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Combating Corruption in India's Corporate Landscape: Evaluating Anti-Corruption Legislation and Economic Implications

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ABSTRACT

This paper delves into the realm of corruption within commercial organizations in India, focusing on the implications of the Prevention of Corruption (Amendment) Act, 2018. The study examines the challenges faced by Indian commercial entities in adopting anti-bribery measures voluntarily, as well as the expanded scope of the Act to include criminal liability for both individuals and corporations. Through an analysis of legislative support, burden of proof requirements, and the need for internal preventive mechanisms, the paper highlights the complexities and responsibilities placed on corporations to combat corruption effectively. By exploring the impact of the amendments on corporate governance and the economic landscape, this research sheds light on the evolving regulatory framework and its significance for promoting integrity and transparency in India's business sector.

Keyword: *corruption, commercial organizations, internal preventive mechanisms, corporate governance, economic impact, regulatory framework.*

I. INTRODUCTION

Last few years, especially after demonetization in 2016, the corporate sector of India has seen some significant changes. There was a period when the fight against corruption in India was intensified. The government was making a collaborative effort with the judiciary and executive to control corruption in the Country. Immediately after that, India showed some improvement in the world economy; however, this improvement started to rupture within a couple of years. In 2023, India's ranking in the World Economic Forum's Global Competitive Index improved to 40th place, indicating progress in the business environment (World Economic Forum, *Global Competitiveness Report 2023*). Despite this positive trend, India's score on Transparency International's Corruption Perception Index for 2023 slipped slightly to 93rd place out of 180 countries (Transparency International, *Corruption Perception Index 2023*). This indicates some improvement in tackling corruption problems, although there is still potential for more improvement.

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Corruption influences the Country negatively and misrepresents the competition in the market that affects the other corporations in the business. This leads to negative competitions among the rivals who adopt various methods to obtain the government tenders and projects. These methods include rigging bids or paying the bribe or other kinds of advantage to the government. In a global market where everything changes in a blink, the companies have immense pressure to generate expected outcomes in any situation. As a result, they also engage in corrupt activities. The primary reason for discussing the corruption in the corporate sector of India and linking it to the government is to analyse the whole relationship between the two and the kind of pressure these corporations put on the political decisions and policies.

In recent years, India's public-private partnership system has been scrutinized, and it has been seen to be proactively collaborating with bureaucrats and politicians to commit massive corruption (see Central Vigilance Commission (CVC) report by Transparency International India (TII) .² To them, corruption is a simple way to make big unfair gains and a vital means of pursuing their professions or maintaining their status among their competitors (Santhanam Committee Report, 1964).³ The intrinsic and intertwined complex relationship between the government and corporations has caught hold of the eyes of the various committees and the judiciary. Therefore, the legislation has attempted to include the corporations under the statute like Prevention of Corruption Act, 1988. However, with the advent of time, it can be seen that there is a considerable rise in the execution of such crimes. The statutes have failed to address it in a judicious manner and in sentencing the white-collar criminals, which is evident from the great scams, for instance, the Hawala Scam, 2G spectrum case, Satyam Computers scams that have taken place.

There have also been series of corruption cases that often comes up. The Prevention of Corruption Act, 1947 was initially enacted, which was then further amended to the Prevention of Corruption Act, 1988 (*hereinafter referred to as 'Act'*) to combat such corruption cases, especially against government officials or "public servants" has been stated in the Act. Now in 2018, another amendment was brought to expand the ambit of the Act of 1988. This amendment has now been extended to people who give or offer a bribe and include corporations. However, the instances of corruption do not drive the efficacy of the Act. Hence, there are shortcomings and limitations in the Act that prompted the wrongdoers to go ahead with their evil motive and

² Central Vigilance Commission (CVC) report by Transparency International India (TII) https://procurementobservatoryraj.in/pdf/Implementation_of_Integrity_Pact_in_India.pdf last accessed on 9th June, 2021.

³ Report of the Committee on Prevention of Corruption (New Delhi: Government of India, 1964), 11 (Known as the Santhanam Committee Report).

commit corruption.

