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Legal Framework for Preventing Corruption in India: A Chronological Study and Analysis in Indian Perspective

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ABSTRACT

This article examines the legal framework which are introduced in India for prevention of corruption in the nation. It examines what were the ancient scholar like Kautilya views on corruption, what type of corruption occurred in ancient India. This article also examines the corruption in medieval India and what were the anti- corruption measures which were taken in colonial and pre-independence period whether it is introduction of relevant provision of IPC which dealt with corruption which prevail among public servant, or the introduction of criminal law amendment ordinance 1944 or PC Act which was the law which directly dealt with corruption. It also states about the major amendment related to corruption like Criminal law Amendment Act 1952, Anti-Corruption laws(amendment) Act, 1964 or the introduction of Key report on corruption which is K Sanathanam Report on corruption. This article also states about key provision of PC Act, 1988 and Key provision of PMLA Act, 2002 which acts as gatekeeper for preventing the corruption in India. This article also states about the provisions related to Enforcement Directorate and Special Courts.

Keywords: Corruption, legal framework, PC Act 1988, PMLA, K Sanathanam, Enforcement Directorate, Special Courts, Kautilya, Anti-corruption laws(amendment) Act, 1964.

I. INTRODUCTION

Corruption in India is an issue that has drastically affected the Indian economy for decades. Corruption mainly means the abuse of public office for personal benefit. In 2023, India's corruption index was 40. Corruption directly impacts the country's economy and development, and it erodes respect for government officials as well as public faith and trust in the Government. One of the first laws to combat corruption was the Criminal Law (Amendment) Ordinance, which aimed to prevent the sale or concealment of property gained through illegal means. In 1964, the Central Vigilance Commission was set up to deal with corruption.

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The main legal framework to prevent corruption in India was introduced in 1988: the Prevention of Corruption Act, 1988 (the PC Act), which specifically targets public servants who engage in corruption. This Act not only focuses on detecting corruption but also emphasizes prosecuting and punishing the public servants involved in corrupt activities.

Another framework for preventing corruption in India is the Prevention of Money Laundering Act, 2002, which was enacted with the objective of preventing money laundering and providing for the confiscation of property derived from, or involved in, money laundering. The Act's provisions for attachment, confiscation and prosecution of the offence of money laundering create an additional deterrent against corruption and ensure that corrupt officials cannot enjoy ill-gotten wealth. The Enforcement Directorate, established under this Act and operating under the Ministry of Finance, investigates money-laundering cases arising from corruption offences, creating an integrated approach to combating financial crimes.

II. CONCEPTUAL FRAMEWORK AND HISTORICAL ROOTS OF CORRUPTION IN INDIA

A. Corruption: Definition

Corruption is unethical or unlawful behavior, particularly when it is carried out by influential members of society such as law enforcement or government officials. It is improper when someone in a position of authority, or a party in power, uses methods that are unethical, illegitimate, or incompatible with morality. The misappropriation of public resources by elected officials or appointed civil servants for personal gain is another definition of corruption. It can also be defined as the misuse of hereditary power—that is, power granted through heritage, education, marriage, election, or appointment—for private gain; this includes politicians, public servants, the CEO or CFO of a company, notaries public, team leaders at the workplace, administrators, and admissions officers at a private school.¹

As per Vito Tanzi, “Corruption is the international non-compliance with the arms-length principle, aimed at deriving some advantage for oneself or for related individuals from this behavior.” Dr Petrus van Duyne defined corruption as “an improbity or decay in the decision-making process in which a decision maker consents to deviate or demands deviation from the criterion which should rule his or her decision making, in exchange for a reward or for the promise or expectation of a reward, while those motives influencing his or her decision making cannot be part of the justification of the decision.” The World Bank defined corruption as “the abuse of public office for personal gain.”²

¹S.R. MYNENI, *LAW OF WHITE COLLAR CRIMES* 372 (1st ed. 2021).

