



ISSN: 2583-7753

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 2

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.223>

© 2026 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com

Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of any suggestions or complaints, kindly contact (info.lijdlr@gmail.com)

To submit your Manuscript for Publication in the LawFoyer International Journal of Doctrinal Legal Research, To submit your Manuscript [Click here](#)

REGULATORY CAPTURE IN INDIA: WHEN REGULATORS SERVE THE ELITE

Jenimettilda J¹

I. ABSTRACT

Regulatory bodies play an important role in modern governance because they are responsible for overseeing industries, enforcing legal standards, and ensuring that economic activities are carried out in a fair and accountable manner. In India, several independent regulatory institutions have been established in sectors such as telecommunications, banking, securities markets, environmental protection, competition law, and natural resources. These bodies are expected to function impartially and strike a balance between economic development and public welfare. However, concerns have increasingly been raised about regulatory capture, a situation in which regulators become influenced by the very groups they are meant to regulate. When this happens, regulatory decisions may begin to favour powerful corporations, influential business interests, or political actors rather than the interests of the wider public. This article examines the idea of regulatory capture in the Indian context and explores the ways in which elite influence can affect regulatory decision-making. It discusses the development of the concept and its relevance in contemporary regulatory governance. The study further analyses how regulatory capture may arise in important sectors such as telecommunications, environmental administration, financial regulation, and natural resource management. It argues that regulatory capture should be viewed as a form of elite class deviance because it allows powerful groups to secure advantages through institutional influence while often remaining beyond direct legal scrutiny. The article also highlights the wider consequences of regulatory capture, including reduced public trust, weakened accountability, distorted market conditions, and challenges to democratic governance. In light of these concerns, the study suggests a number of reforms aimed at improving transparency, strengthening institutional independence, enhancing accountability, and encouraging greater public participation in

¹ LL.M, 4th Semester, Student at Tamil Nadu Dr. Ambedkar Law University (India). Email: jenijeyakumarvj19@gmail.com

regulatory processes. Such measures are necessary to ensure that regulatory institutions continue to serve the public interest and remain resistant to undue influence from powerful elite groups.

II. KEYWORDS

Regulatory Capture, Elite Class Deviance, Regulatory Independence, Public Interest, Institutional Accountability.

III. INTRODUCTION

In today's complex economic environment, regulatory bodies have become an essential part of governance. They are established to oversee various sectors and ensure that businesses and institutions function within the limits of law and public policy. In India, a number of regulatory authorities operate in areas such as banking, telecommunications, securities markets, environmental protection, competition law, and natural resource management. These institutions are expected to work independently and make decisions that balance economic development with the welfare of society. Their role extends beyond enforcing rules, as they are also responsible for promoting fairness, transparency, and accountability in sectors that directly affect people's lives. ² For any regulatory system to function effectively, regulators must remain free from undue influence.

The public expects them to make decisions based on law and public welfare rather than the interests of powerful individuals or organisations. However, concerns have increasingly emerged in many countries, including India, about situations where regulators appear to become too closely connected with the industries they oversee. This situation is commonly referred to as regulatory capture. It occurs when regulatory agencies gradually begin to respond more to the interests of regulated

² Jody Freeman & Martha Minow, Introduction to Government by Contract, in Government by Contract: Outsourcing and American Democracy 1, 9 (Jody Freeman & Martha Minow eds., Harvard Univ. Press 2009).

entities than to the needs of the wider public.³ When this happens, decisions that are intended to benefit society may instead favour a small group of influential actors.

The growing relevance of regulatory capture can be linked to the rapid expansion of markets and industries over the past few decades. Regulators often depend on businesses for technical knowledge, industry data, and specialised information that may not be available elsewhere. While this interaction is necessary for effective regulation, it can sometimes create opportunities for influence. Continuous engagement between regulators and industry representatives may gradually shape regulatory perspectives and affect institutional independence. In such circumstances, the concerns of consumers, workers, investors, and local communities may receive less attention than the interests of powerful market participants.⁴

The issue has become particularly significant in India after the economic reforms introduced in the early 1990s. During this period, several independent regulatory institutions were created with the objective of improving governance, increasing efficiency, and ensuring greater transparency in emerging markets. Over time, however, public discussions surrounding environmental clearances, allocation of natural resources, corporate regulation, and financial oversight have raised important questions about the extent to which these institutions remain insulated from powerful economic interests. Such developments indicate that regulatory capture is not merely an academic idea but a real governance concern that can influence public policy, institutional credibility, and public welfare.⁵

From the perspective of elite class deviance, regulatory capture deserves careful attention because it highlights how power and influence can shape public institutions. Elite class deviance generally refers to conduct by individuals or groups who occupy influential economic, political, or social positions and whose actions may cause harm to society. Unlike ordinary forms of crime, such behaviour often takes place within

³ George J. Stigler, *The Theory of Economic Regulation*, 2 *Bell J. Econ. & Mgmt. Sci.* 3, 3–21 (1971).

⁴ Daniel Carpenter & David A. Moss, *Introduction*, in *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 1, 13–15 (Daniel Carpenter & David A. Moss eds., Cambridge Univ. Press 2014).

⁵ Pratap Bhanu Mehta, *The Burden of Democracy* 221–25 (Penguin Books India 2003).

established institutions and may not immediately attract public scrutiny. Regulatory capture falls within this category because it allows powerful interests to influence regulatory processes and secure favourable outcomes through their access to decision-making channels. Even where there is no clear breach of criminal law, the effects of such influence can extend to large sections of society and impact the fairness of governance. The consequences of regulatory capture can be far-reaching. When regulatory bodies are unable to function independently, market competition may be affected, consumer interests may receive less protection, and environmental concerns may be overlooked in favour of economic gains. Public trust in regulatory institutions can also decline when people begin to feel that decisions are being shaped by powerful interests rather than by public welfare considerations. In such circumstances, the benefits created by regulation often remain concentrated in the hands of a few influential actors while the wider public bears the social and economic consequences⁶. This weakens the very purpose for which regulatory institutions are established and raises important concerns about accountability, fairness, and democratic governance. Another important feature of regulatory capture is that it usually operates through indirect forms of influence rather than through obvious acts of corruption. Influence may arise through lobbying efforts, political connections, professional relationships, industry networks, revolving-door appointments, or privileged access to information and policymakers. Since many of these practices occur within legally accepted limits, identifying the point at which influence becomes improper is often difficult. This makes regulatory capture a complex problem because it can exist even when there is no visible illegality⁷.

The challenge therefore lies not only in detecting such influence but also in ensuring that regulatory institutions remain genuinely committed to serving the public rather than powerful private interests. Against this backdrop, the present article examines

⁶ Susan Rose-Ackerman & Bonnie J. Palifka, *Corruption and Government: Causes, Consequences and Reform* 41–46 (2d ed., Cambridge Univ. Press 2016).