II. THE JOURNEY TO THE 2018 AMENDMENT

The Prevention of Corruption Act, 1988 was enacted with the objective to prevent persisting corrupt activities in the public sectors involving the public servants and their offices. The Prevention of Corruption (Amendment) Act, 2018 (Amendment Act) (*hereinafter referred to as* 'Amendment Act') has been brought in conformity with the obligations that United Nations Convention Against Corruption, 2005 lays down, which India ratified in 2011. However, corruption is not a new issue in India. The UNCAC has expressed mandate for sanction for giving and taking a bribe, illicit enrichment and possession of disproportionate assets by a public servant as offences, bribery of foreign public officials, and bribery in the private sector (Article 15, UNCAC 2nd, I.R.M. and Harutyunyan, N., 2003. United Nations Convention Against Corruption).⁴ There have been a number of committees that have made recommendations to control the corruption in the Country.

Following the recommendations of the Santhanam Committee (1964)⁵, the Prevention of Corruption Act, 1988 was passed initially. In the Committee report, it was expressly stated that '*Corruption in India or any other country cannot be eliminated or reduced unless proper preventive measures are taken and appropriately implemented. These preventive measures must be inclusive of administrative, educational, social, legal and economic means.*' This report is very crucial and relevant to what India is experiencing at present. The recommendations by the committee included the companies and businesspersons.⁶ It also subtly pointed out the need to keep the politics and commercial activities separate. It recommended that the corporations tracing every transaction should maintain the details and complete record. It also recommended the need to review the licenses and permits granted to the companies regularly to prevent any corrupt actions.

One of the most crucial recommendations, which fits the current scenario, is regarding the contracts between the government and companies. However, not forming part of the monetary side of corruption but forming part of the undue advantage is the committee's farsightedness. The committee has discussed the Contracts that are entered into after the acceptance of tenders.

⁴ Article 15, UNCAC 2nd, I.R.M. and Harutyunyan, N., 2003. United Nations Convention Against Corruption.

⁵ Supra note 4.

⁶ Id.

The report further states that after retiring from the Government Office Services, no government servant can immediately join any private commercial employment within the period of two years. Basic amenities should be provided to employees such as increment in salary, housing, and medical facilities to prevent the indulgence of public servant in any corrupt act.

Changes in the form of the contract providing for a change in rates and quality, including abnormal conditions and various escalators giving price preference, are possible abuses (Santhanam Committee, 1964, pp. 288).⁷ India has had some of the most significant public procurement scams in the previous two decades, resulting in unparalleled judicial judgments cancelling procurement contracts. These statistics do not help India's image as a destination for ease of doing business, nor do they provide investors with an assurance of the sanctity of Government contracts (*Subramanian Swamy vs A.Raja*, (2014) 8 SCC 682).⁸

Another recommendation that, if implemented, could have been beneficial in controlling the corruption in India is the constitution of Special Police Establishment to investigate the documents of the corporations when needed and immediate procurement of these documents when needed to prevent them from being tampered or destroyed (Santhanam Committee Report, 1964, pp. 87).⁹

The Prevention of Corruption (Amendment) Bill, 2013 February 2015 was introduced, first analysed and modified in the 254th Law Commission Report. Finally, a few modifications by Standing Committee were introduced and later enacted as Amendment Act, 2018. In Santhanam Committee Report, it has been mentioned that corruption can only occur if somebody is willing and capable of corrupting others. Undoubtedly, the industrial and commercial sectors are responsible for a considerable portion of this inclination and capability to corrupt. Moreover, this is the view of the 254th Law Commission Report that puts the liability on the supplier-side, which means the giver of bribe shall also be liable under the Act in conformity with UNCAC.

It further recommended the expansion of term undue advantage, which will include monetary gratifications and extend to other favours. By criticising the vehement copying of U K Bribery Act, 2010, the Commission recommended that specific guidelines need to be brought to keep commercial organizations in place. In the absence of government-framed guidelines, it may be difficult for corporates to put an effective anti-corruption mechanism in place.

The Commission and Standing Committee emphasize, in addition, to having internal preventive mechanisms in place to stop corrupt acts, commercial enterprises should be held legally accountable and vicariously liable for the actions of their personnel (Prevention of Corruption

⁷ Id at 283

⁸ *Subramanian Swamy vs A.Raja*, (2014) 8 SCC 682.

In the case, the Supreme Court of India cancelled 122 licences.

⁹ *Supra* note 4 at 87.

The suggestions by the Committee applies not only to the Ministries and Departments but also to the Public Undertakings, Statutory Bodies, Corporations etc. which are under the control of the Central Government.

