

24th November, 2016*Dear Shri Narendra Modi Ji,*

Kindly find enclosed a note on the grave implications of the official amendments proposed to Prevention of Corruption Act, 1988 seeking to incorporate a new Section 17A. This amendment attempts to bring back the discredited Single Directive and the Section 6A of Delhi Special Police Establishment Act (DSPE Act) which was quashed by the Supreme Court in May 2014, and make them applicable to all public servants of all ranks. While the erstwhile Section 6A of DSPE Act provided for mandatory prior approval for investigation of corruption offences against senior officials of the rank of Joint Secretary and above, this new amendment makes such prior approval for investigation in respect of all corruption investigations relating to all public servants. There is need to protect officials involved in policy making or in implementing government policy from vexatious investigation or prosecution. But an omnibus protection to all public servants involved in all forms of corruption defeats the purpose.

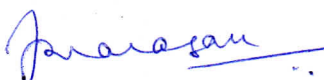
Secondly, the proposed Section 8 in the PCA Bill 2013 criminalizes the act of bribe-giving as an independent offence and provides that anyone who offers, promises or gives 'undue advantage' to any person to induce the public servant to perform public duty improperly would constitute cognizable offence. The small bribe giver who is a victim of a dysfunctional system is going to be cruelly punished with a minimum imprisonment of three years, while bribe taker will enjoy immunity, if such a provision is incorporated.

We, therefore, urge you to take corrective action and ensure that the deeply offensive provisions of severe punishment to ordinary citizens who are forced to pay a bribe for services they are entitled to, and protection from investigation of bribe takers of all ranks are suitably amended in the Prevention of Corruption (Amendment) Bill 2013. The following changes are needed in the bill:

- 1) Removal of omnibus protection to all public servants, in respect of all kind of allegations and providing selective protection in matters relating to policy recommendations and decisions at the Government level.
- 2) Drawing clear distinction in the definitions part for collusive and coercive corruption.
- 3) Incorporating fair provisions to give immunity to bribe givers who are victims of extortion and prosecute corrupt officials

The amendments proposed in the Bill in the current form will weaken anti-corruption institutions and undermine the very purpose of the law. I therefore, urge you to take the initiative and ensure that the offensive provisions are altered and a pragmatic, fair, effective anti-corruption regime is in place. The attached note explains the implications of the amendment and suggests the necessary amendments.

With warm personal regards,



Jayaprakash Narayan