

Corporate Influence and Public Interest: A Critical Study of Transparency and Regulatory Gaps in India's Policymaking Framework

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ABSTRACT

This increasing interface between corporate units and the State has played a major role in the impounding of the policy-making procedures in India. Although corporate involvement is helpful in terms of the provision of expertise, efficiency and investment, it generates serious issues of transparency, accountability and safeguarding of the public interest as well. The nature and scope of corporate influence in the policymaking process in India are critically discussed in the current paper with specific attention paid to the structural flaws, which include obscured lobbying mechanisms, insufficient disclosure standards, and lax regulatory enforcement. It analyses the current legal tools and institutional frameworks that guide corporate actions and reveals any loopholes that facilitate their inappropriate control over government policy. The paper also examines the repercussions of the existence of such influence on democratic processes, economic fairness and social well-being. The paper presents comparative reasoning and proposals to reform the current policymaking system, which is marked by a lack of transparency, accountability, and participation in decision-making, to effectively strike a balance between corporate interests and the greater good.

Keywords: Corporate Influence, Public Interest, Transparency, Regulatory Gaps, Policymaking, India

1. INTRODUCTION

The influence exerted by corporate actors in the development of the public policy has increased significantly during the times of globalisation and economic liberalisation. The transition to a market-oriented economy since 1991 in India has raised the importance of cooperation between the State and the private sector, placing corporations with the centre stage of the governance procedures. Although this kind of involvement is crucial to the economic development and policy effectiveness, it also creates the challenge of excessively high corporate representation on the decisions that a population can make. The lack of a well-developed transparency system frequently leads to the development of processes of policymaking, which are accessible to the masses and can be manipulated by some influential economic force. The concern is especially important within a democratic framework where governance should be considered to be reflective of the wishes and well-being of the populace. Whereby the interests of the

corporate entities surpass the interests of the people, it compromises the democratic legitimacy, institutional accountability, and contributes to inequality. The paper presents a critical analysis of the dynamics of corporate influence in the policymaking system of India, the determination of major transparency and regulatory loopholes, and the evaluation of its results to the interests of the population. It also suggests reforms to consolidate the democratic governance and to make the policy surroundings more balanced.

2. CONCEPTUAL FRAMEWORK: CORPORATE INFLUENCE AND PUBLIC INTEREST

Corporate influence in policymaking is a process where business organisations influence the legislative, regulatory, and administrative determination in a manner that is beneficial to the economic goal of the corporation. This power can either be direct, by lobbying and providing political funds or can be indirect as a result of being part of advisory committees and policy consultations. By contrast, public interest is the greater good of the society, which includes but is not limited to economic justice, environmental sustainability, social equity and safeguarding of fundamental rights. Ideally, decision-making in a policy-making process ought to be one that balances the interests of other parties without neglecting the common good. Nevertheless, there is usually a structural imbalance because there is an uneven distribution of resources and access. Corporations are financially powerful, possess technical knowledge and institutional networks through which they are able to exercise more influence than ordinary citizens or marginalised groups. This imbalance poses a threat of policy capture whereby the regulatory and the legislative process is controlled by the interests of the private. This scenario does not only misrepresents the policy outcomes but also makes people lose faith in the institutions of governance.³

3. MECHANISMS OF CORPORATE INFLUENCE IN INDIA

3.1 Political Funding and Electoral Bonds

One of the greatest influences in India is corporate financing of political parties. In the scheme of the electoral bonds, the adoption was supposed to make the political contributions official and smoother. The anonymity of such bonds has, however, been very criticised as decreasing the transparency. This type of non-disclosure of donors does not allow the public to scrutinise them and brings a question of the possible quid pro quo deals whereby policy decisions could be biased towards contributing corporations. This sabotages the concept of free and fair elections and gives one side an unequal playing field in policy formulation.⁴

3.2 Lobbying Practices and Informal Influence

India does not have a comprehensive system of law that governs the activities of lobbying, unlike some other developed jurisdictions. Lobbying is therefore conducted on a very informal and uncontrolled form. Corporations tend to interrelate with the policymakers by means of industry bodies, consultants, as well as direct associations with the government officials. Although this kind of engagement is not necessarily problematic, the lack of disclosure requirements makes it hard to evaluate the scope and form of influence. This transparency raises opportunities of biased decision-making process and reduces accountability to the people.⁵

³ Transparency Int'l, *Corporate Influence and Governance* (2021).