⁷ Daniel Carpenter & David A. Moss, Introduction, in *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 1, 15–18 (Daniel Carpenter & David A. Moss eds., Cambridge Univ. Press 2014).

regulatory capture in India as an important form of elite class deviance. It traces the development of the concept, discusses its theoretical foundations, and examines how it appears in different sectors of the Indian regulatory framework. The article also considers the impact of regulatory capture on governance, public welfare, and institutional accountability while identifying some of the challenges involved in preventing it. Through this analysis, the study seeks to emphasize the importance of maintaining transparent, independent, and accountable regulatory institutions that remain responsive to public needs instead of being influenced by powerful elite groups.

A. Research Objectives

This study examines regulatory capture in India as a form of elite class deviance. It aims to explain the concept and theoretical foundations of regulatory capture; examine its manifestations in the telecommunications, environmental, financial, and natural-resource sectors; assess its legal and social consequences for constitutional governance, public welfare, market competition, and democratic accountability; and identify reforms capable of strengthening regulatory independence, transparency, participation, and institutional accountability.

B. Research Questions

This study addresses the following questions:

1. What is regulatory capture, and how does it operate within the Indian regulatory framework?
2. In what ways do elite interests, institutional weaknesses, and unequal access to decision-makers facilitate regulatory capture in selected sectors?
3. What legal, social, and governance-related consequences arise when regulatory institutions serve private interests rather than public interest?
4. What reforms can reduce the risk of regulatory capture and strengthen public accountability?

C. Research Methodology

This study adopts a doctrinal and qualitative legal research methodology. It analyses primary legal materials, including the Constitution of India, relevant statutes, regulatory frameworks, and judicial decisions, particularly those concerning public-resource allocation, environmental governance, and administrative fairness. The study also relies on official reports and secondary sources, including books, journal articles, and policy literature, to examine the concept, causes, and consequences of regulatory capture. The analysis is descriptive and evaluative in nature and does not employ empirical surveys or quantitative data collection.

IV. UNDERSTANDING REGULATORY CAPTURE: CONCEPT, THEORY AND EVOLUTION

A. Meaning and Nature of Regulatory Capture

Regulatory institutions are created to oversee key sectors of the economy and ensure that businesses and industries operate in a fair and responsible manner. In India, bodies such as the Securities and Exchange Board of India (SEBI), the Telecom Regulatory Authority of India (TRAI), the Competition Commission of India (CCI), and various environmental authorities have been established to supervise economic activities and protect broader public interests. These institutions are expected to work independently while balancing the demands of economic development with the need for accountability and fairness. Their role becomes especially significant in sectors where large private entities possess considerable economic influence and where ineffective regulation can directly affect consumers as well as society at large.⁸

Although regulatory bodies are established with these objectives in mind, they do not always function entirely free from outside influence. There are situations in which regulators begin to give greater weight to the interests of powerful corporations,

⁸ Jody Freeman & Martha Minow, Introduction to Government by Contract, in *Government by Contract*:

Outsourcing and American Democracy 1, 9-11 (Jody Freeman & Martha Minow eds., Harvard Univ. Press 2009). ⁸ George J. Stigler, *The Theory of Economic Regulation*, 2 *Bell J. Econ. & Mgmt. Sci.* 3, 3-21 (1971).

industry groups, or other influential actors than to the concerns of the public. This situation is generally described as regulatory capture. It occurs when a regulatory authority gradually becomes influenced by the very entities it is expected to supervise and begins making decisions that align more closely with their interests. In such circumstances, regulation moves away from its intended purpose and may instead become a means through which powerful groups secure economic or political advantages.⁸

Unlike direct forms of corruption, regulatory capture usually develops slowly and often remains unnoticed for long periods. It can arise through regular interaction between regulators and industry representatives, reliance on industry expertise, lobbying efforts, political connections, or professional relationships that strengthen over time. Because these forms of influence frequently operate within established legal and administrative processes, they are not always easy to identify.⁹ Regulatory decisions may appear fair and legally valid on the surface while, in practice, benefiting a limited group of influential stakeholders more than the public they are meant to serve.

The issue becomes particularly concerning in a democratic system where public institutions are expected to act in accordance with constitutional principles. Although the Constitution of India does not specifically mention regulatory capture, values such as equality under Article 14 and fairness under Article 21 require public authorities to exercise their powers in a reasonable and transparent manner. When regulatory decisions are shaped by private influence rather than broader public concerns, these constitutional commitments may be weakened.¹⁰ As a result, regulatory capture is not merely an administrative problem but also a challenge to the principles of accountability and good governance that form the foundation of a democratic society.

⁹ Daniel Carpenter & David A. Moss, Introduction, in *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 1, 13–18 (Daniel Carpenter & David A. Moss eds., Cambridge Univ. Press 2014).

¹⁰ INDIA CONST. arts. 14, 21.

B. Theoretical Foundations of Regulatory Capture

Much of the academic discussion on regulatory capture can be traced to the work of economist George J. Stigler. Stigler argued that regulation does not always operate for the benefit of society as commonly assumed.¹¹ Instead, industries often attempt to influence regulatory systems so that regulations work in their favour. Businesses have strong reasons to seek such influence because regulatory decisions can affect profitability, market access, business expansion, and competitive advantage. Since the gains from favourable regulation are usually enjoyed by a small group of industry actors while the costs are spread across a much larger population, well-organised industries are often in a stronger position to influence regulatory outcomes than ordinary citizens.

Later scholars developed this idea further by pointing out that regulatory capture is not necessarily linked to corruption or intentional wrongdoing. In many cases, it develops through ordinary interactions between regulators and the industries they oversee. Regulatory agencies frequently depend on industry participants for technical knowledge, market information, and specialised expertise, especially in sectors that involve complex economic or technological issues. As these interactions become more frequent, regulators may gradually become more familiar with industry concerns and viewpoints.¹² Over time, this can affect the way regulatory issues are understood and may lead regulators to place greater emphasis on industry interests than on the concerns of consumers or the wider public.

Indian courts have also stressed the importance of fairness and impartiality in the exercise of public power. In *Ramana Dayaram Shetty v. International Airport Authority of India*, the Supreme Court observed that arbitrary action is inconsistent with the guarantee of equality under Article 14 of the Constitution. The Court made it clear that public authorities must exercise their powers in a fair and reasonable manner and cannot favour particular private interests. Although the decision was not delivered in the context of regulatory capture, the principles laid down by the Court remain

¹¹ George J. Stigler, *The Theory of Economic Regulation*, 2 *Bell J. Econ. & Mgmt. Sci.* 3, 4–8 (1971).

¹² Sam Peltzman, *Toward a More General Theory of Regulation*, 19 *J.L. & Econ.* 211, 212–214 (1976).

relevant because they reinforce the expectation that public institutions should function independently and remain accountable to the people they serve.¹³

Recent studies have identified information imbalance as one of the major reasons why regulatory capture becomes possible. Regulatory bodies are often required to oversee sectors involving advanced technology, financial systems, environmental regulations, and complex market practices. In many situations, regulators do not possess the same level of specialised knowledge as the industries they regulate and therefore depend on information supplied by those industries. While such dependence may be necessary to some extent, it can gradually reduce institutional autonomy and make regulators more vulnerable to influence.¹⁴ This creates a situation where powerful industry actors are able to shape discussions and priorities in ways that may ultimately affect regulatory decisions.