(Amendment) Bill, 2013).¹⁰ The Second Administrative Reforms Commission suggested in 2007 that the 1988 Act must distinguish between coercive and collusive bribe providers in its findings. This means that people who are forced to pay a bribe in exchange for a benefit may be handled differently from those who collude with the bribe taker to get an unfair advantage. The Standing Committee took a similar view as well (Prevention of Corruption (Amendment) Bill, 2013).¹¹

The Amendment Act, 2018 were brought based on the recommendations of the Commission. The next chapter will comprehensively but concisely deal with the amendments brought to the Act and how they have impacted the corporations in India.

III. POST-2018 AMENDMENT- POSITION OF CORPORATIONS UNDER THE ACT

Before the amendment, the Prevention of Corruption Act exclusively considered and criminalized bribe-taking by public officials, not bribe giving, thereby excluding the private sector. Now post amendment, the situation has been different. A violation of the Act can result in penalties for both individuals and corporations. This chapter will discuss only those amendments that will affect the corporations.

(A) Expansion of scope of the Act

The Amendment Act increased the scope of the Act by expanding its ambit. The Act now includes criminal liability of commercial organization incorporated in India or outside (See Section 8 and 9 of the Prevention of Corruption (Amendment) Act, 2018).¹² Whether incorporated in India or elsewhere and doing business in India, multinational corporations are now subject to the Act and can be fined if any individual acting on their behalf commits an act of corruption. In addition, the offences also extend to partnership firms doing business in India, whether they are based in India or not. One minor but significant explanation attached to the provision defining the commercial organization is the term business, which will include trade, profession, or service expanding the ambit of the liability.

The liability on the commercial organization is from the supplier end, which means that the corporations will be liable for offering and giving bribe to the public servant. Section 8 of the Act has expressly prohibited the giving or promise from giving any undue advantage to a public servant. A fine or imprisonment for not more than seven years or both may be imposed as

¹⁰ Prevention of Corruption (Amendment) Bill, 2013, 20 Report No. 254, Law Commission of India, February, 2015.

¹¹ Id.

¹² Section 8 and 9 of the Prevention of Corruption (Amendment) Act, 2018.

punishment for the offence. It makes no difference whether the public servant accepts the offer or promise.

A commercial organization can be held liable under Section 9 of the amended Act “if any person associated with the commercial organization gives or promises to give any undue advantage to a public servant” with the intent of obtaining or retaining business or any advantage for the commercial organization. This regulation applies to all types of businesses operating in India except charitable organizations. As a result, commercial entities operating in India will be held vicariously accountable for any bribes paid to public officials by anybody linked with them. Employees of an organization’s agents and subsidiaries are likewise responsible if they act on its behalf and commit a crime. As a result, third-party vendors working on behalf of a commercial organization will be covered by the legislation. This provision of holding corporations liable for any act of corruption, under the UNCAC guideline, is a big step forward. Bribery offences may be prosecuted against agents and associated parties. If a person performs services for or on behalf of a commercial organization, they are linked with it.

Whether a person conducts services for or on behalf of a commercial organization must be decided in light of all relevant circumstances, not just the nature of the relationship between the two parties. As a result, the bribery will be held accountable for both the individual agent or facilitating party and the commercial organization on whose behalf such agent or party is working. Corporations can be held accountable for their employees, agents, service providers, and professional advisers. A parent business (including a foreign parent company) can also be held accountable for the activities of its Indian subsidiary under the Act.

However, the 2018 Amendment significantly limits this immunity for bribe givers by placing a more burden on them to notify the occurrence of a crime. Those seeking immunity must now show that they were ‘compelled’ to give an undue benefit to a public worker and that they reported the undue benefit to Indian enforcement or investigative officials within a certain period.¹³ In addition, under Section 9, the defence available to commercial organizations is to prove that they have adequate procedures to prevent conducts like corruption and bribery.

The amendments do expand the ambit of the Act, but it also puts the commercial organizations

¹³ Section 8 Proviso.

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 the date of giving such undue advantage.

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

in a vulnerable position compared to the government. The proposal of adequate guidelines was based on the U.K. Bribery Act¹⁴ where the corporations are expected to develop guidelines to prevent their people from indulging in bribery (Section 9 of U.K. Bribery Act). Section 9 of the Act talks about the adequate procedure adopted by the commercial organizations based on the guidelines notified by the Central Government (Section 9(5) of the Prevention of Corruption (Amendment) Act, 2018).¹⁵ This ‘adequate procedure’ will be a firewall for the corporations; however, as of now, the concerned authority of the Central Government has notified no such guidelines. This has put an extra burden on the corporations to prove that the policies and procedure they have adopted is good enough to prevent bribery and corruption.

