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## ANALYSIS OF ANTI-CORRUPTION LAWS IN INDIA

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### ABSTRACT

This research paper explores the legal and procedural dimensions of trap mechanisms used in anti-corruption enforcement in India. Despite having a robust statutory framework—including the Prevention of Corruption Act, 1988, and the Lokpal and Lokayuktas Act, 2013—corruption remains pervasive across all levels of public administration. The trap procedure, involving covert operations to catch public officials accepting bribes, is a critical yet contentious tool in combating this menace. This paper examines the statutory basis, procedural safeguards, and judicial interpretation of trap operations, including the evidentiary challenges posed by reliance on phenolphthalein tests and independent witnesses. It evaluates significant judicial precedents that underscore the necessity of proving “demand” as a precondition for conviction and addresses concerns about procedural lapses and false implication. The analysis also considers constitutional mandates and comparative perspectives from international jurisdictions. Finally, the paper offers practical reforms to enhance the legal soundness and effectiveness of trap proceedings, emphasizing the need for technological integration, standardized operating procedures, and robust witness protection. By critically assessing the utility and limitations of trap mechanisms, the study contributes to the ongoing discourse on strengthening anti-corruption enforcement in India.

**Keywords** – Corruption , trap , bribery , phenolphthalein test

### INTRODUCTION

Corruption in India is not merely a legal or administrative problem—it is deeply rooted in the country’s political culture and social mindset. As emphasized by the Madras High Court, the

existence of comprehensive anti-corruption laws and regulations by themselves cannot ensure transparency or good governance if those in charge of enforcement—political and administrative leaders—fail in their duty or misuse their power for personal gain. Casual and clumsy handling of corruption cases has enabled such practices to flourish. These social evils have become entrenched to the point of being normalized, with individuals often seeking illicit favours knowing they are not entitled to them under the law.

Justice Subramaniam lamented *the fading fear of corruption laws among public servants and pointed to the complicity of politicians and bureaucrats who embolden corrupt officials*.<sup>1</sup> According to him, ineffective implementation of corruption laws has allowed criminals to accumulate wealth illegally and remain free. He stressed that consistent monitoring, stringent action, and especially public participation are crucial in building a corruption-free society. He observed that it is everyone's responsibility to shape a younger generation with a clean conscience, suggesting that youth awareness and democratic values are central to lasting reform.

Echoing this, Chief Justice Sanjeev Khanna underlined that *anti-corruption efforts must strengthen democracy and public trust rather than exist as isolated legal responses*.<sup>2</sup> He emphasized that while institutions like the Lokpal have potential, they can succeed only if they work in tandem with other bodies like the Central Vigilance Commission. In his view, public trust is the invisible foundation of democracy, and when corruption seeps into governance, this trust erodes, threatening the system itself.

Despite having sound legislative instruments such as **the Prevention of Corruption Act, 1988 (PCA), the Lokpal and Lokayuktas Act, 2013, and relevant provisions under the Indian Penal Code (IPC)**, the enforcement of these laws continues to face critical challenges. One of the significant procedural mechanisms in the anti-corruption toolkit is the trap procedure—a sting operation aimed at catching public officials in the act of accepting illegal gratification.

This research paper seeks to explore the legal basis, procedure, judicial interpretation, and practical efficacy of trap mechanisms in tackling bribery. It further identifies the legal limitations, procedural gaps, and possible reforms to ensure a fair and effective legal process. The focus is to

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<sup>1</sup>M. Rajendran & Ors. v. Sec'y to Gov't & Ors., W.P. No. 21976 of 2018.

understand whether the trap mechanism satisfies constitutional guarantees, evidentiary standards, and aligns with international best practices.

### **Legislative Framework on Anti-Corruption**

India's anti-corruption legislative architecture is layered with statutes, reforms, institutions, and international alignments. The foundation was laid with the Indian Penal Code (IPC), 1860, particularly Sections 161 to 165, which addressed bribery by public servants.<sup>3</sup> This early framework was supplemented by the Prevention of Corruption Act (PCA), 1947, which introduced the concept of criminal misconduct in the discharge of official duty.<sup>2</sup> Subsequent legislative refinements were made through the Criminal Law Amendment Acts of 1952 and 1964 and eventually consolidated into the Prevention of Corruption Act, 1988, enacted in the aftermath of the Bofors scandal.<sup>4</sup> The PCA criminalized both demand and acceptance of bribes and incorporated a reverse burden of proof under Section 20, whereby possession of tainted money raises a legal presumption of guilt.<sup>5</sup>

The PCA underwent significant amendment in 2018, reflecting evolving jurisprudence and international best practices. The changes included criminalizing bribe-giving (Section 8), introducing corporate criminal liability (Section 9), and restricting the scope of criminal misconduct under Section 13.<sup>6</sup> Moreover, the newly added Section 17A mandated prior government approval before any inquiry or investigation can be initiated against a public servant, except in situations where they are caught red-handed. While this provision is framed as a safeguard against harassment, critics argue it creates a bureaucratic shield for the corrupt.