C. Evolution of Regulatory Capture

The understanding of regulatory capture has changed considerably over the years. Earlier discussions mainly focused on economic regulation and the interaction between government regulators and private businesses. Over time, however, the concept has been applied to many other areas of governance. Today, concerns about regulatory capture are not limited to economic sectors alone but are also discussed in relation to banking, telecommunications, environmental protection, public health, infrastructure projects, and the management of natural resources. This wider application reflects the growing recognition that regulatory influence can arise wherever important public decisions are made.¹⁵

The expansion of global markets and the liberalization of economies have further drawn attention to the issue of regulatory capture. Large corporations now possess vast financial resources, specialised knowledge, and considerable influence in policy

¹³ Ramana Dayaram Shetty v. Int'l Airport Auth. of India, (1979) 3 SCC 489 (India).

¹⁴ Organisation for Economic Co-operation and Development, Preventing Policy Capture: Integrity in Public Decision Making 21–25 (2017).

¹⁵ Susan Rose-Ackerman & Bonnie J. Palifka, Corruption and Government: Causes, Consequences and Reform 315–320 (2d ed., Cambridge Univ. Press 2016).

discussions. These advantages often allow them to play an active role in shaping laws, regulations, and government policies. Although consultation with stakeholders is an essential part of democratic governance, concerns arise when certain groups enjoy far greater influence than others. In such situations, regulatory institutions may find it difficult to maintain their independence and remain fully accountable to the public.¹⁶

In India, debates surrounding regulatory capture became more prominent after the economic reforms introduced in the 1990s. During this period, several independent regulatory bodies were established with the aim of improving efficiency, attracting investment, and reducing excessive government control over economic activities. However, controversies relating to natural resource allocation, environmental clearances, telecommunications policy, and financial regulation have repeatedly raised questions about the ability of regulatory institutions to remain free from powerful economic interests¹⁷. These developments show that regulatory capture is not simply an academic concept but a real issue that can affect governance, economic fairness, and public welfare.

The judiciary has also played an important role in emphasizing the need for transparency and accountability in regulatory processes. In *Centre for Public Interest Litigation v. Union of India* (2G Spectrum Case), the Supreme Court stressed that public resources must be allocated through transparent and fair procedures that are consistent with constitutional principles. While the case primarily dealt with the legality of spectrum allocation, the observations of the Court reflected a broader concern about the misuse of public power for private benefit.¹⁸ The judgment continues to serve as an important reminder that regulatory institutions must function in a manner that protects public interest rather than advancing the interests of a privileged few.

¹⁶ Organisation for Economic Co-operation and Development, *Lobbying in the 21st Century: Transparency, Integrity and Access* 34–38 (2021).

¹⁷ Umakanth Varottil, *The Evolution of Corporate Law and Governance in India* 102–108 (Cambridge Univ. Press 2022).

¹⁸ *Ctr. for Pub. Interest Litig. v. Union of India*, (2012) 3 SCC 1 (India).

D. Regulatory Capture as a Form of Elite Class Deviance

Regulatory capture can also be viewed through the concept of elite class deviance because it highlights how power and influence may be used to shape public institutions for private benefit. Elite class deviance generally refers to actions carried out by individuals, corporations, or groups that hold significant economic, political, or social influence and whose conduct may cause harm to society. Unlike ordinary crimes, such actions often take place within established institutional structures and may not always involve an obvious violation of law. As a result, they frequently receive less public attention even though their effects can be far-reaching¹⁹. Decisions made by powerful actors can influence entire industries, affect public policy, and shape outcomes that impact large sections of society.

When influential corporations or elite groups are able to exert influence over regulatory institutions, the advantages usually remain concentrated among a limited section of society while the burden is often borne by the public. Consumers may have fewer choices, market competition may weaken, environmental safeguards may be diluted, and valuable public resources may be used in ways that favour private interests. These outcomes show that power can sometimes be exercised through institutional channels rather than through direct unlawful conduct. In many cases, the benefits secured by influential actors arise not because laws are openly broken but because decision-making processes are gradually shaped to serve particular interests.²⁰

The Supreme Court has on several occasions emphasized the need to protect public resources and ensure accountability in governance. In *Manohar Lal Sharma v. Principal Secretary* (Coal Block Allocation Case), the Court observed that decisions relating to national resources must be guided by transparency and the larger public interest.²¹ Public resources cannot be treated as assets that serve only private economic interests

¹⁹ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 6–12 (5th ed., Wadsworth Cengage Learning 2010).

²⁰ Susan Rose-Ackerman & Bonnie J. Palifka, *Corruption and Government: Causes, Consequences and Reform* 45–50 (2d ed., Cambridge Univ. Press 2016).

²¹ *Manohar Lal Sharma v. Principal Sec'y*, (2014) 9 SCC 516 (India).

because they ultimately belong to the people. This principle has a direct connection with the issue of regulatory capture, where influential actors may attempt to influence regulatory decisions in order to obtain private benefits from public processes.

Viewing regulatory capture as a form of elite class deviance helps shift the focus away from isolated acts of corruption and towards the broader structures through which influence operates. It draws attention to unequal power relationships, institutional vulnerabilities, and the different ways in which influential groups may shape public decision-making. This perspective is especially important in India, where regulatory institutions play an increasingly significant role in governance and economic development. Understanding regulatory capture in this manner provides a useful foundation for examining how the problem appears in different sectors and how regulators may, over time, become more responsive to elite interests than to the needs of the public.

V. REGULATORY CAPTURE IN INDIA: HOW REGULATORS SERVE THE ELITE

The previous chapter explained that regulatory capture takes place when regulatory bodies gradually become more responsive to powerful interests than to the public, they are expected to serve. Although the idea is often discussed in theoretical terms, its effects can be seen in several areas of the Indian economy. Regulatory capture does not usually arise because of one isolated illegal act. Instead, it develops over time through a combination of political influence, economic power, lobbying efforts, unequal access to information, and close interaction between regulators and the industries they oversee. As these influences grow stronger, institutions that were originally created to safeguard public welfare may slowly begin to favour influential corporations and elite groups.

This chapter examines some key sectors where concerns relating to regulatory capture have been raised in India and considers the impact that such influence can have on governance, accountability, and the larger public interest.

A. Regulatory Capture in the Telecommunications Sector

The telecommunications sector is often cited as one of the most prominent examples of regulatory capture in India. Following economic liberalization, the sector witnessed rapid growth and became an important part of the country's development. To regulate this expanding industry, Parliament enacted the Telecom Regulatory Authority of India Act, 1997, which established the Telecom Regulatory Authority of India (TRAI). The purpose of TRAI is to maintain fair competition, protect consumers, and support the healthy growth of the telecommunications sector.²²

Despite these objectives, concerns about undue influence became particularly visible during the controversy relating to the allocation of second-generation (2G) spectrum licences. The allocation process attracted criticism because it was perceived as lacking transparency and because certain private entities appeared to receive favourable treatment. Questions were raised about whether public resources had been distributed in a fair manner and whether the process had provided an unfair advantage to a few corporate actors²³. These concerns eventually led to judicial scrutiny in *Centre for Public Interest Litigation v. Union of India*, where the Supreme Court cancelled 122 telecom licences and stressed that public resources must be allocated through a transparent and non-arbitrary process that complies with constitutional principles.