Due to the lack of uniform guidelines establishing the adequate procedure, the commercial organizations rely on the Guidelines by their parent companies (US and UK have such guidelines and policies). Other than that, they rely on various other guidelines of international standards like OECD Recommendations. The Institute of Company Secretaries of India (ICSI) formulated a Corporate Anti-Bribery Code in October 2017 that Indian commercial organizations can adopt voluntarily. However, there is no legislative support for this code, and there is no indication that the policies and stipulations contained within it would satisfy the Amendment Act’s standards (Dunn, 2018).¹⁶ This has put the commercial organizations in the position to refrain from contracting with the government or invest in the public sector as there is possibility that they might have done the act in good faith but unable to prove it, which might attract sanction under the Act.

Another problem is Section 8, where the word ‘compelled’ is the defence under the provision. This has left open to interpretation, and no degree of compulsion has been identified by the Act where the quantum of evidence required to prove the compulsion remains a question yet to be decided objectively. Even though the Committees discuss the need to clarify the coercive and compelled bribery offering, nothing has been mentioned in the Amendment Act.

Both the provisions put the burden on the corporations and the directors to prove that they were compelled to give the bribe or have adopted adequate procedure to prevent such act. The

¹⁴ Section 9 of U.K. Bribery Act.

¹⁵ Section 9(5) of the Prevention of Corruption (Amendment) Act.

The Central Government shall, in consultation with the concerned stakeholders including departments and with a view to preventing persons associated with commercial organisations 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.

¹⁶ Amendments To The Prevention Of Corruption Act, 1988 Implications For Commercial Organizations Doing Business In India, Gibson Dunn (2018) https://www.gibsondunn.com/amendments-to-prevention-of-corruption-act-1988-implications-for-commercial-organizations-doing-business-in-india/#_ftn5

Supreme Court of India in the *State of Madhya Pradesh v. Ram Singh* (2000) 5 SCC 88¹⁷ opined that the Act being social legislation directly dealing with public servants must be applied cautiously. It stated that the offence against the alleged accused must be proved beyond a reasonable doubt, establishing the causal link between the events that occurred. Merely based on inference, the public servant cannot be prosecuted. The Act has adopted the reverse burden of proof where the supplier side has to prove their own and their corporation's innocence.¹⁸ This requires some quality evidence, which is difficult to gather when the public officials are discreet enough and backed with political powers. The only thing that the prosecution is required to establish is the connivance or consent of the director, manager, secretary or other officers in the act done.

Even though commercial organization directors and managers will not be held liable for bribes given without their knowledge or participation, it is more important than ever for management to set the right organizational culture of their organizations in time to prevent personal liability and guarantee that their organizations do not violate the spirit of the Act (Dunn, 2018).¹⁹ This is good for corporate governance; however, to keep control of the adequate procedure, the Corporation has to take specific responsibilities like complaining about the public servant who is demanding favours in place of work done. The problem with such responsibility is the need for sanction to investigate and put the person under trial, which is another complex process for commercial organizations that genuinely want to do business.

The Amendment Act makes it mandatory to acquire prior approval from the appropriate government before investigating current and former public servants. Although the goal was to protect honest officials, the Amendment Act appears to strengthen the protection offered to officials suspected of wrongdoing. Receiving such a sanction has hitherto been a roadblock to efficient law enforcement.

Before even beginning a preliminary investigation into a public servant, the new Act requires investigating agencies to get sanction. Before verifying against a public official on a complaint claiming corruption, the CBI will now need administrative authority's permission. The police and investigation agencies are not permitted to investigate a public servant unless the appropriate agencies have given their authorisation. Section 17A also requires the concerned authority to communicate its judgment within three months, with the possibility of a one-month extension if justified by written reasons. Before the Amendment Act, the appropriate authority's

¹⁷ (2000) 5 SCC 88.

¹⁸ Supra note 13.

¹⁹ Supra note 17.

prior sanction was required only to prosecute public servants (Section 19 of the Prevention of Corruption Act, 1988).²⁰ and not for the initiation of an enquiry, inquiry, or investigation. This is a substantial shift and impediment. In addition, prosecuting public servants who have resigned from their positions will also require a sanction.