⁴ PRS Legislative Research, *Political Funding in India* (2020).

⁵ OECD, *Lobbying in the 21st Century: Transparency, Integrity and Access* (2022).

3.3 Public-Private Partnerships (PPPs)

One of the most significant infrastructure development and service delivery systems has taken the form of public-private partnerships, which have become an important tool in India. They allow the State to capitalise on the efficiency and capital of the private sector. Nonetheless, PPP arrangements usually imply intricate and contractual interactions and long-term engagements, which can be inadequate in terms of transparency. Existence of favouritism and misuse of state resources has raised concerns in certain instances because of favouritism and absence of competitive bidding as well as poor monitoring systems.⁶

3.4 Regulatory Capture

Regulatory capture arises when the regulatory institutions give more consideration to the interests of the industries that they should regulate. In India, concerns have been raised about close relationships between corporate entities and regulatory authorities. Some of the causes of this phenomenon include revolving door employment, institutional lack of independence, and political interference. This can lead to watering down of the regulations or ignoring them, at the expense of the welfare of the people.⁷

4. TRANSPARENCY IN POLICYMAKING

The pillar of the democratic government is transparency, that is, it is open, accountable and visible to government scrutiny during the decision-making processes. The Right to Information Act, 2005, was a significant step in the right direction in India and meant the shift towards higher levels of transparency. It also empowered people to access documents by the government and hold government officials in custody. Nevertheless, it has low effectiveness when it comes to policymaking.⁸

Several challenges persist:

- The policymaking process is not well-documented and disclosed.
- The consultations, which occur at the level of stakeholders, are not normally transparent.
- The draft policies are not always released so that the citizens can see them.
- The access to agreements with corporate entities is followed by confidentiality clauses.

More about it, as the existing trends are going, the availability of information is becoming limited, and it would relax the transparency processes. This will result in citizens not having a real say in the process of policymaking and, consequently, a lack of democracy.⁹

5. REGULATORY FRAMEWORK AND ITS LIMITATIONS

5.1 Existing Legal and Institutional Framework

India has been establishing several institutional and legal structures in a bid to check the operations of companies and the government. These are the Companies Act, 2013¹⁰, SEBI laws¹¹, the Prevention of Corruption Act¹² as well as the Competition Act¹³. Such policies encompass the policies on market regulation, corporate governance, and anti-corruption. However, they do not preside over the influence of the corporations when it comes to policymaking.

⁶ World Bank, *Public-Private Partnerships in India* (2019).

⁷ Transparency Int'l, *Corporate Influence and Governance* (2021).

⁸ Companies Act, 2013, No. 18 of 2013, India.

⁹ Transparency Int'l, *Corporate Influence and Governance* (2021).

¹⁰ Companies Act, 2013, No. 18 of 2013, India.

¹¹ Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

¹² Prevention of Corruption Act, 1988, No. 49 of 1988, India.

¹³ Competition Act, 2002, No. 12 of 2003, India.

5.2 Structural and Regulatory Gaps

Despite a range of regulatory frameworks, the policymaking system of India, however, still enjoys a variety of structural shortcomings:

On one hand, they are not offered any legal framework to control the interaction of the lobbying activities, thus the corporate relations and the government relations are carried out in a loose and veiled way.

Secondly, there is not sufficient transparency in the systems of political funding, and it might not have been simple to create any nexus between corporate contributions and policymaking.

Thirdly, its conflict-of-interest policies, which involve the officials of the government, are ineffective and not sufficiently enforced, thus leaving the officials subject to the threats of making biased or influenced decisions.

Fourth, any meetings or communication between corporate and policymakers will not be disclosed and, consequently, limit citizen oversight and accountability.

Lastly, regulatory bodies are frequently bothered by a lack of autonomy, resource endowment as well as poor enforcement abilities, which diminish their efficiency in checking such influence.

All these gaps create an ambience where the corporate interests can exercise themselves freely without a check and balance mechanism, thereby putting the very process of the policy-making in danger of corruption and ignoring civic interest.¹⁴

6. IMPACT ON PUBLIC INTEREST

The impact triggered by the uncontrolled power of corporate organisations over the policy-making process has an extended impact on the communal interest.

To begin with, it can result in a set of policies that favour large corporations at the cost of small businesses and marginalised communities. This increases inequality in the economy and restricts inclusive development.