Subsequent legislative developments require the 2G controversy to be understood within the present legal framework. The Telecommunications Act, 2023 (Act No. 44 of 2023) repeals the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, subject to savings for prior actions and licences. It replaces the earlier licensing structure with a system under which persons providing telecommunication services, establishing or operating telecommunication networks, or possessing radio equipment must obtain an authorisation from the Central Government. Existing licences may continue for their specified duration or migrate to the new authorisation framework. The Act also amends the TRAI Act, including its statutory terminology,

²² Telecom Regulatory Authority of India Act, No. 24 of 1997, pmb. & § 11 (India).

²³ Vinod Rai, Not Just an Accountant: The Diary of the Nation's Conscience Keeper 89–96 (2014).

appointment criteria, and functions. The new framework may reduce capture risks where authorisation criteria, conditions, and reasons for decisions are publicly disclosed and applied uniformly. However, it may reproduce or heighten such risks where executive discretion over authorisations and conditions is exercised without transparent procedures, meaningful regulatory scrutiny, and public accountability.²⁴

The importance of the 2G Spectrum Case goes beyond the issue of corruption alone. The controversy illustrates how regulatory systems can become vulnerable when powerful private interests are able to influence decision-making processes. Although the telecommunications sector operates under an extensive legal and regulatory framework, the events surrounding the case exposed the difficulties regulators may face when economic power and political considerations become closely connected. The judgment also reaffirmed the principle that regulatory institutions must remain guided by constitutional values and public welfare rather than the interests of influential private actors.²⁵

B. Regulatory Capture in Environmental Governance

Environmental governance is another field where concerns about regulatory capture have repeatedly surfaced. India has enacted a number of laws to protect the environment, including the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974. These laws were introduced to ensure that economic development does not take place at the cost of environmental protection and public health.

Authorities responsible for granting environmental clearances and monitoring compliance are expected to act independently and carefully assess whether development projects are likely to cause serious environmental harm.²⁶ At the same time, environmental regulation is closely connected with projects that involve

²⁴ Telecommunications Act, No. 44 of 2023, §§ 3, 59–61 (India); Telecom Regulatory Authority of India Act, No. 24 of 1997, § 11, as amended by Telecommunications Act, No. 44 of 2023, § 59 (India).

²⁵ *Ctr. for Pub. Interest Litig. v. Union of India*, (2012) 3 SCC 1 (India).

²⁶ Environment (Protection) Act, No. 29 of 1986; Water (Prevention and Control of Pollution) Act, No. 6 of 1974; Air (Prevention and Control of Pollution) Act, No. 14 of 1981.

substantial economic gains. Large infrastructure ventures, mining activities, industrial expansion, and energy projects often attract significant private investment and generate considerable profits. Because of these high financial stakes, concerns are sometimes raised about whether regulatory authorities give adequate weight to environmental and social impacts while reviewing such projects.

Critics have often argued that economic considerations may receive greater attention than environmental concerns, particularly when influential corporate interests are involved. Recent legislative developments sharpen these concerns. The Forest (Conservation) Amendment Act, 2023, now reflected in the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, inserted section 1A and specified the lands covered by the statute. It principally covers land declared or notified as forest or recorded as forest in government records on or after 25 October 1980, while exempting certain categories of land and specified strategic, security-related, and public-utility projects from its operation.

Critics have argued that the revised framework narrows statutory protection when compared with the broader understanding of forests adopted in *T.N. Godavarman Thirumulpad v. Union of India* and may facilitate forest diversion for infrastructure or commercial interests. The Union Government has maintained that the amendment does not dilute the *Godavarman* principles. This controversy does not, by itself, establish regulatory capture; nevertheless, it illustrates the elite-class-deviance concern that legal exemptions and executive discretion may disproportionately benefit powerful development interests unless exercised through transparent procedures, independent scrutiny, and meaningful public participation.²⁷

Indian courts have consistently underlined the importance of transparency and responsibility in environmental governance. In *Vellore Citizens' Welfare Forum v. Union of India*, the Supreme Court recognised the precautionary principle and sustainable development as essential components of environmental law.²⁸ Likewise, in *M.C.*

²⁷ Forest (Conservation) Amendment Act, No. 15 of 2023, §§ 3–5 (India); Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, §§ 1A–2 (as amended); *T.N. Godavarman Thirumulpad v. Union of India*, W.P. (C) No. 202 of 1995, orders dated Feb. 19, 2024, and Mar. 4, 2025 (India).

²⁸ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647 (India).

Mehta v. Kamal Nath, the Court applied the public trust doctrine and observed that natural resources are held by the State for the benefit of the public²⁹. These principles become especially relevant when decisions concerning environmental approvals are influenced by powerful industrial interests seeking quicker permissions or reduced regulatory obligations.

Concerns relating to environmental regulatory capture are important because their impact extends far beyond financial considerations. Weak environmental oversight can lead to pollution, ecological damage, displacement of local communities, and long-term risks to public health. In many cases, the burden of these consequences is borne by ordinary people while the economic benefits remain concentrated among a limited number of powerful actors. This imbalance highlights why environmental regulation must remain independent and accountable to the broader public interest.

C. Regulatory Capture in the Financial and Banking Sector

The financial and banking sector plays a crucial role in the functioning of the Indian economy. Institutions such as the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), and other regulatory authorities are responsible for maintaining financial stability, protecting investors, and ensuring confidence in the market. Because modern financial systems are highly complex, regulators are required to engage regularly with banks, financial institutions, and large corporate entities.³⁰ The global financial crisis of 2008 highlighted the risks that can arise when regulators and financial institutions become too closely connected.

Even though India did not experience the same level of disruption seen in some Western countries, the crisis encouraged greater attention towards regulatory independence and effective oversight. Similar concerns have continued to appear in discussions relating to banking frauds, corporate governance failures, non-performing assets, and instances of market manipulation. These developments have reinforced the need for regulators to remain vigilant and independent while overseeing powerful

²⁹ M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (India).

³⁰ Reserve Bank of India, Report on Trend and Progress of Banking in India 2023–24, at 12–18 (2024). ³⁰ Viral V. Acharya, Quest for Restoring Financial Stability in India 55–61 (2020).

financial actors.³⁰ A notable example that attracted widespread attention was the collapse of Infrastructure Leasing & Financial Services (IL&FS). The crisis triggered serious concerns about regulatory supervision, corporate governance standards, and institutional accountability.

Although different regulatory bodies were responsible for monitoring various aspects of the organisation, questions were raised about whether warning signals had been identified and addressed at an earlier stage. Incidents of this nature illustrate the difficulties regulators may encounter when dealing with financially influential organisations that possess significant market presence and access to decision-making networks.

A further controversy arose in August 2024 when Hindenburg Research alleged that Madhabi Puri Buch, then Chairperson of the Securities and Exchange Board of India, and her husband had interests in offshore funds said to be connected with entities associated with the Adani Group. The allegations raised concerns about whether personal financial interests could affect the appearance or reality of regulatory impartiality in matters involving major corporate groups. Buch and her husband denied the allegations, stating that the investment pre-dated her SEBI appointment and had no connection with Adani securities.