Even though the term 'undue advantage' seems to have a very liberal and expansive meaning, the statute itself has limited its applicability. Section 13 seems to limit the applicability because it increases the standard of grounds required to impute liability on the public servants. The criminal misconduct needs to be proved as per Section 13, which relies on pecuniary resources or property disproportionate other than the known legal resources. It is unclear how this provision will include other favours mentioned as a part of undue advantage. It seems like the legislation has more relied on bribery than the other form of corruption.

This amendment has put corporations in a weaker position. In the coming time, it might create a rift between the corporations and the concerned authorities and the governments. Since the period of conveying the decision is three months with an additional extension of a month, there is the possibility that the complainant becomes identifiable by the suspected public servant. There is also a possibility that the evidence is tempered or manipulated (KPMG, 2020).²¹ The appropriate and investigating authorities are not independent bodies outside the purview of government. Incompetent anti-corruption authorities such as the Central Vigilance Commission, SEBI, Enforcement Directorate, and the Central Bureau of Investigation blame this state of things. The CBI's autonomy has been a long-standing demand, but the government has paid no attention (Nagarwal & Kumar).²² Therefore, there is a significant possibility that this mandate could be used to protect public servants. This will put the complaining person and the corporation in a disadvantageous position and create trust issues.

While whistle-blowers who make disclosures in the private sector are not legally protected, most firms protect such whistle-blowers through internal rules and programs (Gupta, 2021).²³ The government has designated the Central Vigilance Commission (CVC) as the designated agency for receiving and acting on written complaints alleging corruption or misuse of office by central government employees, any corporation established under a central act, and government companies, societies, or local governments owned or controlled by the central

²⁰ Section 19 of the Prevention of Corruption Act, 1988.

²¹ The Prevention of Corruption (Amendment) Act, 2018: Key highlights, 3 KPMG (2020) available at <https://assets.kpmg/content/dam/kpmg/in/pdf/2020/02/prevention-corruption-amendment-anti-bribery-fcpa.pdf> . last accessed on 9th June, 2021.

²² Narender Nagarwal & Anit Kumar, Prevention of Corporate Corruption in India: Judicial Response and the Rule of Law - A Critical Analysis, 7 INDIAN J.L. & Just. 77 (2016).

²³ Bhavya Gupta, and Kumar Rishabh Parth. "Protection of Whistle-Blowers in India: A Need?." (2021).

government. While the CVC does not accept anonymous complaints, it is required to keep complainants' identities discreet, and witness protection may be granted if necessary. This leaves enough room for information leakage and putting the complainant and corporation in a vulnerable position. This may drag the name of the directors and managers and bring reputational sanction for the companies, which is the last thing any company wants. In the absence of adequate confidentiality and unbiased disposal of cases, it is highly unexpected that companies will complain about such demands of bribery. It is important to note that India struggles to establish an efficient Lokpal to combat corruption in both the public and private sectors.

(B) An Alternate Anticipated Outcome of the Amendment

The legislation accompanied by the judicial decisions has opened the door for further interpretation that might make the situation complex yet easy to get away for the commercial organizations. In addition, the corporations for their act of corruption while performing their public duty might use the expansion of the term public servant under the Act as defence. The two important judgments that could change the face of the Amendment Act are *CBI v. Ramesh Gelli* and *State of Gujarat v. Mansukhbhai Kanjibhai Shah* where the Supreme Court expanded the meaning of public servant to the employees of the private banks and deemed universities. If the Court adopts the same reasoning, they will be eventually protected in terms of the high standard required for the sanction in the case of bribery by being a public servant.

After the Amendment Act, it can quickly be inferred that now the private bank has been given strong protection under the Act where the process of sanction before investigation, inquiry or enquiry is mandatory. The reasoning in both cases was based on the performance of public duty and not on the person's position. In the Act, the term "public official" needs clarification in light of the Supreme Court's verdict and to rule out the prospect of private businesses expanding into collaborative ventures with the government. The Act also fails to clarify the difficulties in the applicability of anti-corruption legislation to private businesses, particularly when these businesses are involved in public-private partnerships. This is crucial as any further expansion will protect the corporations even though not legislation exclusively deals with bribery in the private sector. The protection in the name of sanction that has been provided to the public servant is in itself controversial and dangerous. Its extension to corporations will influence the political decisions and policy as everything here is about money.

