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CORRUPTION AMONG CIVIL SERVANTS: AN ANALYSIS OF THE ANTI-CORRUPTION LAWS IN INDIA

UNDER THE GUIDANCE AND SUPERVISION OF

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DECLARATION

I declare that this dissertation titled, "**Corruption among Civil Servants: An analysis of the Anti-Corruption Laws in India**", researched and submitted by me to the National University of Advanced Legal Studies in partial fulfilment of the requirement for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of Dr. Sheeba S. Dhar is an original, bona-fide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

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ABBREVIATIONS

1. ACB- Anti-Corruption Bureau
2. AIR- All India Reporter
3. ARC- Administrative Reforms Commission
4. C&AG- Comptroller and Auditor General
5. CBI- Central Bureau of Investigation
6. CFPOA- Corruption of Foreign Public Officials Act
7. CPIB- Corrupt Practices Investigation Bureau
8. CVC- Central Vigilance Commission
9. DOJ- Department of Justice
10. DPCI- Directorate for Priority Crime Investigation
11. DSPE- Delhi Special Police Establishment
12. FCPA- Foreign Corrupt Practices Act
13. IAS- Indian Administrative Services
14. ICAC- Independent Commission Against Corruption
15. ICS- Indian Civil Service
16. IDAS- Indian Defence Accounts Service
17. IFS- Indian Forest Service
18. IIS- Indian Information Service
19. IOFS- Indian Ordnance Factories Service
20. IPC- Indian Penal Code
21. IPS- Indian Police Service
22. IRS- Indian Revenue Service
23. MSPB- Merit Systems Protection Board
24. NCA- National Crime Agency
25. NGO- Non-Governmental Organisation
26. OGE- Office of Government Ethics
27. OSC- Office of Special Counsel
28. PCA- Prevention of Corruption Act
29. PID- Public Interest Disclosure
30. PIN- Public Integrity Section
31. PRECCA- Prevention and Combating of Corrupt Activities Act
32. PSDPA- Public Servants Disclosure Protection Act

33. SC- Supreme Court
34. SCC- Supreme Court Cases
35. SFO- Serious Fraud Office
36. SIU- Special Investigating Unit
37. SPE- Special Police Establishment
38. UPAC- Unité Permanente Anti-Corruption
39. UPSC- Union Public Service Commission

TABLE OF CASES

1. Bhagat Singh v. State of Punjab AIR 1960 SC 1210
2. C.B.I. vs. S. Malaichamy CC No.18/11. In the Court of Special Judge (PC Act) 01, CBI, Saket Courts, New Delhi
3. G.A. Monterio v. State of Ajmer AIR 1957 SC 13
4. Indirect Tax Practitioners Association v. R.K. Jain (2010) 8 SCC 281
5. Neera Yadav vs. CBI (2017) 8 SCC 757
6. Neeraj Dutta vs State (Govt. Of N.C.T. Of Delhi) (2021) 17 SCC 624
7. Prakash Singh v. Union of India (2006) 8 SCC 1
8. Ram Jethmalani v. Union of India (2011) 8 SCC 1
9. S.R. Bommai v. Union of India (1994) 3 SCC 1
10. State of U.P. v. Harischandra AIR 1969 SC 1020
11. Subhash Ahluwalia v. State of H.P. 2010 SCC OnLine HP 545
12. Subramanian Swamy vs Director, CBI 2014) 8 SCC 682
13. T. O. Sooraj v. State of Kerala 2021 SCC OnLine Ker 2896
14. T.S.R. Subramanian v. Union of India (2013) 15 SCC 732
15. Union of India v. Deep Chand Pandey (1992) 4 SCC 432
16. Union of India v. K.V. Jankiraman (1991) 4 SCC 109
17. Union of India v. Tulsiram Patel (1985) 3 SCC 398
18. Union of India vs Centre for Public Interest Litigation (2012) 3 SCC 117
19. Venkataraman v. State AIR 1954 SC 375
20. Vineet Narain v. Union of India (1998) 1 SCC 226

