiated by the way a government responds to potential and actual corruption. Professor Raj Kumar's book demonstrates that the prevention, uncovering and reaction to corruption indicate the strength of a country's public sector and its value of its citizens' human rights. His work makes the connection between the level of corruption and the safeguarding of human rights. An interesting index to consider this connection is Transparency International's Corruption Perceptions Index ('CPI'),[1] which ranks 183 countries/territories based on how corrupt their public sector is perceived to be.[2] The CPI ranks the country with the least corrupt public sector as New Zealand; Australia is ranked 8 (with Switzerland); India is ranked 95 (with Kiribati, Swaziland and Tonga); and the most corrupt public sectors are found in North Korea and Somalia. India has a problem with corruption (along with its South Asian neighbours, such as Sir Lanka ranked 86, Bangladesh ranked 120, Pakistan ranked 134 and Nepal ranked 154).

This book analyses the serious problem of corruption in India and the impact of this problem on the rule of law and access to justice. The author's focus is on the human rights implications of corruption. The 'purpose of the study is to provide a new framework for legislative and institutional reforms in India with a view to addressing corruption'.[3] Kumar

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[1] Transparency International, *Corruption Perceptions Index 2011* (2011) <http://cpi.transparency.org/cpi2011/>. The website states that the index:

> ranks countries/territories based on how corrupt their public sector is perceived to be. It is a composite index, a combination of polls, drawing on corruption-related data collected by a variety of reputable institutions. The CPI reflects the views of observers from around the world, including experts living and working in the countries/territories evaluated.
> (Transparency International, *What is the Corruption Perceptions Index?* (2011) Corruption Perceptions Index 2011 <http://cpi.transparency.org/cpi2011/in_detail/>)

[2] The website (<http://cpi.transparency.org/cpi2011/in_detail/>) states:

> Corruption is the abuse of entrusted power for private gain. This is the working definition used by Transparency International (TI), applying to both the public and private sectors. The CPI focuses on corruption in the public sector, or corruption which involves public officials, civil servants or politicians. The data sources used to compile the index include questions relating to the abuse of public power and focus on: bribery of public officials, kickbacks in public procurement, embezzlement of public funds, and on questions that probe the strength and effectiveness of anti-corruption efforts in the public sector. As such, it covers both the administrative and political aspects of corruption. In producing the index, the scores of countries/territories for the specific corruption-related questions in the data sources are combined to calculate a single score for each country.

[3] C Raj Kumar, *Corruption and Human Rights in India: Comparative Perspectives on Transparency and Good Governance* (OUP India, 2011), 2.

advocates a broader human rights approach to corruption, rather than relying solely on the criminal law. A human rights approach demands transparency and good governance. Kumar argues that fighting corruption requires legislative and constitutional reform to ensure transparency.

Chapter 1 introduces the problem of corruption in India. Kumar observes that corruption is not just a law enforcement issue, but rather 'corruption in India is a much more fundamental problem that undermines the very social fabric, and the political and bureaucratic structure, of the Indian society'.[4] Kumar argues that corruption violates human rights, in particular the constitutional rights guaranteed under India's *Constitution*. He observes that the existing Indian framework for fighting corruption places too much emphasis on the criminal justice system, which is also corrupt. Therefore, he argues that there should be focus on 'the promotion of transparency and accountability in governance'.[5] Such measures recognise that citizens need to be empowered to fight corruption. Kumar views acts of corruption as violations of human rights and such a perspective means that 'more recognition of human rights violations followed by actions that will help in the enforcement of human rights could itself be an effective tool in the fight against corruption'.[6]

Chapter 1 provides an overview of corruption in India and observes that 'corruption affects India at all levels of decision-making'.[7] Kumar identifies the inefficiencies in the Indian legal system, for example the continuance of the colonial immunity from criminal prosecution of public servants without the Central Government's sanction.[8] He identifies the normalisation of corruption and an indifferent judiciary as further constraints to fighting corruption. This introductory chapter also identifies the impact of corruption on human rights, for example, a corrupt police force violates the basic framework of equality and non-discrimination, and this is especially so when a police officer engages in torture or accepts bribes. The implication of corruption for the rule of law is identified in three stages.[9] First, the disregard and disrespect of the law. Second, corruption is used to violate the law. Third, corruption is used to promote a lack of respect for the rule of law.

Chapter 2 locates corruption within a human rights framework. It examines the effect of corruption on specific human rights (the right to access justice and the right to development). This chapter then examines the effect of corruption on national sovereignty (national security, law enforcement, good governance, development and human rights) in the context of globalisation.

Chapter 3 examines the proliferation of corruption in South Asia and considers comparative models for combating corruption. For example:

a)   anti-corruption laws with no independent agency (Mongolia);

b)   anti-corruption laws with many agencies (India, the Philippines, China);

c)   anti-corruption laws with an independent agency (Hong Kong, Singapore).

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[4]   Ibid 2.

[5]   Ibid 6.

[6]   Ibid 8.

[7]   Ibid 17.

[8]   *Code of Criminal Procedure 1973* (India) s 197.

[9]   Kumar, above n 3, 31.

The comparative analysis is illuminating. The success of Hong Kong and Singapore in their battles against corruption is examined (Hong Kong's CPI is ranked 12; Singapore's CPI is ranked 5). Chapter 3 also explains linkages between violations of human rights with corruption in Asia.

Chapter 4 critically reviews the existing framework for combating corruption in India. Kumar notes that there is 'little disagreement on the extent of corruption in India, as it is a well known fact that without paying bribes, it is difficult to get anything done in any office or institution'.[10] This chapter examines the constitutional, legal and institutional frameworks for fighting corruption (public interest litigation, constitutional rights, statutory acts on corruption, separation of powers and international treaties).

Chapter 5 considers new legislative and institutional reforms to tackle corruption. The first reform advocated by Kumar is specific legislation, for example abolition of the immunity from prosecution of public servants without sanction and the enactment of whistleblower protection. The second reform to India's National Human Rights Commission so that its mandate is revamped to strengthen its ability to fight corruption and ensure the protection of human rights. The third reform considers India's Central Information Commission, which allows citizens to exercise their right to information and can, therefore, promote transparency and accountability in the functioning of government. Kumar argues that the issue of corruption ought to become a focal element of the Central Information Commission.[11]

Chapter 6 recognises that fighting corruption is the most urgent need for addressing all major challenges to governance in India and that requires the establishment of an independent commission against corruption ('ICAC'). This chapter considers the institutional challenges that need to be addressed to ensure that an ICAC is duly empowered to fight corruption. A postscript to this book considers Anna Hazare's campaign for the establishment of an independent, institutional mechanism to fight corruption in the form of a Lokpal (Ombudsman). The Lokpal Bill 2011 (India) proposes setting up an independent ombudsman with powers to prosecute politicians and civil servants and was passed by Parliament's Lower House in December 2011, but has not yet been passed in the Upper House. The author notes the disagreement in the content of the Lokpal Bill between the government and civil society.

This book is a powerful work that eloquently argues that fighting corruption in India requires a new strategy. It provides a strong argument for reform and provides a clear blueprint for change. This book is a significant contribution to scholarship on corruption and human rights, and will hopefully lead to concrete changes to address the enormous problem of corruption in India's public life.

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[10]   Ibid 97.
[11]   Ibid 170.