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Corruption In India: A Legal Perspective with Special Focus on the Prevention of Corruption Act, 1988

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“Corruption is a cancer that eats away at our societies, undermining trust and eroding the foundations of democracy.” Ban Ki-moon, Former UN Secretary-General

Abstract

Corruption in India has been a persistent threat to democratic governance, economic stability, and public trust. This article provides a comprehensive legal analysis of corruption in India, focusing on the legislative framework, especially the Prevention of Corruption Act, 1988, its amendments, enforcement challenges and judicial pronouncements. It also proposes reforms to strengthen India’s fight against Corruption.

Introduction

Corruption derived from the Latin word “corruptus” meaning “to break” symbolises the breakdown of moral integrity. In India, it manifests in various forms: bribery, embezzlement, nepotism, extortion, and abuse of official position. Despite numerous laws and institutions, corruption remains deeply entrenched in both public and private sectors. The legal architecture, notably the Prevention of Corruption Act, 1988 remains the cornerstone of anti-corruption efforts in India.

Historical Background

Kautaliya said in his book “Arthshastra”- that it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue.

So, it is impossible for a government servant not to eat up at least a bit of the king’s revenue. He said it 2,000 years ago in his book and place the corruption in the deepest part of the hell.

India's anti-corruption movement can be traced back to the post-independence period, where Santhanam Committee (1964) laid the foundation for institutional mechanisms such as:

Central Vigilance Commission (CVC) and the Central Bureau of Investigation (CBI).

The Prevention of Corruption Act, 1988 consolidated and amended earlier laws, including

- The Prevention of Corruption Act, 1947 (2 of 1947) and
- The Criminal law amendment act, 1952 (46 of 1952).

Reports on Corruption

- In terms TRACE (an international business association) index, which measures “**Bribery Risk**” as perceived by foreign investor while doing business in 194 countries India's rank has hugely improved from 185 in 2014 to 77 in 2020.
- The Transparency International (IT) Corruption Perception Index which measures corruption as perceived by domestic business people in 180 countries, placed India at 94 ranks in 2013 and at 86 ranks in 2020 which is also an improvement.
- New Nature of Corruption-Some politicians have found new way of illegal self-enrichment. These are popularly known as “**Syndicate Raj & Cut Money**”. The politician-police nexus has also given rise to another kind of extortion racket called “**Hafta System**”.

Evolution Of Corruptions in India

Here is a chronological overview of major scams cases in India from 1951 to 2025, illustrating how corruption and financial fraud evolved across political, corporate and digital realms.

Early Period (1950's-1970's)

1951-Cycle Imports Scam: Secretary S.A. Venkataraman jailed for accepting bribes to grant import quotas for cycles.

1956-BHU Funds Misappropriation: Officials in Banaras Hindu University misused Rupees 50 lakh.

1957-Mundhra Scandal: Feroz Gandhi's involvement in fraudulent share sale to LIC led to resignation of Finance Minister T.T. Krishnamachari.

Early Political & Corporate Cases

1971-Nagarwala Scandal: Rupees 6 million embezzlement by trusted cashier of RBI, igniting financial gatekeeping concern.

1974-Maruti Scandal: Allegation around preferential licensing during P.M. Indira Gandhi's era

1976-Kuo Oil Case: Illegal oil imports worth rupees 22 million.

1981-Cement Scam: Controversial rupees 300 million bribe involving then Chief Minister Antyay.

1987-Bofors Scam: rupees 1437 crore defence deal kickbacks involving Rajiv Gandhi's government.

Financial Fraud Explosions & Political Scandals

1991-1997-Hawala Scandal: rupees 810 crore illicit transfer involving top political figures.

1992-Harshad Mehta Securities Scam: rupees 250-5000 crore manipulation using bank receipts and stock market. Triggered SEBI reforms.

1993-2002-Telgi Stamp Paper Scam: rupees 200 billion fakes stamp paper racket involving bureaucrats and police.

1996-Fodder Scam: rupees 900-940 crore embezzlement in cattle fodder procurement. Led to convictions including Lalu Prashad Yadav.

Late 1990s-Sanchayita Chit Fund Scam: Collapse affected over 1.3 lakh depositors in west Bengal, early of high-yield Ponzi schemes.

1998-Anubhav Plantations Scam: Teak plantation Ponzi scheme swindled investor after closure in 1998.

Diversification and Corporate Frauds

2001-Ketan Parekh Scam: Market manipulation of rupees 137 crore leading to mutual fund crisis.