The Lokpal and Lokayuktas Act, 2013 was a landmark attempt to establish an independent ombudsman mechanism to probe corruption complaints against public officials.<sup>7</sup> However, delays in appointment and operational hurdles weakened its initial momentum. Further, state-level

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<sup>3</sup> AZB & Partners. (2023). India: The Anti-Bribery and Anti-Corruption Review. <https://www.azbpartners.com/bank/india-the-anti-bribery-and-anti-corruption-review/>.

<sup>4</sup> Vadlamannati, K.C., 2015. Fighting corruption or elections? The politics of anti-corruption policies in India: A subnational study. *Journal of Comparative Economics*, 43(4), pp.1035-1052.

<sup>5</sup> Yadav, V. and Tiwari, K.S., 2025. ANTI-CORRUPTION LAWS IN INDIA: AN ANALYSIS. *Idealistic Journal of Advanced Research in Progressive Spectrums (IJARPS)* eISSN-2583-6986, 4(03), pp.50-60.

<sup>6</sup> CMS Law. (2023). CMS Expert Guide to Anti-Bribery and Corruption Laws: India. <https://cms.law/en/int/expert-guides/cms-expert-guide-to-anti-bribery-and-corruption-laws/india>

<sup>7</sup> The Lokpal and Lokayuktas Act, 2013. (2013). <https://www.indiacode.nic.in/handle/123456789/1558>

Lokayuktas, empowered with investigative authority, remain inconsistent in terms of functioning, powers, and autonomy.

Complementing the PCA are other legislative measures: the Prevention of Money Laundering Act, 2002 (PMLA) enables the attachment and confiscation of assets acquired through corruption.<sup>8</sup> The Benami Transactions (Prohibition) Act, 1988, particularly after the 2016 amendments, targets concealed ownership structures frequently used by corrupt public servants to hide illicit wealth.<sup>10</sup> The Companies Act, 2013<sup>9</sup>, via Section 177, mandates the establishment of whistleblower and vigilance mechanisms in corporate entities. Likewise, the Right to Information Act, 2005 empowers citizens to demand transparency, thus serving as a vital tool for exposing maladministration. While the Whistle Blowers Protection Act, 2014 has been passed, its enforcement and scope remain limited.

Institutionally, India's anti-corruption enforcement is managed by multiple bodies: the Central Bureau of Investigation (CBI) investigates major corruption cases, especially those involving central government officials. The Central Vigilance Commission (CVC) supervises vigilance work and can recommend disciplinary action. The Anti-Corruption Bureaus (ACBs) function at the state level, albeit with uneven autonomy and resourcing. The Enforcement Directorate (ED), under the Ministry of Finance, investigates and prosecutes financial crimes including those linked to corruption and money laundering. Specialized courts have been set up under the PCA for expedited trial of corruption cases, although systemic judicial delays persist.<sup>10</sup>

India has also committed itself to global anti-corruption norms. As a signatory to the United Nations Convention Against Corruption (UNCAC)<sup>11</sup> and member of the Financial Action Task Force (FATF), India is obliged to align its laws with international standards. These include

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<sup>8</sup> Chambers and Partners. (2023). Anti-Corruption 2023: India Trends and Developments. <https://practiceguides.chambers.com/practice-guides/anti-corruption-2025/india/trends-and-developments>

<sup>9</sup> The Companies Act, No. 18 of 2013, § 177, INDIA CODE (2013).

<sup>10</sup> PRS Legislative Research. (2011). Note on Corruption Laws in India. [https://prsindia.org/files/parliament/discussion\\_papers/1302844978\\_PRS%20Note%20on%20corruption%20laws.pdf](https://prsindia.org/files/parliament/discussion_papers/1302844978_PRS%20Note%20on%20corruption%20laws.pdf)

<sup>11</sup> United Nations Convention Against Corruption, Oct. 31, 2003, 2349 U.N.T.S. 41.

measures for criminalization, enforcement cooperation, asset recovery, and institutional safeguards.<sup>12</sup> Nevertheless, implementation remains a major concern.