There are more than 16 lakhs companies are there in India. The government has more than 60 percent of projects based on public-private partnerships establishing close nexus between the

commercial organization and government. The Amendment Act will significantly impact these commercial organizations, especially on fortune companies who hold the top capital. We do not have any legislation that deals with bribery to the commercial organization. Even the Act covers the public servant, and the liability on the corporations are from the supplier side. To protect their corporations, the organization must rely on their internal codes of conduct and compliance infrastructure. Relying too much on the corporate integrity pact and internal code of conduct will not suffice the purpose to control corruption.

The UNODC recommends that employees in privately owned businesses be adequately educated on the issue. It further states that²⁴

‘High targets and tight deadlines, the low orientation of the management’s focus on ethical issues along with a highly dynamic and competitive market are some of the reasons cited for corruption in the Indian business sector. Most companies have a code of ethics, but there is very little adherence as they remain voluntary codes. The challenges to small and medium-sized companies in an environment such as this are even greater’. (Incentives for corporate integrity in accordance with the United Nations Convention against Corruption, UNODC, 2011)

Corporate governance cannot always be self-initiated; it sometimes requires the use of external factors. We must not miss out that speed money has become a practice in the Indian economy (The Santhanam Committee Report, 1964, pp. 10).²⁵ There was the direct involvement of politicians, bureaucrats, and criminals in most corporate corruption and scandals that occurred over the last six decades, yet almost no one was punished.²⁶ It is so embedded in the system that it has become practice to speed up the matter to get a license or permits. This might not be for some illegal acts but to speed up the legal process. Since only internal code of conduct is there, the corporation and government may come into an arrangement to do corrupt acts. The practice of speed money has blurred the line of ethics, and it would be too much to expect corporations to register their complain instead of looking for their benefits. We often overlook that corruption cannot be eliminated through micromanagement; it can only be reduced by efficient laws that prevent evident violations of the laws and wrongdoings.

IV. RECOMMENDATIONS

There is no specific legislation in India that expressly requires companies to disclose potential

²⁴ INDIA: Incentives for corporate integrity in accordance with the United Nations Convention against Corruption, UNODC, 3 Regional Office for South Asia NODC, Regional Office for South Asia (2011)

²⁵ Supra note 4 at 10.

²⁶ Supra note 3.

violations of anti-corruption laws within their organization.²⁷ To improve corporate integrity, robust legislation must be implemented effectively to maintain a balance between incentives and punishment. In light of the loophole in the provision of sanction by the appropriate authority for public officials, the Legislature should review the provision in light of the growing demand from all sectors of society, and necessary changes should be made while keeping the public interest in mind instead of the personals.

Given the Act's definitions of "public duty" and "public officials," the Legislature, not the Courts, must broaden or limit them to include the activities of the modern welfare state. Several new pathways opened up, such as "public-private participation", and the executive has delegated authority to them, making the issue much more urgent. The Legislature must play a crucial role in such a scenario by adopting essential adjustments to anti-corruption law so that no one gets an edge over there.

Whether directly or indirectly through a third party, bribery in any form must be expressly forbidden in the Anti-Corruption and Anti-Bribery Policy. It must clarify what comprises bribery and provide concrete instances of illegal conduct that apply to the company. It must specify if and to what degree gifts and facilitation payments can be provided or accepted. This will make the system more transparent and less prone to any false complaints and harassment of either party.

Although the Lokpal and Lokayuktas Act, 2013 has been enacted by the Legislature to improve the effectiveness, transparency and better functioning by introducing new procedures to investigate corruption cases. The implementation rate is poor, and states are not that willing to implement it efficiently. It is critical to include a mandate in legislation for corporations that exceed a particular threshold to have a whistleblower system or some internal reporting channels of corruption and some type of external audit. Witness, expert, and victim protection is likewise a critical issue that must be addressed (Whistle-blowing systems and protections, UNODC, 2021).²⁸ Therefore, there is an urgent need for a tight law to be passed to address the practicality of the problem.

Despite numerous incontrovertible instances of massive corporate malfeasance, the business sector's role to economic prosperity should not be overlooked. The corporate sector creates jobs, invests in infrastructure, and improves physical connectivity by building better roads,

²⁷ The Companies Act, 2013 and SEBI guidelines have few mandates regarding this but they mostly rely on auditors.

