
EXPLORING THE HISTORICAL EVOLUTION AND COMPREHENSIVE ANALYSIS OF PREVENTION OF CORRUPTION ACT: LESSONS LEARNED AND FUTURE DIRECTIONS

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Corruption in India has a long historical line, deeply established in well-built structures like social, political and economic structures.

I. WHAT IS CORRUPTION?

If I talk about corruption in my own words, I would define it in simple language as corrupt or fraudulent conduct by those who are in power which mainly involves wrongful conduct like bribery or the misuse of public resources mainly for personal benefit or gain. It weakens the integrity and fairness of organisations, whether economies or societies.

Illustration- a government official collecting bribes in exchange for awarding contracts to a company instead of the one that may be providing the best value to the public. This fraudulent act not only affects the trust in government but also affects the money of taxpayers and deprives meritorious businesses of opportunities.

Corruption existed in various entities we take an example **pre-independence era**, during the British colonial rule often connected with the taxation and administration system. The British introduced various policies and rules that were favouring their interests, not Indians which was contributing to corruption in the colonial system.

Corruption did not stop or vanish after the British rule it never did or it never improved, yes it got worse corruption continued to endure after India gained independence with nepotism and patronage systems and many more. **The license raj** system which was set up in India between 1951 and 1991 to protect Indian industry and advancing self-reliance also ensuring regional equality but failed to do so and provided various new opportunities for corruption and the licenses and permits became instruments for bribery or rent-seeking later on was abolished by **Narasimha Rao**.

Then came economic liberalisation in India in the 1990s these were the reforms that aimed to abolish the license raj and promote the Indian economy, meanwhile these reforms which came into view promoted the growth of India and provided equal opportunities but also led to a new shape of corruption like **outright bribery** which is also called **crony corruption**, crony corruption means building a close relationship between government servants and businesses resulting in partiality and misuse of resources.

If we talk about the 21st century, corruption stayed extensive in important sectors like politics, judiciary, bureaucracy and law officials, many corruption cases went into the limelight like the Commonwealth Games scam, and high-profile corruption affairs which highlighted corruption

in public institutions of India i.e. many campaigns for preventing corruption were introduced like India against corruption campaign which was supported by Anna Hazare and social activist Arvind Kejriwal and this movement gained a huge momentum at that time.

The Indian government authorities have introduced various laws and regulations to prevent corruption in India including the **Prevention of Corruption Act 1988**, the Central Vigilance Commission, and the Lokpal and Loka Yukatas Act 2013.

II. ANALYSIS OF PREVENTION OF CORRUPTION ACT, 1988

The Prevention of Corruption Act is legislation introduced in India to address corruption in public services and governance, this act was introduced in 1988. Its main objective is to prevent corruption by public servants and to provide legal methods and opportunities for investigation and punishment for offences related to corruption. It aims to define many types of corruption like bribery, misuse of power, and embezzlement. The act also highlights measures to prevent early approval for the prosecution of public officials and the declaration of assets, by authorizing penalties for corruption offences, including imprisonment and fines, this act seeks to decrease malpractices and promote clarity and culpability in public administration.

The Prevention of Corruption Act 1988 consists of many sections, each one of which aims to provide different provisions of corruption, prevention and prosecution, let me give you all a brief about the key sections in the act;

- Section 2 of the act called definitions includes some important definitions some are-
 - Public servant, which is given under section 2(c) says a public servant is a person who is paid by the government.
 - The judge or any other person who is appointed by the honourable court to perform its duty, like the arbitrator.
 - A chairperson or member of any state commission and board.
 - Who is a vice chancellor of any governing body?

This clause also includes at least 12 sub-c clauses that provide the types of people who fall under the bounds of public servants for reference- ²the Prevention of Corruption Act 1988.

- Section 7 of the Prevention of Corruption Act mainly deals with the offences of public servants taking gratification other than compensation in respect of official acts.

² The prevention of corruption act, 1988

This section prohibits public servants from collecting bribes and illegal gratification and refusing to perform an official duty. This section addresses if a public servant accepts precious times without any consideration or payment from any person whom he knows, or having any connection with the business or person, he shall be liable for punishment with imprisonment for a term which shall not be less than six months and not exceeding five months and may also liable for fine.