²*Id.*

B. Classification of Corruption in India

Corruption can be classified in several ways, including bribery, lobbying, extortion, nepotism, parochialism, and patronage. It is mainly any gratification given in exchange for a benefit. There are several ways in which gratification can be provided by a person who has benefited from another's actions, such as money, property, sexual benefits, and promises. Corruption committed by an individual is of various types, such as large-scale, medium-scale, and micro-scale.³

C. Philosophical and Ancient Views on Corruption in India

In the ancient era, when kingship prevailed and the king was responsible for the governance of the state, corruption also prevailed and was a serious problem for the state. Kautilya, popularly known as Chanakya, who was an ancient Indian scholar and the prime minister of the kingdom of Magadha, stated that “just as it is impossible not to taste honey or poison placed on the surface of the tongue, even so it is not possible for one dealing with the treasury of the king not to misappropriate a portion of it in howsoever small a quantity. Just as a fish swimming inside water cannot be known when it is drinking water, even so officers appointed for managing state-affairs cannot be known when they are misappropriating money. It is possible to know even the route of birds flying in the sky, but not the ways of officers working with bad intentions concealed.”⁴

D. Corruption in Medieval India

During Khilji rule, corruption prevailed most among the lower officials posted in the revenue department. Khilji realized that they were given low salaries, which was the main reason they engaged in corruption. To prevent it, Khilji increased the officials' salaries, which proved ineffective. He then began punishing them, which was effective, as it rapidly reduced the level of corruption.

III. ANTI-CORRUPTION MEASURES IN COLONIAL AND PRE-INDEPENDENCE INDIA

Under British rule, corruption in India took a systematic form, involving almost all officials from top to bottom—whether the Governor at the top or the lowest revenue official at the bottom. British officials tried their best to reduce the level of corruption. They introduced the Islington Commission, which laid down the Principle of Public Salaries. According to this

³Supriti Roy, *Corruption in India*, 4 INT'L J. POL. SCI. & GOVERNANCE, no. 2, 2022, at 140, <https://www.journalofpoliticalscience.com/uploads/archives/4-2-37-536.pdf>.

⁴Jitendra Narayan, *Corruption in Administration in Ancient India*, 66 INDIAN J. POL. SCI. 559 (2005), <https://www.jstor.org/stable/41856149>.

principle, “The only safe criterion is that the government should pay so much and so much and so much only to their employees as is necessary to obtain recruits of the right stamp, and to maintain them in such a degree of comfort and dignity as will shield them from temptation, etc.”

A. Relevant Provisions in the Indian Penal Code, 1860

This Code contained anti-corruption provisions from Section 161 to Section 165. These provisions clearly restricted the acceptance of any gift or other form of gratification in exchange for services, other than the lawful remuneration provided to public servants. However, all these provisions—Sections 161 to 165 of the IPC—were repealed by the enactment of the Prevention of Corruption Act, 1988.

B. Introduction of the Criminal Law Amendment Ordinance, 1944

This is probably the earliest law on corruption enacted in India. It dealt with property obtained by a public servant through corrupt practices. It was introduced with the aim of reducing corruption committed by public servants by means of bribery, fraud, and criminal breach of trust, and by the misuse of government funds.⁵

C. Key Pre-Independence Administrative Reports Related to Anti-Corruption Measures

K. Santhanam Committee Report

The committee’s main objective and terms of reference were “*to suggest changes in the law which would ensure speedy trial of cases of bribery, corruption and criminal misconduct and make the law otherwise more effective.*”⁶

*The committee observed that some of the socio-economic offences are dealt with in a special enactment. The committee suggested adding a new chapter in IPC to bring together all the offences mentioned in the enactments so that these offences will find a prominent place in the general criminal law of the nation, and for this, they may form a special legal committee or refer this to the Law Commission.*⁷

⁵*Criminal Law Amendment Ordinance, 1944*, LAWYERSCLUBINDIA, <https://www.lawyersclubindia.com/articles/criminal-law-amendment-ordinance-1944-3124.asp> (last visited May 15, 2026).

⁶MINISTRY OF HOME AFFAIRS, GOV’T OF INDIA, REPORT OF THE COMMITTEE ON PREVENTION OF CORRUPTION I (1964).