Despite having a well-developed legal framework, enforcement bottlenecks persist. Discretionary power, institutional delays, political interference, and procedural lapses weaken the effectiveness of laws. The probability of conviction in corruption cases is estimated to be as low as 0.6%, making corruption a low-risk, high-reward endeavor. For reforms to be meaningful, legal strength must be matched with procedural efficiency and political will.

## **THE LEGAL CONCEPT AND PROCEDURE OF TRAP IN BRIBERY CASES**

A "trap" is a law enforcement technique used to catch a public servant while accepting a bribe. The procedure involves several carefully orchestrated steps and must comply with legal safeguards to ensure its admissibility in court.

The process begins with the complainant approaching the ACB or other designated authority with a grievance regarding a bribe demand. The complaint must be substantiated with prima facie evidence, such as a recorded conversation or a written statement. The ACB may provide a digital voice recorder to the complainant to capture the demand for bribe.<sup>13</sup> Once the initial evidence is reviewed and deemed credible, the agency prepares for the trap operation.<sup>14</sup>

Marked currency notes are prepared by applying **phenolphthalein powder**, an invisible chemical that reacts when it comes into contact with sodium carbonate solution, turning it pink. This chemical reaction serves as evidence of physical contact with the bribe money. The numbers of the marked notes are recorded, and the complainant is instructed not to touch the currency and to hand it directly to the accused.

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<sup>12</sup> Madan Lal v. State of Rajasthan, 2025 LiveLaw (SC) 310.

<sup>13</sup> **State of Karnataka v. Chandrasha**

<sup>14</sup> Working Procedure Manual: Chemistry, of the Directorate of Forensic Science, Ministry of Home Affairs, Government of India

After the bribe is accepted, the complainant signals the trap team using pre-agreed gestures. The team enters the premises, seizes the tainted money, and conducts the **hand-wash test**. The accused's hands are dipped in sodium carbonate solution, and a color change confirms the handling of phenolphthalein-laced notes.

Legal sanction from appropriate authorities is required for conducting the trap. Usually, this is obtained from the District Collector and is kept confidential until the operation is completed. These actions are legally grounded in Sections 7, 13, 17, and 20 of the PCA, as well as Sections 156 to 165 of CrPC.

It is also essential to highlight that laying a trap forms a part of the investigation under the Prevention of Corruption Act. Section 5A of the Act provides that a police officer below the rank of Deputy Superintendent of Police must obtain permission before commencing investigation. In *State of Madhya Pradesh v. Mubarak Ali*<sup>15</sup>, the Supreme Court clarified that such permission under Section 5A is not just for initiating an investigation but also covers all components of it, including laying the trap. Therefore, a conviction cannot be invalidated merely on the ground that the trap was laid by an officer below the DSP rank, provided that due permission was obtained.

In recent years, concerns over the evidentiary limitations of phenolphthalein tests have prompted consideration of more robust alternatives, such as the **BCG (Bromocresol Green) marker test**. This test uses a stable blue dye to mark currency, and the resulting coloration is harder to tamper with, offering greater reliability.<sup>16</sup>

## JUDICIAL INTERPRETATION OF TRAP PROCEDURES

Judicial precedents play a pivotal role in shaping the implementation of trap procedures. Courts have consistently emphasized that the prosecution must prove the demand for a bribe beyond a reasonable doubt. Recovery of money alone is insufficient.

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<sup>15</sup> State of M.P. v. Mubarak Ali, (1959) SCR 1095.

<sup>16</sup> Verma SK, Agarwal BB, Agarwal G. Sudden death in neurocysticercosis by trauma. *Forensic Sci Int*. 1998 Jul 6;95(1):23-6. doi: 10.1016/s0379-0738(98)00078-4. PMID: 9718668.

In *Madan Lal v. State of Rajasthan*<sup>17</sup>, the Supreme Court held that the presumption under Section 20 of the PCA would not apply unless both the demand and acceptance of bribe were established. Similarly, in *N. Vijayakumar v. State of Tamil Nadu*,<sup>18</sup> the court ruled that mere recovery of marked currency notes does not justify a conviction if demand is not proved.

In *P. Satyanarayana Murthy v. D.I.G. of Police*<sup>19</sup>, the apex court stated that demand is the sine qua non for constituting an offence under Sections 7 and 13 of the PCA. The court also highlighted that acceptance and recovery of bribe, in the absence of proof of demand, cannot sustain a conviction.