SEBI similarly stated that the required disclosures had been made and that she had recused herself in matters involving potential conflicts of interest. In May 2025, the Lokpal dismissed related complaints, finding no verifiable material sufficient to warrant an investigation. The episode should therefore not be treated as proof of regulatory capture; nevertheless, it illustrates the elite-class-deviance concern that even perceived conflicts at the highest level of a market regulator can weaken public confidence and demonstrate the importance of effective disclosure, independent conflict review, and transparent recusal procedures.³¹

³¹ Hindenburg Research, *Whistleblower Documents Reveal SEBI's Chairperson Had Stake in Obscure Offshore Entities Used in Adani Money Siphoning Scandal* (Aug. 10, 2024); Madhabi Puri Buch & Dhaval Buch, *Joint Statement* (Aug. 11, 2024); Securities and Exchange Board of India, *Statement on Hindenburg Allegations* (Aug. 11, 2024); Lokpal of India, *Common Order* dated May 28, 2025.

D. Regulatory Capture in Natural Resource and Mining Regulation

The management of natural resources is another area where concerns about elite influence have frequently been raised. Resources such as coal, minerals, forests, and spectrum are public assets and form an important part of the country's wealth. Decisions relating to their allocation and use therefore have a direct impact on both the economy and society. Regulatory authorities entrusted with overseeing these resources are expected to act fairly, maintain transparency, and ensure that public resources are used in a manner that benefits the nation as a whole.³²

The coal block allocation controversy is one of the most prominent examples. Allegations were made that valuable coal blocks had been distributed without following transparent procedures or ensuring fair competition. In *Manohar Lal Sharma v. Principal Secretary*, the Supreme Court declared several coal block allocations illegal and stressed that public resources must be distributed in a manner that is consistent with constitutional principles and public interest.³³

The judgment highlighted the principle that national resources cannot be used primarily for the benefit of private interests. It also showed that courts may step in when regulatory and administrative systems fail to uphold transparency and accountability. Similar concerns have been expressed in matters involving mining permissions, land acquisition, and resource extraction projects, where local communities often have limited influence when compared with large corporations and business interests. These situations demonstrate how unequal access to power can affect decisions involving resources that belong to the public.

E. The Revolving Door and Corporate Influence

One of the ways in which regulatory capture may develop is through what is commonly known as the "revolving door" phenomenon. This refers to the movement of individuals between regulatory agencies and the industries that they regulate. Former regulators may later accept positions in private companies, while individuals

³² INDIA CONST. art. 39(b).

³³ *Manohar Lal Sharma v. Principal Sec'y*, (2014) 9 SCC 516 (India).

with long industry experience may be appointed to important regulatory roles. Such movement between the public and private sectors is not uncommon and is often justified on the ground of professional expertise.³⁴ The existence of professional mobility does not automatically create a problem.

Experience gained in either sector can contribute to better decision-making and more effective regulation. However, concerns arise when previous relationships or future employment opportunities begin to influence regulatory decisions. Regulators may become less willing to take strict action against organisations with which they have professional connections. In the same way, individuals entering regulatory institutions from industry backgrounds may approach issues from a perspective that is more favourable to corporate interests than to broader public concerns.³⁵

Corporate lobbying also plays an important role in shaping regulatory outcomes. Large corporations usually possess greater financial resources, legal support, and access to policymakers than ordinary citizens. While discussions between regulators and stakeholders are a normal part of democratic governance, unequal access can create an imbalance in the decision-making process. Over time, this may result in regulatory priorities reflecting the interests of influential groups more than the needs of the wider public. The examples discussed throughout this chapter show that regulatory capture is not limited to any one sector. Whether in telecommunications, environmental governance, financial regulation, or natural resource management, the pattern remains broadly similar. Powerful actors are often able to exercise influence in ways that affect regulatory outcomes and public decision-making. Although the methods may differ from one sector to another, the central concern remains the same: institutions created to protect public welfare may gradually become more responsive to elite interests. Understanding these patterns is important because the effects of regulatory capture extend beyond economic regulation and have implications for public trust, democratic accountability, and the credibility of governance institutions.

³⁴ Organisation for Economic Co-operation and Development, *Preventing Policy Capture: Integrity in Public Decision Making* 87–91 (2017).

³⁵ Daniel Carpenter & David A. Moss, *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 121–130 (2014).

VI. LEGAL AND SOCIAL CONSEQUENCES OF REGULATORY CAPTURE

The discussion in the earlier chapter showed how regulatory capture can develop in different sectors of the Indian economy and how influential actors may affect regulatory decisions. The issue, however, is not limited to the functioning of regulatory institutions alone. Its effects can be seen in many areas of governance and can influence economic development, democratic accountability, and public confidence in government bodies. When regulatory agencies become more responsive to powerful interests than to the needs of the public, the consequences are often felt most strongly by ordinary citizens who have little role in regulatory decision-making. For this reason, regulatory capture is not only a regulatory concern but also an important issue within the study of elite class deviance because its effects extend to both legal and social spheres.

A. Impact on Constitutional Governance and Rule of Law

One of the most serious effects of regulatory capture is its impact on constitutional governance and the rule of law. Public institutions exercise authority because that power is granted and limited by the Constitution. They are expected to perform their functions in a fair, transparent, and accountable manner. Articles 14 and 21 of the Constitution require public authorities to act reasonably and in a way that protects the larger public interest³⁶. When regulatory agencies become influenced by powerful private interests, there is a risk that these constitutional principles may not be fully respected in practice.

The Supreme Court has repeatedly stated that public power cannot be used in an arbitrary manner or for the benefit of select private groups. In *Ramana Dayaram Shetty v. International Airport Authority of India*, the Court observed that arbitrariness is inconsistent with the guarantee of equality under Article 14 and that public authorities must exercise their powers fairly.³⁷ Likewise, in *Centre for Public Interest Litigation v.*

³⁶ INDIA CONST. arts. 14 & 21.

³⁷ *Ramana Dayaram Shetty v. Int'l Airport Auth. of India*, (1979) 3 SCC 489 (India).

Union of India (2G Spectrum Case), the Court stressed that public resources must be allocated through transparent procedures that remain consistent with constitutional values. These decisions underline the expectation that regulatory institutions should remain accountable to the public and should not allow private interests to influence their decisions.³⁸

When regulatory capture begins to affect public decision-making, confidence in the rule of law can gradually weaken. Citizens may come to believe that important decisions are shaped more by economic influence and political connections than by legal principles and public welfare. Such perceptions can reduce trust in public institutions and weaken the credibility of governance systems. In the long run, this can affect not only regulatory effectiveness but also the public's faith in democratic institutions and constitutional governance.