⁷*Id.*

IV. LEGAL FRAMEWORK FOR THE PREVENTION OF CORRUPTION IN INDIA: THE PC ACT, 1988 AND THE PMLA, 2002

A. The Prevention of Corruption Act, 1988: The Foundation Pillar

This Act can be considered the Gita or the Bible for a public servant, or for a person who deals with public servants. It was enacted to curb the bribery and corruption prevalent among public servants and to create a clean society free from corruption. This Act amends the Prevention of Corruption Act, 1947 and consolidates all the laws dealing particularly with corruption and related matters, which were previously scattered.

This Act of 1988 incorporates all the provisions of the Prevention of Corruption Act, 1947, the Criminal Law Amendment Act, 1952, and Sections 161 to 165 of the Indian Penal Code. It also contains provisions for effectively combating corruption among public servants.

B. “Public Servant” under the Act

Section 2(c) of the Prevention of Corruption Act, 1988 defines the term “public servant”. This definition broadly covers twelve categories of persons who are to be considered “public servants”. These twelve categories are as follows:

1. Any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;
2. Any person in the service or pay of a Local Authority;
3. Any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government Company as defined under Section 617 of the Companies Act, 1956;
4. Any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
5. Any person authorized by a Court of Justice to perform any duty in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;
6. Any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;
7. Any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

8. Any person who holds an office by virtue of which he is authorized or required to perform a public duty;
9. Any person who is the President, Secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government, or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government Company defined under Section 617 of the Companies Act, 1956;
10. Any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;
11. Any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer, or any other teacher or employee, by whatever designation called, of any University, and any person whose services have been availed of by the University or any other public authority in connection with holding or conducting examinations;
12. Any person who is an office-bearer or an employee of an educational, scientific, social, cultural, or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or public authority.

Persons who fall under the above-mentioned twelve categories are to be considered “public servants”. As the Act clarifies, “Wherever the word ‘Public Servant’ occurs, it shall be understood by every person who is in actual possession of the situation of public servant, whatever may be the legal defect in his right to hold that possession.”

C. Offences and Penalties under the PC Act, 1988

Section 7 of the PC Act⁸ states the offence relating to a public servant being bribed. The provision states:

“Any public servant who—

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or

⁸The Prevention of Corruption Act, 1988, § 7, No. 49, Acts of Parliament, 1988 (India).

dishonestly, or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.”

Section 7A of the Act states:

“Whoever accepts or obtains or attempts to obtain from another person for himself or for any other person any undue advantage as a motive or reward to induce a public servant, by corrupt or illegal means or by exercise of his personal influence to perform or to cause performance of a public duty improperly or dishonestly or to forbear or to cause to forbear such public duty by such public servant or by another public servant, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine”⁹

Section 8 of the Act states:

“(1) Any person who gives or promises to give an undue advantage to another person or persons, with intention—

(i) to induce a public servant to perform improperly a public duty; or

(ii) to reward such public servant for the improper performance of public duty, shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both:

Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:

Provided further that the person so compelled shall report the matter to the law enforcement authority or investigating agency within a period of seven days from

⁹The Prevention of Corruption Act, 1988, § 7A, No. 49, Acts of Parliament, 1988 (India).

the date of giving such undue advantage:

Provided also that when the offence under this section has been committed by commercial organisation, such commercial organisation shall be punishable with fine.

Illustration.—A person, ‘P’ gives a public servant, ‘S’ an amount of ten thousand rupees to ensure that he is granted a license, over all the other bidders. ‘P’ is guilty of an offence under this sub-section.

Explanation.—It shall be immaterial whether the person to whom an undue advantage is given or promised to be given is the same person as the person who is to perform, or has performed, the public duty concerned, and, it shall also be immaterial whether such undue advantage is given or promised to be given by the person directly or through a third party.

(2) Nothing in sub-section (1) shall apply to a person, if that person, after informing a law enforcement authority or investigating agency, gives or promises to give any undue advantage to another person in order to assist such law enforcement authority or investigating agency in its investigation of the offence alleged against the latter.”¹⁰

This section was inserted in the Act to curb collusive corruption, where a person engages in bribery to gain an undue advantage in taxation, regulatory and similar matters. Various government departments had developed a culture of organized corruption that was not limited to junior officers.