Another significant ruling, *Abhishek v. Central Bureau of Investigation*<sup>20</sup>, clarified that even if the bribe is accepted through a third party, liability still attaches to the public servant. In *Sita Soren v. Union of India*<sup>21</sup>, a Constitution Bench held that the offence of bribery is complete upon acceptance or agreement to accept a bribe, regardless of whether the act is performed.

Courts have also scrutinized procedural lapses. In cases where there were delays in preparing site plans, absence of video/audio recordings, or contradictions in witness testimonies, the benefit of doubt was extended to the accused. Courts have reinforced that the **burden of proof lies entirely with the prosecution**, which cannot shift the onus to the accused merely based on recovery or test results.

## CRITICAL ANALYSIS

Trap proceedings offer a unique advantage in collecting direct evidence of bribery. However, their legal and procedural soundness has been a subject of intense judicial and academic scrutiny. They must strictly comply with constitutional mandates, procedural fairness, and evidentiary thresholds.

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<sup>17</sup> *Madan Lal v. State of Rajasthan*, (2015) 7 S.C.C. 502.

<sup>18</sup> *N. Vijayakumar v. State of T.N.*, (2021) 3 S.C.C. 687.

<sup>19</sup> *P. Satyanarayana Murthy v. D.I.G. of Police*, (2015) 10 S.C.C. 152.

<sup>20</sup> *Abhishek v. C.B.I.*, 2023 S.C.C. OnLine S.C. 1215.

<sup>21</sup> *Sita Soren v. Union of India*, (2014) 2 S.C.C. 597.

**Constitutional Validity and Due Process:** Trap operations must adhere to Article 21 of the Constitution, which guarantees protection of life and personal liberty. Any violation, such as illegal surveillance or forced recovery, may render the entire trap invalid. The need for proper sanction and transparency is critical. Section 17A of the Prevention of Corruption Act (added in 2018) has further complicated this issue. It requires prior sanction before investigating public servants unless caught red-handed. Though framed as a safeguard, critics argue it acts as a bureaucratic shield. The Supreme Court, in *Yashwant Sinha v. CBI*<sup>22</sup> and subsequent 2024 rulings, has clarified that this provision applies even retrospectively to inquiries initiated after the amendment's enforcement. These safeguards, while essential, contribute significantly to delays, with over 6,800 corruption trials pending nationwide as per 2022 data.

**Evidentiary Challenges:** Courts have often emphasized that demand is the cornerstone of conviction; without it, mere recovery is insufficient. The reliability of phenolphthalein tests—commonly used in traps—has been repeatedly questioned. Variations in administration, contamination risks, and lack of scientific rigor result in acquittals. Alternatives like Bromocresol Green (BCG) tests have been proposed for better evidentiary value. The Supreme Court has consistently ruled that the presumption under Section 20 of the PCA cannot operate unless demand and acceptance are proven, as reiterated in *N. Vijayakumar* and *P. Satyanarayana Murthy*.

**Witness Issues:** Independent witnesses ("panch witnesses") are a legal requirement in trap proceedings to ensure objectivity. However, they frequently turn hostile or fail to appear, which undermines the prosecution. Courts have noted this trend as a serious threat to successful convictions.

**False Implication:** There is growing concern over the misuse of traps to settle personal or political scores. Courts have quashed proceedings where complainants had ulterior motives or where evidence of entrapment emerged. While the Lokpal Act includes penalties for false complaints, enforcement is rare.

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<sup>22</sup> *Yashwant Sinha v. C.B.I.*, (2020) 2 S.C.C. 641.

**Judicial Inconsistencies:** Despite overarching principles, inconsistencies persist in judicial treatment. Some courts permit reliance on circumstantial evidence, while others insist on direct proof—especially regarding demand. This lack of uniformity complicates enforcement and can discourage legitimate reporting.

**Comparative Perspective:** In contrast to Indian practices, countries like the UK and US emphasize intent and benefit in corruption cases, supported by advanced forensic and digital evidence. The UK's Bribery Act, 2010, and the US Foreign Corrupt Practices Act prioritize systemic accountability. India's continued dependence on chemical tests and eyewitnesses appears outdated in this context.

**Institutional Performance:** The performance of India's anti-corruption institutions—Lokpal, CBI, CVC—has been mixed. The Lokpal has been particularly underwhelming, with few high-profile cases taken up. Recent reports suggest the majority of cases concern low-ranking officials, with top-level complaints often shelved or delayed. The CBI faces allegations of political bias and operational constraints, especially with multiple states withdrawing general consent. The Supreme Court in 2024 upheld state rights to deny CBI jurisdiction, reinforcing federal boundaries.