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CHAPTER- 1

INTRODUCTION

1.1. Introduction

The roots of India's civil services can be traced back to ancient times, with administrative practices documented in Vedic texts. During the Vedic period (1500-500 BCE), governance was closely tied to religious and social norms, with officials assisting the king in administrative duties. This early system laid the groundwork for the more structured civil services that would evolve over the centuries. The development of civil services continued through the Mauryan period, with Kautilya's "Arthashastra" providing a detailed blueprint for the appointment, duties, and ethical conduct of public officials. This period marked the beginning of a more formalised administrative framework, which further evolved during the Gupta era. The British colonial period saw the establishment of the Indian Civil Service (ICS), which played a crucial role in the administration of British India. The ICS was characterised by a high degree of professionalism and was instrumental in maintaining administrative continuity. Post-independence, the Indian Administrative Service (IAS) replaced the ICS, adapting to the needs of a democratic and sovereign nation. The IAS, along with other All-India Services like the Indian Police Service (IPS) and the Indian Forest Service (IFS), was designed to provide a uniform administrative framework across the country. The Indian Constitution, through various articles, ensured the role of these services in maintaining governance continuity through political changes.

Corruption remains a significant challenge within India's civil services, affecting the efficiency and integrity of public administration. The dissertation delves into the various forms of corruption, from petty bribery to grand corruption involving high-ranking officials. The Santhanam Committee on Prevention of Corruption defined corruption as the improper exercise of power for personal gain and highlighted the avenues of corruption opened by the "license raj". The central government has implemented several anti-corruption laws to combat this issue. Institutions like the Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI), and the Anti-Corruption Bureau (ACB) play pivotal roles in enforcing these laws. Despite these measures, corruption continues to pose a significant obstacle to the country's development.

This dissertation also compares the anti-corruption frameworks of various countries, including the USA, UK, South Africa, and Australia, to derive lessons that can inform anti-corruption strategies in India. Each of these countries has adopted unique approaches tailored to their socio-political contexts. In the USA, the Pendleton Civil Service Reform Act of 1883 marked a significant step in reducing corruption by establishing a merit-based system for federal employment. However, corruption scandals continued to surface, highlighting the need for robust enforcement mechanisms. Similarly, the UK refined its anti-corruption framework over the years, culminating in the Bribery Act 2010, which addresses both domestic and international bribery. South Africa's post-apartheid era saw significant efforts to combat corruption, but these were often hindered by political interference and resource constraints. The establishment of the Public Protector and the Prevention and Combating of Corrupt Activities Act of 2004 were crucial steps in these efforts. Australia's approach involved the establishment of independent anti-corruption bodies like the Independent Commission Against Corruption (ICAC), which has been pivotal in investigating and prosecuting corruption.

The judiciary plays a critical role in preventing corruption among civil servants. Landmark judgments such as the *Vineet Narain v. Union of India*[1] case underscored the need for autonomy and accountability of anti-corruption institutions like the CBI and CVC. The Supreme Court's directives emphasised insulating the CBI from political and bureaucratic pressures, thereby ensuring its independent functioning. Subsequent reforms and legislative measures, including amendments to the Prevention of Corruption Act 1988, have further bolstered the legal framework for addressing corruption. These amendments include stringent penalties for corruption and streamlined investigation processes, aligning India's anti-corruption laws with international standards.

The evolution of civil services in India reflects a complex journey influenced by historical events, socio-political shifts, and administrative reforms. From the advisory councils of ancient times to the structured bureaucracy of the British era and the democratic framework post-independence, India's civil services have continuously adapted to meet the changing needs of governance. However, the persistent issue of

[1] Vineet Narain v. Union of India (1998) 1 SCC 226

corruption poses a significant challenge to the efficiency and integrity of public administration. By examining the various anti-corruption frameworks and the role of the judiciary, this dissertation aims to provide a comprehensive understanding of the measures needed to enhance the integrity and effectiveness of India's civil services. The comparative analysis of international practices offers valuable insights that can inform future reforms and contribute to building a more transparent and accountable administrative system in India.

1.2. Scope of the Study

The Corruption Perception Index (CPI) by Transparency International is a globally recognised instrument that gauges the extent of corruption in a country's public sector. According to the CPI of 2023, India was ranked 93 among 180 countries.[2] Corruption among civil servants is a major problem in India, and it has a significant negative impact on the country's economy, society, and governance. Anti-corruption laws are essential to combat corruption and promote accountability and transparency in the public sector. There are several anti-corruption laws in India, but their effectiveness has been questioned.