- Section 8 of the act³ applies to the offences committed by public servants by taking any gratification other than legal consideration. In simple words, it labels situations where a public servant collects bribes and illegal gratification to influence the doing of another public servant.

For a public servant to commit an offence, it shall have a basic element to consider it as an offence-

Elements-

- Acceptance of gratification by public servant- It consists of the act of voluntarily accepting a bribe and illegal gratification.

- intention to influence another public servant- the gratification is accepted to influence whether conclusions or actions and behaviour of another public servant in emit of their official duties.

- Section 9 of the act mainly covers the punishment for accepting gratification by public servants to influence another public servant.
 - Section 10 of the act Pertains to punishment for abetment by a public servant of offences defined in Section 8 or 9.
 - Section 11 of the act Addresses persons who are said to abet the offence defined in Section 8 or 9.
- Elements of this section are;
- The perpetrator must be a public servant; section 11 of the act is only applicable to people who are holding a public office or are employed in public services.
 - The perpetrator must abet the commission of an offence; the public servant must intentionally embolden, aid, and accelerate another person in committing the offence which is defined in sections 8 and 9 of the act.

³ The prevention of corruption act,1988

- Section 13 Covers criminal misconduct by a public servant, including using his position for pecuniary advantage- this section specifies that a public servant who is guilty of criminal misconduct, in simple words, if he fraudulently or by deceit means steals property that is trusted to him, this section provides harsh penalties which includes imprisonment for a term which may not be less than one year but may extend to seven years and with fine.
- Section 14-Pertains to the habitual committing of an offence under sections 8, 9, 10, or 12, this section says that a person who is convicted of offences under the Corruption Act for a second or subsequent conviction will be punished with upgraded punishment. A person will be liable for imprisonment for a term not less than five years but which may extend to seven years and with a fine. This section deters habitual offenders by striking harsh penalties for subsequent offences.
- Section 17- Specifies punishment for conspiracy, it says that if two or more two persons conspire to commit an offence under the act, every one of them shall be liable for punishment for a term not less than one year but not exceeding seven years with a fine.
- Section 19- Deals with previous sanctions necessary for prosecution, this section aims to ensure that public servants are not provoked by insignificant or politically influenced prosecutions. As it also mandates the prior sanction which is compulsory for the prosecution of public servants, it also states that no court shall take cognizable offences supposed to have been committed by public servants without prior sanction from the government or appropriate authority.

These sections provided in the Prevention of Corruption Act aim to build a legal framework for preventing corruption within public services from forbidding public servants from collecting gratification and addressing abetment and conspiracy as each and other section of the act which are not mentioned above aims to build integrity and accountability in society.

Now, let's discuss the relevant **landmark judgements** in the Prevention of Corruption Act-

A. KALICHARAN MAHAPATRA VS STATE OF ORISSA AIR 1998 SC 2595

In relevance with the Prevention of Corruption Act, 1988 the case of Kalicharan Mahapatra vs the state of Orissa is relevant in many ways, the act aims to establish combat to corruption in public offices and to hold public officials answerable for their actions. In the Kalicharan case, the allegations were made about custodial violence and misuse of power by the police within the objectives of the Prevention of Corruption Act. In this case, Kalicharan Mahapatra died in police custody under a suspicious situation whereas his family members alleged that he was subjected to torture and was killed by the police officers.

Issues in the case mainly circled around allegations about custodial violence. Misuse of power and violation of fundamental rights provided in the constitution of India.

- Custodial violence

The main issue in this case was the death of Kalicharan Mahapatra only in the custody of police, the family of Mahapatra alleged that he was subdued to torture and abused by the police officers, this issue raised various concerns about ubiquity and the need for it to establish effectively.

- Violation of fundamental rights

Particularly, the right to life and personal liberty is provided by the constitution, the alleged actions of the police maltreating the person misusing their power and causing the death of Mahapatra underscored the relevance of protecting these fundamental rights, even for the person who is in police custody.

- Transparency and accountability

This was another issue concerned in the case as in transparency in cases of custodial violence.

The judgement of this case underscores the need for accountability and clearness in cases that involve public officials. It emphasises the principle that no one, despite of their position is above the law. this connects with the Prevention of Corruption Act, which aims to hold public servants liable for their actions and secure the probity of public institutions.