B. Distortion of Market Competition

Regulatory capture can also affect the way market's function. One of the key responsibilities of regulatory authorities is to ensure fair competition and prevent practices that give an unfair advantage to certain businesses. When powerful corporations are able to influence regulatory decisions, they may receive benefits that are not available to smaller competitors. These benefits can take different forms, such as easier access to licences, reduced compliance obligations, favourable regulatory treatment, or priority access to valuable resources.³⁹

As a result, competition within the market may gradually become less balanced. Smaller businesses often find it difficult to compete with large corporations that possess greater resources and stronger connections within regulatory systems. This can discourage new businesses from entering the market and reduce opportunities for innovation. Over time, economic power may become concentrated in the hands of a

³⁸ *Ctr. for Pub. Interest Litig. v. Union of India*, (2012) 3 SCC 1 (India).

³⁹ Organisation for Economic Co-operation and Development, *Preventing Policy Capture: Integrity in Public Decision Making* 41–45 (2017).

few dominant players, making it even harder for smaller enterprises to grow and compete on equal terms.⁴⁰

To address such concerns, the Competition Act, 2002 was enacted to promote fair competition and prevent practices that harm market efficiency. However, even well-designed laws may not achieve their purpose if regulatory institutions are unable to function independently.⁴¹ When regulatory decisions are influenced by powerful interests, the objectives of competition law can be weakened, and the fairness of the market may be affected.

C. Misallocation of Public Resources

Another important consequence of regulatory capture is the improper use and allocation of public resources. Resources such as coal, minerals, forests, spectrum, and public land belong to the nation and are expected to be managed for the benefit of society. Authorities responsible for allocating or supervising these resources are required to act fairly, transparently, and in accordance with the public interest.⁴²

When regulatory capture occurs, valuable public resources may be distributed in ways that favour a limited number of private entities rather than the broader public. The controversies relating to the 2G Spectrum allocation and coal block allocation illustrate how concerns about transparency and fairness can arise when public resources are allocated through questionable processes⁴³. In *Manohar Lal Sharma v. Principal Secretary*, the Supreme Court stressed that the distribution of national resources must meet constitutional standards of fairness, transparency, and accountability.⁴⁴

The effects of such failures extend beyond financial losses to the State. Public trust in governance may weaken when people believe that resources belonging to the nation are being used primarily for private gain. When citizens begin to feel that public

⁴⁰ Daniel Carpenter & David A. Moss, *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 66–72 (Cambridge Univ. Press 2014).

⁴¹ Competition Act, No. 12 of 2003, pmb. (India).

⁴² INDIA CONST. art. 39(b).

⁴³ Vinod Rai, *Not Just an Accountant: The Diary of the Nation's Conscience Keeper* 89–96 (2014). ⁴⁴ *Manohar Lal Sharma v. Principal Sec'y*, (2014) 9 SCC 516 (India).

institutions are serving powerful interests instead of society as a whole, confidence in democratic governance can decline. Such perceptions can raise serious concerns about accountability and the credibility of public institutions.

D. Impact on Consumer Welfare and Public Interest

Many regulatory institutions are created with the aim of protecting consumers and ensuring that essential services remain safe, reliable, and reasonably accessible. When regulatory capture takes place, this objective may gradually be weakened as regulatory attention shifts from public concerns to the interests of powerful businesses. In such situations, consumers may experience higher costs, poorer service standards, and fewer opportunities to seek effective remedies when problems arise. The telecommunications sector offers a useful example. Decisions relating to pricing, licensing, and entry into the market directly affect a large number of consumers. If regulators become more responsive to industry interests, consumer concerns may not receive the same level of attention. Similar issues can also be seen in sectors such as electricity, banking, healthcare, and environmental regulation, where regulatory decisions influence the daily lives of ordinary people.⁴⁴

The impact on society becomes more serious because most citizens have limited ability to influence regulatory processes. Large corporations often have access to legal experts, industry representatives, and policymakers, whereas consumers usually depend on regulatory bodies to protect their interests. When regulators fail to perform this role effectively, the burden is often felt by the public rather than by those with greater economic influence.

E. Environmental and Social Consequences

Environmental governance provides another area where the effects of regulatory capture can be clearly seen. Agencies responsible for environmental approvals and compliance monitoring play an important role in protecting natural resources and public health. At the same time, large industrial, infrastructure, and energy projects

⁴⁴ Susan Rose-Ackerman & Bonnie J. Palifka, *Corruption and Government: Causes, Consequences and Reform* 51–55 (2d ed., Cambridge Univ. Press 2016).

often involve substantial financial investments, which can create pressure on regulatory institutions.⁴⁵ When environmental regulators become overly influenced by corporate interests, environmental safeguards may become weaker. Projects may receive approval even when there are concerns about ecological damage, displacement of local communities, or risks to public health. The effects of such decisions are often long-lasting and may continue to affect both present and future generations.⁴⁶

The Supreme Court, in *Vellore Citizens' Welfare Forum v. Union of India* and *M.C. Mehta v. Kamal Nath*, emphasized that environmental protection is closely connected with sustainable development and public welfare.⁴⁷ These decisions highlight the need for regulatory institutions to balance economic progress with environmental responsibility. When this balance is not maintained, the result may be environmental damage, social inequality, and harm to vulnerable communities.

F. Erosion of Public Trust and Democratic Accountability

One of the most damaging effects of regulatory capture is the gradual loss of public trust. Democratic institutions function effectively only when people believe that public authorities act fairly and in the interest of society. Regulatory bodies are given significant powers because they are expected to use their expertise while remaining accountable to the public. When people begin to feel that regulators are responding more to influential groups than to public concerns, confidence in these institutions starts to decline.⁴⁸ A decline in public trust can affect democratic governance in several ways. Citizens may become less interested in participating in public processes, less confident in government decisions, and more doubtful about whether institutions are genuinely accountable. Over time, this lack of trust can make regulatory systems

⁴⁵ Lavanya Rajamani, *Environmental Governance in India*, 13 *Asian J. Comp. L.* 45, 53–58 (2018).

⁴⁶ U.N. Env't Programme, *Environmental Rule of Law: First Global Report* 92–95 (2019).

⁴⁷ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647 (India); *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (India).

⁴⁸ Organisation for Economic Co-operation and Development, *Trust and Public Policy: How Better Governance Can Help Rebuild Public Trust* 17–20 (2022).

less effective and weaken the relationship between the public and governing institutions.

Elite class deviance becomes particularly difficult to address because it often takes place within systems that appear lawful and legitimate. Regulatory capture rarely involves obvious criminal behaviour. Instead, it operates through influence, access, professional networks, and unequal power relationships. Because of this, its effects may remain unnoticed for long periods even while it continues to shape important regulatory and policy decisions.⁴⁹ The discussion in this chapter shows that regulatory capture is far more than an issue of administrative inefficiency.

Its effects can be seen in constitutional governance, market fairness, environmental protection, public resource management, and democratic accountability. These consequences explain why regulatory capture should be viewed as a serious form of elite class deviance. At the same time, its continued presence raises an important issue: despite legal safeguards and regulatory frameworks, why does it remain so difficult to prevent? The next chapter explores the institutional and structural factors that allow regulatory capture to persist.

VII. CHALLENGES IN PREVENTING REGULATORY CAPTURE IN INDIA

The earlier chapters discussed the impact of regulatory capture on governance, public welfare, and democratic accountability. Despite the existence of various regulatory institutions and legal safeguards in India, concerns about regulatory capture continue to arise across different sectors. This suggests that the issue is not simply a lack of laws but also the presence of institutional conditions that make regulatory bodies vulnerable to outside influence. Before considering possible reforms, it is necessary to understand the factors that allow regulatory capture to continue even within well-established regulatory systems.