**Implementation Bottlenecks:** Despite legal strength, enforcement falters due to overlapping jurisdictions, political interference, procedural delays, and limited resources. The CVC's 2022 report highlighted how sanction delays hinder trials. Judicial pronouncements emphasize that anti-corruption efforts must not violate due process or be wielded as tools of harassment, as seen in bail rulings under the PMLA.

In sum, while India's anti-corruption laws are extensive and well-formulated, practical enforcement remains weak. Strengthening institutional autonomy, procedural transparency, scientific investigation tools, and judicial consistency will be vital to making trap proceedings and broader anti-corruption mechanisms truly effective.

## **SUGGESTIONS AND REFORMS**

For trap mechanisms to be effective and constitutionally compliant, several reforms are necessary:

- **Standard Operating Procedure (SOP):** The government must frame an SOP detailing every stage of trap proceedings, including evidence handling, chemical testing, and witness protocols.
- **Technological Advancements:** Use of body cameras, GPS tracking, digital signatures, and real-time audio-visual recording should be mandated to supplement testimonial evidence.
- **Forensic Tools:** Techniques like **BCG markers** offer more reliable and tamper-proof alternatives to phenolphthalein tests. These tools should be standardized and included in the evidence procedure.
- **Witness Protection:** Independent witnesses must be assured protection, anonymity, and legal immunity for participating in trap operations. This will encourage civic participation and reduce hostility.
- **Judicial Guidelines:** The Supreme Court may consider issuing comprehensive guidelines under Article 141 of the Constitution to resolve prevailing inconsistencies.
- **Public Awareness:** Campaigns promoting awareness of rights and procedures in reporting corruption will empower citizens and improve cooperation with investigative agencies.

## CONCLUSION

The legitimacy and efficacy of trap proceedings under Indian anti-corruption law rest at the intersection of constitutional safeguards, procedural integrity, and evidentiary robustness. While the statutory framework—primarily the Prevention of Corruption Act—provides a comprehensive legal scaffold to detect and prosecute acts of bribery, the actual implementation of trap mechanisms continues to suffer from systemic infirmities.

Jurisprudence from the Supreme Court has clarified that entrapment operations, to withstand judicial scrutiny, must adhere not only to the procedural rigours outlined in the PCA and CrPC but also to constitutional mandates under Articles 14 and 21. However, evolving procedural requirements, such as the sanction under Section 17A of the PCA, have introduced new legal hurdles that complicate pre-investigative actions like traps. These safeguards, though protective in intent, often result in investigative paralysis and embolden corrupt actors through procedural opacity.

Moreover, the probative value of evidence derived from traditional chemical tests like phenolphthalein continues to be undermined due to scientific deficiencies and flawed administration. The judiciary's consistent insistence on establishing a conclusive "demand" prior to invoking statutory presumptions reflects a commitment to due process but simultaneously exposes the investigative inadequacies that undermine conviction rates. Courts have become increasingly intolerant of procedural lapses, unreliable witnesses, and prosecutorial delays, all of which dilute the deterrent effect that trap proceedings are meant to foster.

Compounding this is a disconcerting pattern of false implication, judicial inconsistencies, and institutional inertia. The underutilization of the Lokpal, the structural vulnerability of the CBI due to state-level jurisdictional withdrawals, and the sluggish response from sanctioning authorities collectively erode the credibility of the enforcement regime. While judicial pronouncements have affirmed federalism and individual rights, they have also implicitly signalled the urgent need for a recalibrated enforcement strategy that balances investigative efficacy with constitutional accountability.

In light of comparative international practices, India's current reliance on outdated investigative techniques appears increasingly untenable. Emulating global standards—through digital evidence protocols, forensic innovations, and enhanced institutional coordination—will be imperative to rejuvenate the enforcement of anti-corruption laws. More importantly, there must be a normative shift towards fostering public trust, institutional independence, and procedural fairness as the pillars of anti-corruption jurisprudence.

Ultimately, unless trap mechanisms are executed within a framework of scientific precision, legal clarity, and ethical restraint, they risk becoming instruments of harassment rather than tools of justice. The legal architecture must not only empower enforcement agencies but must also insulate the innocent and preserve the integrity of the judicial process. A transformative overhaul—anchored in transparency, accountability, and technological modernization—is the sine qua non for restoring the deterrent strength of trap proceedings in India's anti-corruption arsenal.