Section 9 provides for the offence of bribing a public servant by a commercial organization. It states:

“(1) Where an offence under this Act has been committed by a commercial organization, such organization shall be punishable with fine, if any person associated with such commercial organization gives or promises to give any undue advantage to a public servant intending—

(a) to obtain or retain business for such commercial organization; or

(b) to obtain or retain an advantage in the conduct of business for such commercial organization: Provided that it shall be a defense for the commercial organization to prove that it had in place adequate procedures in compliance of such guidelines as

¹⁰The Prevention of Corruption Act, 1988, § 8, No. 49, Acts of Parliament, 1988 (India).

may be prescribed to prevent persons associated with it from undertaking such conduct.

(2) For the purposes of this section, a person is said to give or promise to give any undue advantage to a public servant, if he is alleged to have committed the offence under section 8, whether or not such person has been prosecuted for such offence.

(3) For the purposes of section 8 and this section,— (a) “commercial organisation” means—

(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;

(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India;

(iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or

(iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India;

(b) “business” includes a trade or profession or providing service;

(c) a person is said to be associated with the commercial organization, if such person performs services for or on behalf of the commercial organization irrespective of any promise to give or giving of any undue advantage which constitutes an offence under sub-section (1).

Explanation 1.—The capacity in which the person performs services for or on behalf of the commercial organization shall not matter irrespective of whether such person is an employee or agent or subsidiary of such commercial organization.

Explanation 2.—Whether or not the person is a person who performs services for or on behalf of the commercial organisation is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between such person and the commercial organisation.

Explanation 3.—If the person is an employee of the commercial organization, it shall be presumed unless the contrary is proved that such person is a person who has performed services for or on behalf of the commercial organisation.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sections 7A, 8 and this section shall be cognizable.

(5) The Central Government shall, in consultation with the concerned stakeholders including departments and with a view to preventing persons associated with commercial organizations from bribing any person, being a public servant, prescribe such guidelines as may be considered necessary which can be put in place for compliance by such organizations.”¹¹

One of the main offences provided under the PC Act, 1988 is criminal misconduct, dealt with under Section 13. It is examined through the misdeeds committed by a public servant while discharging official duties, or while exercising power in an official capacity. Section 13 of the Act states:

“(1) A public servant is said to commit the offence of criminal misconduct,—

(a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant, or allows any other person so to do; or

(b) if he intentionally enriches himself illicitly during the period of his office.

Explanation 1.—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

Explanation 2.—The expression “known sources of income” means income received from any lawful sources.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than four years but which may extend to ten years and shall also be liable to a fine.”¹²

D. The Prevention of Money Laundering Act, 2002: A Key Legal Pillar for the Prevention of Corruption

In today’s era, the major sources of illegal income include drug smuggling, chit funds, the counterfeiting of currency, smuggling, house trespass, and arms trafficking, among many other

¹¹The Prevention of Corruption Act, 1988, § 9, No. 49, Acts of Parliament, 1988 (India).

¹²The Prevention of Corruption Act, 1988, § 13, No. 49, Acts of Parliament, 1988 (India).

illicit practices. A person generates money from these illegal activities, mostly in the form of cash, and then routes it through legitimate financial institutions without arousing the suspicion of the authorities. Bringing such illegally generated money back into the economy through a legal channel, without creating suspicion among the authorities, is the process termed the concealment, or “laundering”, of money.

E. Objective Behind the Enactment of the Act

The objective behind the enactment of this Act of 2002 is clearly stated in its preamble: to address the threat posed by the concealment of money, to provide for the confiscation of the objects of crime, and to deal with other connected matters.

F. Key Legal Provisions of the Act

Section 3 of the Act. This section defines money laundering as any economic transaction that conceals the identity, source, and location of illegally earned money.

Section 4 of the Act. Section 4 governs the punishment for the offence of money laundering. An offender shall be punishable with imprisonment for a minimum of three years, extendable up to seven years, along with a fine. In a special case—where the offence falls within the category specified in paragraph 2 of Part 8 of the Schedule—the punishment is extendable up to ten years.

Section 24 of the Act. This section concerns the burden of proof. Under it, a person accused in proceedings for this offence is presumed to be the offender, and the burden of proof lies upon the person accused by the authority under Section 3 of this Act.

Section 11A of the Act. This section deals with the verification of identity by reporting entities. Identification under this provision is carried out using documents such as an Aadhaar card, passport, matriculation mark sheet, or any other government document. It also provides that the mode of identification is at the discretion of the person whose identity is being verified.