This dissertation provides a comprehensive examination of the civil services in India, delving into their historical evolution, structural dynamics, and the persistent challenge of corruption. By tracing the origins and development of civil services from ancient times through the colonial period to modern-day India, this study aims to highlight the significant transformations and continuities in administrative practices. The dissertation also addresses the critical issue of corruption, exploring its various manifestations and the effectiveness of existing anti-corruption measures. Furthermore, it undertakes a comparative analysis of anti-corruption laws and policies from several countries to derive lessons that could enhance the integrity and efficiency of India's civil services. The role of the judiciary in combating corruption is also scrutinised, emphasising landmark judgments and legislative reforms that have shaped the current legal framework. Through this multifaceted analysis, the dissertation seeks to provide a nuanced understanding of the challenges and prospects for reforming India's civil services to serve the nation's developmental goals better.

[2] *India ranks 93 out of 180 countries in corruption perceptions index 2023*, The Hindu, Jan. 31, 2024, https://www.thehindu.com/news/national/india-ranks-93-out-of-180-countries-in-corruption-perceptions-index-2023/article67793578.ece.

1.3.Objective of the Study

- To analyse the establishment of the Indian civil services and trace the persistence of corruption in the system.
- To analyse the contribution of civil servants to good governance by ensuring transparency, accountability, and responsiveness in the government.
- To enumerate India's existing laws to deal with corruption among civil servants.
- To find the role of the judiciary in curbing corruption among civil servants.
- To evaluate the international scenario on anti-corruption and what India could learn from its contemporaries.
- To suggest the necessary legislative and reforming parameters needed in this regard.

1.4.Statement of Problem

The problem of corruption among civil servants is a pervasive and persistent challenge to good governance and development in India. Corruption undermines the rule of law and hampers constitutional governance.

1.5.Research Questions

- What is the development of the Indian civil services and the presence of corruption in the system?
- What is the existing legal framework to tackle corruption involving civil servants?
- What is the role of the Judiciary in preventing corruption and ensuring constitutional governance?
- How are corruption and bribery tackled internationally, and what can India learn from them?
- What are the necessary changes to be made in the legislation for responsible civil services?

1.6. Hypothesis

- The existing legislative framework in India lags behind in ensuring transparent, accountable and corruption-free civil services and fails to ensure constitutional governance.

1.7. Research Methodology

The mode of research is doctrinal, where both primary and secondary data are relied on. The primary sources include statutes, regulations, caselaws, and international treatises. Secondary sources are mainly articles from journals and websites, research works which were both primary and secondary, and research reports.

1.8. Chapterisation

1. Chapter 1- Introduction
2. Chapter 2- Evolution of Civil Services
3. Chapter 3- Corruption among Civil Servants: Analysis of Current Legal Framework
4. Chapter 4- Role of the Judiciary in Preventing Corruption among Civil Servants
5. Chapter 5- Anti-Corruption Laws and Policies: A Comparative Analysis
6. Chapter 6- Conclusion and Suggestions

The first chapter, titled 'Introduction', provides a detailed outline of what the dissertation will cover and states the purposes of undertaking this study. This dissertation provides a comprehensive examination of the civil services in India, delving into their historical evolution, structural dynamics, and the persistent challenge of corruption. Through this multifaceted analysis, the dissertation seeks to provide a nuanced understanding of the challenges and prospects for reforming India's civil services to serve the nation's developmental goals better.

The second chapter, titled 'Evolution of Civil Services', explores the historical development of civil services in India, beginning with ancient administrative practices and progressing through the Mughal era to British colonial rule. It examines how the Indian Civil Service (ICS) evolved into the Indian Administrative Service (IAS) post-independence, detailing key reforms and constitutional provisions from Articles 308 to 323 that have shaped the modern civil services. The chapter also highlights significant milestones, such as the establishment of the Union Public Service Commission (UPSC)

and the various administrative reforms aimed at decentralisation, transparency, and accountability.