2003-Multiple Case: Taj Corridor, IPO, Bihar floods, Scorpene leak, and more financial and political corruption.

2003-UTI Mutual Fund Scam: rupees 32 crore loss through share price manipulation.

Mega-Scams and Corporate Governance Crises

2007-08-2G Spectrum Scam: rupees 1.76 lakh crore estimation in telecom licence misallocation; CAG triggered investigations. Initial acquittals later overturned.

2009-Madhu Koda Mining Scam: rupees 4,000 crore corruption involving coal and mining contracts.

2009-Satyam Scandal: rupees 7,000-14,000 crore corporate fraud; dramatic confession by Ramalinga Raju. Led to enforcement of stricter auditing norms and NFRA's creation.

2010-Commonwealth Games Scam: rupees 70, 000 crore graft in infrastructure projects under Suresh Kalmadi.

2010-2013-Saradha, Rose Valley, Sanchayita-type Chit Fund Scams: Fraudulent fundraising and political exposure; rose Valley fraud reached rupees 15,400 crore.

Financial Network Frauds & Digital Crimes

2018-Nirav Modi/ PNB Fraud: rupees 11,000 crore LoU- based bank fraud; main accused fled India.

2018-IL&FS Crisis: rupees 91,000 crore defaults exposing governance and audit failures in NBFC sector.

2019-DHFL Financial Scam: rupees 34,615 crore diverted via shell companies and fake borrowers.

2024-2025-Rise of Digital-arrest and Online Investment Scams: Victims lost rupees 120 crore in digital arrest fraud, rupees 1,420 crore in trading scams in 2024. Deep fake techniques and impersonation becoming common.

Corruption and scams in India have progressed from limited bribery to systemic financial and digital fraud. Legal and regulatory framework have adapted-SEBI Reforms, NFRA, stricter KYC/PMLA enforcement-but enforcement gaps, political interference and evolving digital frauds still challenges accountability.

The Prevention of Corruption Act, 1988

- Title of the Act-Prevention of Corruption Act, 1988 (49 of 1988)

- Enforce-9 September 1988 whole in India all citizen, outside the India.
- Total Chapter- There are 5 chapters in PCA, 1988
- Total Sections-There are 31 sections in PCA, 1988
- It is an act of the Parliament of India.

Enacted to combat Corruption in-

- Government Agencies
- Public sector business in India.

There are the main Authorities involved in inquiring, investigating, & prosecuting corruption cases are:

- CVC-Central Vigilance Commission
- CBI-Central Bureau of Investigation
- ACB-Anti-Corruption Bureau

Cases related to Money Laundering by Public Servant are investigated by-

- ED- Directorate of Enforcement &
- FIU-The Financial Intelligence Unit, which are under the Finance Ministry.

Structure of Prevention of Corruption Act, 1988

- Preliminary (section 1-2)
- Appointment of Special judges (section 3-6)
- Offences & Penalties (section 7-16)
- Investigation (section 17)
- Attachment & Forfeiture of property (section 18)
- Sanction for prosecution & other miscellaneous (section 19-31)

Amendment Evolution from 2013-2018

In 2013, The UPA government introduced the Prevention of Corruption Amendment Bill in the Parliament but there is lack of consensus on this amendment. This was in response to:

- International pressure to comply with the United Nation Convention against Corruption (UNCAC), which India ratified in 2011.
- Domestic outrage over the scams such as the 2G Spectrum case and Commonwealth Game scam.

- Supreme Court direction in **Vineet Narain vs. Union of India** to make CBI independent.

Status: The 2013 Bill was sent to the Committees for review:

- Standing Committee
- Selecting Committee &
- The Law Commission

The Committee submitted its report in February 2014, largely supporting the provisions. The Law Commission submitted its report in 2016. In 2017, brought back to the Parliament. Then it was passed and Named as Anti-Corruption Amendment Bill 2018. In this bill the bribe giver has also brought under the preview.

Key Features & Changes Introduced by the 2018 Amendment

1. Introduction of Section 17A-Prior Sanction for Investigation: Investigation Agencies now require prior approval from the appropriate government to conduct an inquiry or investigation against a public servant in matters related to their official duties.

In **Subramanian Swamy vs. Manmohan Singh 2012**-Delay in granting sanction for prosecution was held to be unreasonable and against the rule of law.

In **D.L Rangotha vs. State of MP**-Competent authority after giving approval of prosecution against the public servant can't withdraw the approval once granted.

In **Balbhadra Parashar vs. State of MP**- Approval to prosecute appellant granted can't be declared to be illegal when it is not found to granted in an absolute mechanical manner.