Another case is,

B. ABHAY SINGH CHAUTALA VS CBI AIR 2011 SCC 1257

This case dealt with the fact that when the public servant abused a post and is certainly not holding the post or office on the date of cognizance, meanwhile there will be no need to obtain approval for prosecuting the person.

RELEVANT SECTION under the case were,

A charge sheet was filed against the accused under section 13(1)(e) and 13(2) of the prevention of corruption act,1988

And, under section 109 of the IPC, (Indian Penal Code,1860). It was held that the accused had accepted disproportionate funds with his salary when he was a part of the legislative assembly. The charges were filed by CBI in accordance with the investigation done by them. The CBI investigated and took possession of inculcative documents which cleared the fact that MR. om Prakash Chautala, father of the appellant had secured both, movable and immovable property worth Rs. 1,467 crores.

Meanwhile, later on, a notification was issued by the Haryana government to investigate the allegations under the Prevention of Corruption Act in relevance to the collection of assets and also disproportionate to the income of Mr. om Prakash Chautala and his family members.

Further investigation by the CBI, it was revealed that the appellant Abhay Sing Chautala had secured assets which were worth Rs, 1,19,69,82,619 which was very high in comparison with his income.

ISSUES RAISED IN THE CASE-

- Is sanction under section 19 of the Prevention of Corruption Act necessary against both the appellants?
- Whether MLA is a public servant under sections 21(3), 21(7) and (12) of IPC?
- Which authority is appropriate for removing the MLA from the office and member of the legislative assembly?

JUDGEMENT

The court held that the appellants misused their position and power and were proved to be holding the office on the date of taking up of cognizance so whereas there is no need for sanction under section 19 of the Prevention of Corruption Act. The appeals made by him were dismissed by the court. The court focused on the fact that “doubt” and multiplicity of office cannot be used to achieve the interpretation of section 19(1).

III. LESSONS LEARNED

The background of corruption in India has given us a valuable lesson for societies to gather with his prevalent issue-

The main lesson learned is understanding the cause of corruption like what are its roots which were mainly developed in the colonial era, the colonial era in India had established bureaucratic structures and practices of administration that eased the corruption. the inheritance of colonial rule had assent importance of bequeathed institutions and governance structures to label systematic corruption in India.

Another one is patronage networks which have played a notable role in Indian politics and promoting a culture of nepotism and bias. Recognising and disassembling these networks is important for promoting excellence and ensuring that public resources are distributed equally and fairly.

IV. FUTURE DIRECTIONS

From understanding the lessons learned from the past to plans for the future, future directions for preventing corruption in India may surround an adaptable approach that addresses various factors like, cultural and systematic. some direction can be, fortifying the legal frameworks by continuously reforming and updating anti-corruption laws and also including the Prevention of Corruption Act to remove ambiguity increase punishments for offenders and rationalise procedures for enforcement.

Tackling political corruption, reinforcing campaign finance directives and contributing to electoral reforms also shrink the money influence and grant interest in politics so that political corruption can be limited and also ensure the unbiased and equality of all candidates.

V. CONCLUSION

The evolution of corruption in India is a confused saga that is embedded in history, socio-economic and political factors, when India gained independence in 1947, it wrestled with corruption considering various factors of society and government. The decrement of corruption has been stoked by various factors like lack of transparency bureaucratic red tape and the connection between politicians and businesses.

In reaction to the ascending public holler against corruption, the Prevention of Corruption Act (PCA) was enacted in 1988. This legislation aimed to combat corruption by defining offences

related to bribery, abuse of power, and illicit activities among public servants. The PCA introduced strict penalties for offenders, which included imprisonment and fines, and established special courts for the speedy trial of corruption cases.

However, despite the enactment of the PCA, corruption in India has been determined, although in developing forms. While the PCA has been effective in prosecuting some cases of corruption, its implementation has been damaged by challenges such as bureaucratic apathy, judicial delays, and the influence of powerful vested interests. The loopholes in the law and deficiencies in enforcement have allowed corrupt practices to adapt and flourish.

In conclusion, while the Prevention of Corruption Act 1988 pronounced a significant breakthrough in India's efforts to combat corruption, it is clear that much more needs to be done. The fight against corruption is in progress and there is a struggle that requires combined reforms, collective action, and a commitment to integrity and good governance at all levels of society. Only through encouraged efforts and a holistic approach in India will effectively eradicate corruption and realize its full potential as a spirited democracy and a booming economy.