Section 12 of the Act. The prescribed authority—i.e., the Director—may call for records from the reporting entities mentioned under Sections 11A, 12(1) and 12(AA)(1). The section also provides that, where a client fails to fulfil the conditions laid down, the client shall not be allowed to carry out specified transactions; if the client neglects these directions, the authority has the power to investigate the matter and take appropriate action according to the violations committed.

Section 13 of the Act. This section governs the Director’s power to impose a fine. It confers discretion on the Director to act either on his own motion or on an application submitted by any

authority, person or officer involved in the inquiry in a particular case. It also empowers the Director to have the accounts investigated by a panel of accountants maintained by the Central Government, the cost of which is borne by the Central Government.

G. Provisions Relating to the Enforcement Directorate

To investigate cases relating to money laundering, Sections 48 and 49 confer powers on the officers of the Enforcement Directorate (ED). These officers have the authority to initiate proceedings in respect of attached property and to prosecute offenders of money laundering before the Special Courts.

Section 48 sets out the authorities who may carry out investigations for the purposes of this Act, as follows:

- Deputy, Additional or Joint Director;
- Deputy Director;
- Assistant Director; and
- any other class of officers authorised and appointed for carrying out the purposes of this Act.

Section 49 deals with the procedure for the appointment and the powers of these authorities and other officers. Under this section, the Central Government has the power to appoint any person it thinks fit as an authority under this Act. It also authorises the Central Government, or a Director, Additional Director, Joint Director, Deputy Director or Assistant Director, to appoint any other officer it thinks fit to conduct the proceedings or to discharge the duties provided under this Act.

The powers provided under this Act generally include: attaching property related to the offence; conducting a survey or search of any place, vessel, building or aircraft; freezing or recording anything obtained from such a search; conducting a personal search; arresting an accused person; and summoning any person connected with the offence and recording their statement.

Section 50 of this Act confers powers on the authorities in relation to summons, the production of documents, the submission of evidence, and similar matters. It vests the Director with the same powers as a civil court under the Code of Civil Procedure, 1908 (CPC) when conducting proceedings in respect of matters including:

- discovery and inspection;
- enforcing the attendance of any person and examining them on oath;
- compelling the production of evidence;

- receiving evidence on affidavit;
- issuing commissions for the examination of witnesses and documents; and
- any other matter provided under this Act.

H. Provisions Relating to Special Courts

The provisions relating to Special Courts are contained in Chapter VII of the PMLA.

Section 43 governs the establishment of Special Courts. It authorises the Central Government, in consultation with the Chief Justice of the High Court, to designate one or more Courts of Session as Special Courts for the purposes of this Act. While trying any matter under this Act, such courts also have the power to try an accused charged under the Bharatiya Nagarik Suraksha Sanhita (BNSS).

Section 44 provides the list of offences triable by Special Courts. A Special Court may try offences punishable under Section 4 of this Act and any scheduled offence connected therewith, an offence under Section 3 of this Act, and any offence whether it is a scheduled offence, an offence of money laundering, or an offence under the BNSS. The Special Court also has the power to conduct joint proceedings in any such matter.

Section 45 provides that offences under this Act are cognizable and non-bailable. This means that an accused person cannot be granted bail unless the Public Prosecutor (PP) has been given an opportunity to be heard and to oppose the bail application; where the Public Prosecutor opposes bail and the court is satisfied that granting bail would defeat the purpose of the Act, it may reject the application, and otherwise it may grant bail.

Section 47 of this Act governs appeals and revisions, providing that the High Court may exercise all the powers available under Chapter XXXI or Chapter XXXII of the BNSS.

V. CONCLUSION

If we carefully analyze all the laws relating to corruption introduced in India to date, we can clearly see that India has made progress by enacting stringent anti-corruption laws—beginning with the introduction of certain sections in the IPC, 1860 and culminating in an Act that deals solely with corruption. Nevertheless, despite these stringent laws, many people bypass the rigorous scrutiny conducted by the authorities established under them and succeed in engaging in corruption. To prevent this, the powers of these authorities should be enhanced, and stricter and more stringent laws should be introduced.