In **CBI, Bank Securities and Fraud Cell vs. Ramesh Gelli**-Mere performance of public duties by holder or any office can not bring the incumbent within the meaning of public servant. The Chairman/MD/ or Director of any private bank can not be excluded from the definition of public servant against whom a case related to Anti-Corruption is registered.

2. Re-definition of Criminal misconduct (section 13)-Only two circumstances now amount to "criminal misconduct":

- Dishonest misappropriation or conversion of property entrusted to the public servant.
- Intentional enrichment by illicit means during the period of office.

3. Time Bound Trial (section 4)

- Special courts must conclude the trial within 2 years.
- Can be extended up to 4 years with reasons recorded in writing.

4. Bribe Giver Now Punishable: Bribe-giver are now criminally liable. Exception: If the bribe-giver reports the matter within 7 days of giving the bribe and cooperates in the investigation.

- Gratification Defined (section 2(d))-Defined “undue advantage” to mean any gratification (monetary or otherwise) other than legal remuneration.
- Clarified that “gratification” need not be monetary, can be gifts, favours, etc.

5. Corporate Criminal Liability (section 9)-A commercial organization can be held liable if any person associated with it offers or gives undue advantage to obtain or retain business.

6. Enhanced Sanction for Prosecution (section 19)-Sanction for prosecution is required not only during service but also after retirement, resignation or dismissal.

7. No Appeal-There shall be no appeal by a convicted person in any case tried summarily under this act section in which Special Judge passes a sentence of imprisonment up to 1 month and fine maximum 2000 rupees.

8. Power to summarily-The Special judge shall try the offence in a summary way if contravention of any special order under the section of 12 A of the Essential Commodities Act, 1955. Imprisonment for 1 year.

Legal Maxims Applied

- “Nullum crimes sine lege”-No crime without law.
- “Fiat justitia ruat caelum”-Let justice be done though the heavens fall.
- “Nemo punitur pro alieno delicto”-No one is punished for another’s crime.

Criticism of the 2018 Amendment

- i. Section 17 A has been called a “shield for corruption” by many activists.
- ii. The amendment arguably reverses the progressive judicial interpretation of the PCA.
- iii. Dilution of “criminal misconduct” removes the possibility to prosecute officials for abuse of discretion unless illicit gain is proven.

While the 2018 Amendment to the Prevention of Corruption Act introduced progressive elements such as time-bound trials, corporate liability, and clarified definitions, it also

weakened the prosecutorial arm through stringent pre-investigation sanctions and a narrow scope of misconduct. The legal battle against corruption must balance the protection of honest officers with uncompromising accountability for misconduct.

Corruption Laws in India

- i. Indian penal code, 1860 and now BNS,2023
- ii. The Prevention of Corruption Act, 1988
- iii. The Benami Transaction (prohibition) Act, 1988
- iv. The Prevention of Money Laundering Act, 2002
- v. The Right to Information Act, 2005
- vi. The Lokpal and Lokayukta Act, 2013

Objective of Prevention Corruption Act

- i. Protect Honest Officials
- ii. Enable attachment of illicit wealth
- iii. Support Corporate Compliance
- iv. Prevention Corruption in Public Service
- v. Ensure Integrity and Accountability
- vi. Establish fair investigation and trial mechanism
- vii. Punish both giver and taker of bribe.

The prevention of Corruption Act, 1988 has not applied on:

- i. The Army Act,1950
- ii. The Air Force Act,1950
- iii. The Navy Act,1957
- iv. The BSF Act,1968
- v. The Coast Guard Act, 1978
- vi. The NSG Act, 1986
- vii. The Military Act

These types of Corruption have mostly vanished with PCA, 1988

- i. Abolition of industries licencing.
- ii. Entry of new players with corresponding increase in supply of goods.
- iii. Abundance of foreign exchange reserves.

- iv. Abolition of import quotes.
- v. Sharp reduction in import duties.

Conclusion

The Prevention of Corruption Act, 1988 marked a foundation step in India's legal fight against corruption, criminalising abuse of public office and reinforcing integrity in governance. The 2018 Amendment modernised this framework by introducing corporate liability, time-bound trial, and penalties for bribe-giver- while also narrowing the definition of criminal misconduct and requiring prior sanction for investigation. Though these changes aim to protect honest officials, they risk shielding the corrupt if not applied judiciously. For the Act to serve purpose, it must be enforced with transparency, accountability, and a steadfast commitment to constitutional morality.