²⁸ Whistle-blowing systems and protections, UNODC. Available at <https://www.unodc.org/e4j/en/anti-corruption/module-6/key-issues/whistle-blowing-systems-and-protections.html> last accessed on 9th June, 2021.

providing basic amenities, and ensuring that people have access to essential services (Nagarwal & Kumar, 2016).²⁹ The link between corporate individuals and high bureaucrats and the delayed prosecution of corrupt officials has agonised society. As previously noted, the government's role and its conceptual framework in combating the threat of corruption has always been questioned, as state-owned institutions have failed to limit corporate entities' illegal activities. Dismantling the rising link between business, bureaucracy, and criminality is urgently needed. Moreover, this could only be done by the proper analysis and implementation of anti-corruption statutes.

In light of the challenges posed by corruption within commercial organizations in India, it is imperative to consider recommendations and solutions to foster a more transparent and ethical business environment. Several key recommendations can be implemented to address corruption in commercial organizations in India:

1. Strengthening Compliance Mechanisms: Commercial organizations should prioritize the establishment of robust compliance programs to prevent corrupt practices. This includes implementing internal controls, conducting regular audits, and providing anti-corruption training to employees at all levels.

2. Promoting Whistleblower Protection: It is essential to create a safe and confidential mechanism for employees to report instances of corruption without fear of retaliation. This can be achieved by implementing whistleblower protection laws and policies that encourage and protect individuals who come forward with information about corrupt activities.

3. Instituting and Strengthening Public Watchdog: Setting up independent agencies or bodies tasked with monitoring and investigating corruption within commercial organizations can be an effective measure to address corruption. These watchdogs should have the authority and resources to conduct thorough investigations, hold individuals and organizations accountable, and recommend appropriate actions or penalties.

4. Enforcing Public Accountability in Service Delivery: Commercial organizations should be held accountable for their actions and performance in delivering services to the public. This can be achieved by implementing transparent and accountable procurement processes, regularly publishing performance reports, and establishing mechanisms for public feedback and complaints.

²⁹ Narender Nagarwal & Anit Kumar, Prevention of Corporate Corruption in India: Judicial Response and the Rule of Law - A Critical Analysis, 7 INDIAN J.L. & Just. 77 (2016).

- a) Instituting the Office of the Ombudsman: The establishment of an independent and impartial ombudsman office can serve as a trusted mediator for resolving disputes and grievances related to corruption in commercial organizations.
- b) Training of Law Enforcement Officers: Law enforcement agencies should receive specialized training on investigating and prosecuting corruption cases within commercial organizations.
- c) Instituting and Strengthening Corruption Awareness Sessions and Programs: Commercial organizations should conduct regular awareness sessions and training programs to educate employees about the detrimental effects of corruption and the importance of ethical conduct.
- d) Instituting and strengthening corruption awareness sessions and programs: Commercial organizations should conduct regular awareness sessions and training programs to educate employees about the detrimental effects of corruption and the importance of ethical conduct.

5. Commercial organizations should work together with public sector agencies and other stakeholders to actively detect and report corruption cases.

6. Strengthening institution accountability and transparency by promoting principles of good governance, including strong leadership, effective oversight, and clear policies and procedures.

Implementing and strengthening these recommendations can foster a more transparent and ethical business environment, reducing the prevalence of corruption within commercial organizations in India.

V. CONCLUSION

To sum up, examining commercial companies and corruption in India highlights the essential requirement for taking proactive steps to address unethical behaviour and encourage transparency in the business industry. The effectiveness of the recommendations and solutions in the Prevention of Corruption (Amendment) Act, 2018, in the Indian business environment could be influenced by cultural norms, legal systems, and organizational practices despite aligning with typical anti-corruption practices.

In order to combat corruption successfully, it is crucial for businesses to improve their compliance systems, encourage ethical leadership, increase government supervision, and work alongside stakeholders to cultivate a culture of honesty and responsibility. Furthermore, the enactment of measures to combat corruption such as whistleblower safeguards and public

education efforts can also help reduce unethical behaviours in companies. In the ongoing battle against corruption, it is crucial for businesses, regulatory bodies, and policymakers in India to update their strategies, regularly assess the situation, and customize their methods to tackle the changing issues linked to unethical conduct. Collaborating to maintain ethical practices, increase transparency, and fight against corruption can help commercial entities in India create a more sustainable and ethical business atmosphere.