⁴⁹ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 22–28 (5th ed., Wadsworth Cengage Learning 2010).

A major difficulty arises from the dependence of regulators on information supplied by the industries they supervise. Sectors such as banking, telecommunications, energy, and digital technology involve complex technical issues that often require specialised knowledge. Regulatory authorities therefore rely heavily on industry data, reports, and expert inputs while making decisions⁵⁰. Although this dependence is often unavoidable, it can gradually affect regulatory independence because much of the information used in decision-making comes from the same entities that are being regulated. Over time, industry concerns may receive greater attention than the interests of consumers and the public.

The relationship between regulators and industry representatives can also create challenges. Regular interaction is necessary because regulators must understand how industries function and respond to changing market conditions. However, prolonged engagement may sometimes lead to familiarity and close professional relationships. In such circumstances, regulators may become less inclined to impose strict oversight measures and more likely to view issues from the perspective of the industry⁵¹. Since this influence usually develops through ordinary professional contact rather than through direct misconduct, it is often difficult to identify and address.

Political influence remains another factor that complicates efforts to prevent regulatory capture. Although regulatory agencies are generally expected to function independently, they do not operate entirely outside the political system. Matters such as appointments, administrative control, and policy directions can sometimes create opportunities for political pressure.⁵² In *Vineet Narain v. Union of India*, the Supreme Court stressed the importance of institutional independence in maintaining public confidence and accountability.⁵³ Regulatory bodies can perform their role effectively

⁵⁰ Organisation for Economic Co-operation and Development, *Preventing Policy Capture: Integrity in Public Decision Making* 23–29 (2017).

⁵¹ Daniel Carpenter & David A. Moss, *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 33–40 (Cambridge Univ. Press 2014).

⁵² Susan Rose-Ackerman & Bonnie J. Palifka, *Corruption and Government: Causes, Consequences and Reform* 210–216 (2d ed., Cambridge Univ. Press 2016).

⁵³ *Vineet Narain v. Union of India*, (1998) 1 SCC 226 (India).

only when they are able to make decisions free from unnecessary political or economic interference.

The movement of individuals between regulatory institutions and private industries presents a further challenge. This practice, often referred to as the revolving door phenomenon, occurs when former regulators join industries that they once supervised or when industry professionals later take up regulatory positions. While such movement may bring useful experience and expertise, it can also raise concerns about conflicts of interest. Even the perception that regulatory decisions may be influenced by past or future professional relationships can affect public trust in the neutrality of regulatory institutions.⁵⁴

A lack of equal participation in regulatory processes also contributes to the problem. Large corporations often have access to greater financial resources, legal expertise, and direct engagement with policymakers. As a result, they are usually in a stronger position to participate in consultations and influence regulatory discussions. Consumers, local communities, and civil society organisations do not always have the same opportunities.⁵⁵ This imbalance can make it easier for powerful stakeholders to shape regulatory outcomes while the voices of ordinary citizens receive less attention.

Weak accountability mechanisms create additional difficulties. Although regulatory decisions can be challenged through judicial review under Articles 32 and 226 of the Constitution, legal proceedings are often time-consuming and costly. Internal monitoring systems may also fail to identify subtle forms of influence, particularly when regulatory capture develops through informal relationships rather than through clear legal violations. Because of this, many concerns relating to regulatory influence remain difficult to detect and address at an early stage.⁵⁶

Economic inequality itself can also make regulatory capture more likely. Large corporations and influential business groups possess the financial strength and

⁵⁴ Organisation for Economic Co-operation and Development, *Revolving Doors, Accountability and Transparency in Public Life* 14–18 (2009).

⁵⁵ Cary Coglianese, *Transparency and Public Participation in the Regulatory Process*, 80 *Geo. Wash. L. Rev.* 924, 928–934 (2012).

⁵⁶ INDIA CONST. arts. 32, 226.

organisational capacity to engage regularly with regulators and policymakers. Ordinary citizens rarely enjoy the same level of access⁵⁷. This difference in influence means that powerful actors are often better positioned to shape discussions, policy choices, and regulatory outcomes in ways that support their interests.

Taken together, these factors show that regulatory capture is rarely the result of a single act or individual failure. It usually develops from a combination of institutional weaknesses, unequal access to influence, and structural conditions within regulatory systems. Dependence on industry information, political pressures, revolving-door practices, limited public participation, weak accountability mechanisms, and economic inequality all contribute to an environment where regulatory capture can take root. Understanding these challenges is important because meaningful reform requires attention to the underlying causes of the problem rather than only its visible effects. The next chapter therefore focuses on reforms that may strengthen regulatory independence, improve accountability, and help ensure that regulatory institutions remain committed to serving the public interest.

VIII. RECOMMENDATIONS AND REFORMS

The analysis in the earlier chapters makes it clear that regulatory capture continues to pose a serious challenge to effective governance in India. Regulatory institutions are created to safeguard public interest, yet they may sometimes become vulnerable to pressure from powerful economic or political actors. If regulatory systems are to remain credible and effective, steps must be taken to reduce such influence and strengthen public confidence in these institutions.

A key step in this direction is strengthening the independence of regulatory bodies. Regulators should be able to carry out their responsibilities without facing unnecessary pressure from political authorities or corporate interests. Transparent appointment procedures, secure tenure, and clearly defined grounds for removal can help create an environment in which decisions are guided by law and public welfare

⁵⁷ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 98–105 (5th ed., Wadsworth Cengage Learning 2010).

rather than external influence. Greater institutional independence can also increase public trust in the fairness of regulatory decision-making.⁵⁸

Transparency is equally important in ensuring that regulatory institutions remain accountable. Significant regulatory decisions should be accompanied by clear reasons and relevant information should be made accessible to the public whenever possible. Open consultation processes allow citizens and other stakeholders to understand how decisions are reached and make it more difficult for hidden influence to affect outcomes. Public scrutiny often acts as a safeguard against decisions that favour narrow private interests over broader public concerns⁵⁹.

Improving the technical capacity of regulatory agencies is another area that requires attention. Many regulators rely heavily on information supplied by the industries they oversee because they do not always possess sufficient internal expertise. Strengthening independent research facilities, expanding access to expert advice, and providing regular professional training can help regulators make better-informed decisions. When institutions have access to reliable and independent sources of knowledge, they are less likely to depend excessively on industry perspectives.⁶¹

Conflicts of interest must also be addressed more carefully. Situations where regulators move into industries they once supervised, or where industry professionals take up regulatory positions, can create concerns about impartiality. Reasonable cooling-off periods and stronger disclosure requirements can help reduce such concerns. These measures can improve public confidence by ensuring that regulatory decisions are not affected by personal or professional interests.⁶⁰

Another area that deserves attention is public participation. Regulatory processes should not be shaped only by large corporations and influential groups. Consumer organisations, universities, civil society groups, and local communities should have

⁵⁸ Susan Rose-Ackerman & Bonnie J. Palifka, *Corruption and Government: Causes, Consequences and Reform* 221–226 (2d ed., Cambridge Univ. Press 2016).