The third chapter, titled 'Corruption among Civil Servants: Analysis of Current Legal Framework', provides an in-depth analysis of corruption within the Indian civil services, examining the legal frameworks and mechanisms in place to combat this issue. It discusses various anti-corruption laws, such as the Prevention of Corruption Act, and the roles of bodies like the Central Vigilance Commission (CVC) and the Lokpal. The chapter critically assesses the effectiveness of these measures and identifies gaps that allow corruption to persist. Case studies and statistical data are used to illustrate the extent of corruption and the impact it has on governance and public trust.

The fourth chapter, titled 'Role of the Judiciary in Preventing Corruption among Civil Servants', scrutinises the judiciary's role in addressing corruption within the civil services. It highlights landmark judgments and legal precedents that have contributed to the anti-corruption framework. The chapter also explores the judicial interpretation of anti-corruption laws and the enforcement of disciplinary actions against corrupt officials. By analysing the judiciary's proactive measures and its limitations, this section provides a comprehensive understanding of how the judicial system influences anti-corruption efforts.

The fifth chapter, titled 'Anti-Corruption Laws and Policies: A Comparative Analysis', undertakes a comparative analysis of anti-corruption laws from different countries, examining best practices and innovative approaches that have proven effective globally. It looks at the anti-corruption frameworks of countries like Singapore, Hong Kong, and the United States, assessing how these models could be adapted to the Indian context. The chapter also discusses international conventions and treaties, such as the United Nations Convention against Corruption (UNCAC), and their implications for India's anti-corruption strategy.

The sixth chapter, titled 'Conclusion and Suggestions,' is the concluding chapter, which synthesises the findings from the previous chapters, offering a comprehensive overview of the current state of India's civil services and the challenges they face. It provides practical recommendations for reforming the civil services to enhance efficiency, transparency, and accountability. The suggestions include legal reforms, administrative changes, and measures to strengthen the institutional framework for combating

corruption. By proposing a holistic approach to reform, this chapter aims to contribute to the ongoing discourse on improving governance and public administration in India.

1.9. Literature Review

BOOKS

1. **Durga Das Basu, "Introduction to Constitution of India", (26th ed. 2022).**

   Dr. Basu emphasises the indispensable role of civil services in the administration and governance of India. He underscores that an efficient and honest civil service is vital for implementing policies and ensuring the rule of law. Civil servants act as the backbone of the executive branch, translating legislative intent into practical administration. Dr. Basu acknowledges the persistent issue of corruption within civil services and emphasises the constitutional mechanisms designed to address this problem. He points out that these are regulated by specific articles in the Constitution, primarily Articles 309 to 323. These articles empower the Parliament and state legislatures to legislate on matters related to civil services, ensuring a structured and standardised approach to recruitment and service conditions. He explains that the Constitution and subsequent legislation provide for various measures to combat corruption, including disciplinary proceedings, vigilance commissions, and the Lokpal and Lokayuktas. These bodies are intended to function independently to investigate and take action against corrupt practices.

2. **N. Narayan Nair, "The Civil Servant under the Law and the Constitution", Academy of Legal Publications, 1973.**

   N. Narayan Nair's "The Civil Servant under the Law and the Constitution" is a thorough exploration of the legal and constitutional framework governing civil servants in India. He underscores that civil servants are essential for the implementation of government policies and the maintenance of administrative continuity and efficiency. Nair stresses that civil servants must uphold the principles of integrity and impartiality to serve the public and uphold the rule of law effectively. Nair provides a detailed analysis of the various problems faced by civil servants, particularly those related to corruption. He identifies key issues such as the lack of transparency in administrative processes, the influence of political pressures, and the challenges in enforcing accountability. Nair emphasises that these issues not only undermine public trust but also hinder effective governance. Nair delves into the constitutional provisions and legal statutes that govern the

conduct and responsibilities of civil servants. He highlights Articles 309 to 323 of the Indian Constitution, which provide the legal basis for regulating recruitment, conditions of service, and disciplinary actions. Nair examines how these provisions are intended to create a robust framework to prevent corruption and ensure accountability.