Secondly, there could be violence to the environment and social issues by the favour of economic interests. As an example, a decision to soften the regulatory aspects in other parts of the economy like mining and infrastructure, may lead to the destruction of the environment and the eviction of residents.

Thirdly, loss of transparency and accountability affects the trust of the people in the governance institutions. The fact that the policies are affected by the interests of the individuals undermines the democratic legitimacy, as experienced by the citizens.

Lastly, policy capture may eliminate long-term development objectives because the future of development is based on long-term corporate profit maximisation rather than on sustainable and equitable development.¹⁵

7. COMPARATIVE PERSPECTIVE

According to a comparative analysis, various nations have instituted a rich legal framework in order to govern corporate influence as well as provide transparency in the process of policymaking. In such jurisdictions, lobbying is per se an acceptable activity but is heavily regulated to avoid abuse. Such frameworks often compel registration of lobbyists and periodic disclosure of the lobbying activities, including the financial spending and the issues that are being lobbied. The publicly available register of the meetings and communications between corporate representatives and governmental ones is also

¹⁴ PRS Legislative Research, *Political Funding in India* (2020).

¹⁵ Transparency Int'l, *Corporate Influence and Governance* (2021).

maintained by many countries. Moreover, strict regulations regarding conflict-of-interest rules are implemented so that the officials of the government make their decisions without bias and are not affected by any personal motives. All these steps contribute to increasing transparency and accountability, as well as integrity in the process of policymaking, ensuring the participation of the population in an informed manner. They assist in the strike of the equilibrium between permitting corporate involvement and protecting the interests of the people. The main lessons that India can learn through these practices are to implement a more organised regulatory framework on lobbying, increase disclosure requirements, and institutional accountability. These reforms in India, depending on the socio-political context of India, would help to make the policymaking process transparent and fair.¹⁶

8. RECOMMENDATIONS AND REFORMS

To assist the challenges that have been outlined, a multi-dimensional and comprehensive reform model will be necessary to make it more transparent, accountable, and focused on the interests of the people in the making of policies.

One of the priorities should be **the implementation of a statutory framework** that would govern the lobbying activity in India. This type of construct must require disclosure of lobbyists, mandate them to declare their relationship with the policymakers, and see to it that funds that are spent by the corporations to the government are reported, thus bringing much-needed transparency to the interactions of the corporations and the government. Simultaneously, it is necessary to enhance **openness of the policymaking** process by being proactive publication of draft policies, stakeholder contributions, and the decision-making procedures. The Right to Information framework must also be more effective so that the information accessible to the population can be increased. Political financing systems reform are also critical. A high level of **political contributions transparency** by providing the necessary disclosure of the donor and the sources of finance will serve to mitigate the risk of too much corporate interference and increase accountability to democracy.

Secondly, the **institution's responsibility** should be enhanced through either the creation or empowerment of independent audit entities that have sufficient power and resources to check the influence of corporations and compel them to adhere to standards of transparency.

Lastly, the policymaking process needs to be opened up to the **active involvement** of civil society, academia, and the marginalised groups. This inclusivity would bring about a situation where different views are given a fair hearing and this would eventually result in more equal and socially focused policy decisions.

9. CONCLUSION

Political lobbying by companies is already a part of the contemporary political system, more so at such a fast-growing economy even in a developing country as India. Although this form of involvement has the potential to make the process of policymaking informed and efficient, its functioning in an obscure and insufficiently controlled system is dangerous to the welfare of the people and liberal ideals. As can be seen in the analysis, the current legal and institutional structure of India is inadequately positioned to deal with the intricacies of corporate influence. The continued absence of transparency, regulation, and accountability allows the interests of a select few to have disproportional and undue influence on the

¹⁶ OECD, *Lobbying in the 21st Century: Transparency, Integrity and Access* (2022).

government policy process, thereby diminishing the fairness, equity, and trust of the electorate in the government. Overcoming these obstacles will necessitate an overall reform agenda aimed at enhancing the transparency level, the regulation of lobbyist activities, the enhancement of the political funding system, and the increase of the institutional accountability level. Finally, a more inclusive approach to policymaking should be practised that is more transparent and participative and, therefore, maintains governance in touch with the intended goals of the social justice, economic equity, and sustainable development.

11. REFERENCES

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