⁵⁹ Organisation for Economic Co-operation and Development, *Regulatory Policy Outlook 2021*, at 85–90 (2021). ⁶¹ Daniel Carpenter & David A. Moss, *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* 281–286 (Cambridge Univ. Press 2014).

⁶⁰ Organisation for Economic Co-operation and Development, *Revolving Doors, Accountability and Transparency in Public Life* 25–31 (2009).

meaningful opportunities to share their views during consultations. Wider participation can help ensure that different perspectives are considered and that regulatory outcomes better reflect public needs rather than the interests of a small number of powerful actors.⁶¹

Effective accountability mechanisms are equally necessary. Regulatory institutions exercise significant authority and therefore must remain answerable for the decisions they make. Regular performance assessments, ethical oversight, and judicial review can help identify situations where regulators fail to meet expected standards. Strong accountability measures not only discourage improper influence but also reinforce the principle that public power should always be exercised for the benefit of society.⁶²

If implemented effectively, these measures can reduce the likelihood of regulatory capture and strengthen the overall quality of regulatory governance in India. No regulatory system can be completely insulated from outside influence, but stronger institutions, greater openness, wider participation, and meaningful accountability can help minimise its impact. Such reforms are important not only for improving regulatory performance but also for protecting democratic values, maintaining public confidence, and preserving the integrity of public institutions.

IX. CONCLUSION

Regulatory capture has become a growing concern in modern governance because it affects the ability of regulatory institutions to act independently and protect the interests of the public. The discussion in this article has shown that regulatory bodies, although created to ensure fairness, transparency, and accountability, can sometimes become influenced by powerful corporations, business groups, or political interests. When this happens, regulatory decisions may gradually move away from their original purpose and begin to favour a limited group of influential actors instead of the wider public. An important aspect of regulatory capture is that it does not always appear in the form of corruption or clearly illegal conduct. In many cases, it develops

⁶¹ Cary Coglianese, *Transparency and Public Participation in the Regulatory Process*, 80 *Geo. Wash. L. Rev.* 924, 940–945 (2012).

⁶² *Ramana Dayaram Shetty v. Int'l Airport Auth. of India*, (1979) 3 SCC 489 (India).

through regular interaction between regulators and industries, dependence on industry expertise, political influence, unequal access to decision-makers, and other forms of institutional influence. These practices may appear lawful and routine, yet they can still affect the independence of regulatory institutions and reduce public confidence in governance.

The examination of sectors such as telecommunications, environmental governance, financial regulation, and natural resource management indicates that concerns about regulatory capture continue to remain relevant in India. These examples show that when powerful interests gain excessive influence over regulatory processes, the effects are often felt by consumers, local communities, and society as a whole. Reduced competition, weaker accountability, environmental concerns, and unfair distribution of public resources are some of the consequences that may arise when regulation no longer functions in the manner originally intended. The discussion also highlights why regulatory capture can be viewed as a form of elite class deviance. It allows influential groups to use their economic and political strength to secure advantages through institutional processes that are often beyond the reach of ordinary citizens. While the benefits usually remain concentrated among a small section of society, the wider public frequently bears the social and economic costs. For this reason, regulatory capture should be understood not only as a regulatory issue but also as a matter closely connected with democratic governance and social justice.

Addressing this problem requires continuous efforts to strengthen regulatory independence, improve transparency, encourage wider public participation, and ensure effective accountability. Although it may not be possible to eliminate every form of influence from regulatory systems, stronger institutions and better safeguards can reduce the risk of capture and improve public trust. In the end, regulatory institutions can fulfil their purpose only when they remain accountable to the people they are meant to serve and are able to function without undue influence from powerful interests.

X. REFERENCES

A. Books

1. Carpenter, Daniel & Moss, David A., *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press, 2014).
2. Friedrichs, David O., *Trusted Criminals: White Collar Crime in Contemporary Society* (5th ed., Wadsworth Cengage Learning, 2010).
3. Freeman, Jody & Minow, Martha (eds.), *Government by Contract: Outsourcing and American Democracy* (Harvard University Press, 2009).
4. Kapur, Devesh & Mehta, Pratap Bhanu, *Public Institutions in India: Performance and Design* (Oxford University Press, 2005).
5. Mehta, Pratap Bhanu, *The Burden of Democracy* (Penguin Books India, 2003).
6. Rai, Vinod, *Not Just an Accountant: The Diary of the Nation's Conscience Keeper* (Rupa Publications, 2014).
7. Rose-Ackerman, Susan & Palifka, Bonnie J., *Corruption and Government: Causes, Consequences and Reform* (2nd ed., Cambridge University Press, 2016).
8. Varottil, Umakanth, *The Evolution of Corporate Law and Governance in India* (Cambridge University Press, 2022).

B. JOURNAL ARTICLES

1. Coglianesi, Cary, "Transparency and Public Participation in the Regulatory Process", 80 *George Washington Law Review* 924 (2012).
2. Peltzman, Sam, "Toward a More General Theory of Regulation", 19 *Journal of Law and Economics* 211 (1976).
3. Rajamani, Lavanya, "Environmental Governance in India", 13 *Asian Journal of Comparative Law* 45 (2018).
4. Stigler, George J., "The Theory of Economic Regulation", 2 *Bell Journal of Economics and Management Science* 3 (1971).

C. REPORTS AND OFFICIAL PUBLICATIONS

1. Organisation for Economic Co-operation and Development, *Lobbying in the 21st Century: Transparency, Integrity and Access* (2021).
2. Organisation for Economic Co-operation and Development, *Preventing Policy Capture: Integrity in Public Decision Making* (2017).
3. Organisation for Economic Co-operation and Development, *Regulatory Policy Outlook 2021* (2021).
4. Organisation for Economic Co-operation and Development, *Revolving Doors, Accountability and Transparency in Public Life* (2009).
5. Reserve Bank of India, *Report on Trend and Progress of Banking in India 2023–24* (2024).
6. United Nations Environment Programme, *Environmental Rule of Law: First Global Report* (2019).
7. World Bank, *Enhancing Government Effectiveness and Transparency: The Fight Against Corruption* (2020).

D. Statutes

1. Air (Prevention and Control of Pollution) Act, 1981.
2. Competition Act, 2002.
3. Environment (Protection) Act, 1986.
4. Telecom Regulatory Authority of India Act, 1997.
5. Water (Prevention and Control of Pollution) Act, 1974.
6. Constitution of India.

E. Cases

1. *Centre for Public Interest Litigation v. Union of India*, (2012) 3 SCC 1.
2. *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.
3. *Manohar Lal Sharma v. Principal Secretary*, (2014) 9 SCC 516.
4. *Ramana Dayaram Shetty v. International Airport Authority of India*, (1979) 3 SCC 489.
5. *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.
6. *Vineet Narain v. Union of India*, (1998) 1 SCC 226.

7. Union of India v. Infrastructure Leasing & Financial Services Ltd. & Ors., Company Appeal (AT) No. 346 of 2018, order dated 15 October 2018 (NCLAT).