3. **M. Barris Taylor, History of the Federal Civil Service, 1789 to the Present (2011).**

   The author provides a comprehensive overview of the development and evolution of the federal civil service system in the United States. The book covers the period from the early days of the American Republic to the present, highlighting key milestones, reforms, and challenges faced by the system. It discusses the early years of the federal civil service, focusing on the establishment of the first federal bureaucracy under the Articles of Confederation and the Constitution, highlighting the role of the first federal administrators, such as Alexander Hamilton, in shaping the system. The book further delves into the major civil service reforms that took place in the late 19th and early 20th centuries, discussing the Pendleton Act of 1883, which introduced the merit system, and the subsequent reforms that aimed to professionalise the federal workforce. Reforms were made within the Patent Office, particularly the introduction of a merit-based hiring system in the late 19th century. This included the use of competitive examinations for new hires and internal promotions, which set a precedent for the broader federal civil service. The book covers the significant changes that occurred in the federal civil service following World War II. It discusses the impact of the war on the federal workforce, the introduction of new technologies, and the increased emphasis on efficiency and productivity.

   The author concludes by discussing the modern era of federal civil service, including the challenges posed by globalisation, technological advancements, and shifting societal values. It highlights the ongoing efforts to modernise the system, improve diversity and inclusion, and enhance employee engagement. It provides a comprehensive and accessible overview of the federal civil service, highlighting both the successes and challenges faced by the system.

4. **Susan Rose-Ackerman and Bonnie J. Palifka, "Corruption and Government: Causes, Consequences, and Reform" (2016).**

   The authors provide an in-depth analysis of the pervasive issue of corruption in government institutions worldwide. The authors explore the multifaceted nature of corruption, its impacts on governance and society, and potential strategies for reform. The authors begin by examining the root causes of corruption. They identify several key factors, including economic incentives, institutional weaknesses, cultural and social norms etc. The book delves into the wide-ranging consequences of corruption, highlighting its detrimental effects on economic development, political stability and public services. The authors propose a comprehensive set of reforms to combat corruption, emphasising the need for institutional reforms, transparency and accountability.

   The authors provide a comparative analysis of anti-corruption strategies implemented in various countries, identifying best practices and lessons to be learnt. They highlight the importance of context-specific approaches, noting that successful reforms in one country may not be directly transferable to another due to differing political, economic, and cultural contexts.

5. **John S.T. Quah, "Curbing Corruption in Asian Countries: An Impossible Dream?" (2011).**

   The book offers a critical examination of the challenges and prospects for combating corruption across various Asian nations. The author explores the complex dynamics that perpetuate corruption, evaluates existing anti-corruption measures, and suggests strategies for reform. The book begins by analysing the pervasive nature of corruption in Asian countries. He identifies several factors contributing to this phenomenon, such as cultural norms and institutional weaknesses, ineffective legal systems, politicised behaviour, etc. The book highlights significant challenges hindering effective anti-corruption efforts in Asian countries as well. The author argues that entrenched political interests often resist meaningful reforms, perpetuating a culture of impunity. Insufficient institutional capacity, including inadequate legal frameworks and enforcement mechanisms, undermines efforts to combat corruption. Issues such as bureaucratic red tape, low salaries, and insufficient training contribute to opportunities for corrupt practices among public officials.

The author provides comparative analyses and case studies from various Asian countries, offering insights into diverse approaches to anti-corruption strategies. He evaluates successes and failures, drawing lessons from countries that have made significant strides in combating corruption and highlighting challenges faced by others. Drawing on his analysis, the author proposes practical recommendations to curb corruption in Asian countries, such as strengthening legal framework, building institutional capacity, etc. The author's examination of both barriers and potential pathways to combat corruption contributes significantly to the ongoing discourse on governance and integrity in Asian countries.

6. **Awasthi & S. Maheshwari, "Public Administration" (1984).**

This book offers a foundational exploration of the principles and practices of public administration in India. The book provides a comprehensive overview of public administration theories and practices as they pertain to governance in India. It covers various aspects essential to understanding administrative structures, functions, and challenges within the Indian context. The key themes covered are:

- Administrative Structure: The authors delve into the organisational framework of public administration in India, highlighting the roles and responsibilities of different administrative bodies at the central, state, and local levels.
- Administrative Processes: The text discusses the procedural aspects of public administration, including policy formulation, implementation strategies, and evaluation methods used in Indian governance.
- Challenges and Reforms: The authors analyse the challenges faced by the Indian administrative system, such as bureaucratic inefficiencies, corruption, and political interference. They also propose reforms aimed at improving administrative efficiency and effectiveness.

It provides theoretical insights combined with practical examples, making it a valuable resource for understanding the complexities of governance and public service delivery in India. A. Awasthi and S. Maheshwari's "Public Administration" is a seminal work that continues to be relevant for understanding the nuances of public administration in India.

7. **Rumki Basu "Public Administration: An Introduction to Concepts and Theories", Sterling Publications, 2019.**

   The author provides a comprehensive overview of the field of public administration, focusing on its fundamental concepts, theoretical frameworks, and practical applications. Published by Sterling Publishers, the book serves as an introductory guide for students, scholars, and practitioners interested in understanding the principles and practices of public administration. It covers a wide range of topics essential to comprehending the complexities of governance and public service delivery, such as conceptual foundations of public governance, various theoretical approaches to public administration, such as classical, behavioural, systems, and postmodern perspectives, the functions and processes involved in public administration, including planning, decision-making, implementation, and evaluation of public policies and programs, contemporary issues such as globalisation, public sector reforms, ethics and accountability, and the role of technology in governance.

   Widely used in academic courses on public administration, the author's book has become a standard reference for students and scholars seeking a thorough understanding of public administration concepts and theories in the Indian context. Its systematic exploration of theories, coupled with practical applications and contemporary issues, makes it an indispensable tool for gaining insights into the complexities of governance and public policy implementation.

8. **Arvind Verma & Ramesh Sharma, Combating Corruption in India (2018).**

   Combating Corruption in India by Arvind Verma and Ramesh Sharma provides an insightful examination of corruption within the Indian bureaucracy, highlighting its pervasive impact on governance and public trust. Verma and Sharma identify several root causes of bureaucratic corruption in India:

   - Complex Regulations and Red Tape: The authors argue that the intricate and often opaque regulatory framework creates opportunities for corruption. Bureaucrats can exploit these complexities to demand bribes to expedite processes or grant approvals.
   - Lack of Transparency and Accountability: The absence of transparent mechanisms and accountability in the bureaucratic processes fosters an

environment where corrupt practices can thrive. Verma and Sharma highlight the need for robust oversight and monitoring systems.

- Inadequate Salaries and Incentives: Low remuneration for government officials compared to the private sector is cited as a significant factor driving corruption. The authors suggest that inadequate salaries may push bureaucrats to seek additional income through corrupt means.
- Cultural and Social Factors: The book discusses how cultural norms and social acceptance of corruption play a role in perpetuating bureaucratic corruption. Societal tolerance and the normalisation of bribery exacerbate the issue.

9. **Yogesh Atal, Combating Corruption: The Indian Case (2014).**

   The author offers an in-depth exploration of bureaucratic corruption in India, providing a critical analysis of its roots and impacts. Atal underscores how bureaucratic corruption, defined as the misuse of public office by officials for personal gain, is deeply entrenched in the Indian administrative system. Atal also stresses the importance of fostering an ethical culture within the bureaucracy through education and training programs that promote integrity and public service values. By addressing both systemic and cultural dimensions of corruption, "Combating Corruption: The Indian Case" offers a holistic approach to tackling one of India's most pressing governance challenges.

10. **Nishith Desai Associates, "A Comparative View of Anti-Corruption Laws of India A Legal, Regulatory, Tax and Strategic Perspective", 2016.**

    Nishith Desai Associates' report provides a nuanced view of India's anti-corruption legal framework, highlighting both its strengths and weaknesses. The analysis points to a persistent gap between the law's intent and its actual implementation, with bureaucratic corruption remaining a significant challenge despite the existence of multiple legislative measures. The comparative perspective with international practices serves to underscore the areas where India could potentially strengthen its anti-corruption mechanisms, particularly in terms of enforcement and public accountability. Furthermore, the report sheds light on the role of non-governmental organisations and civil society in combating corruption. It underscores the importance of public awareness and the need for a participatory approach where citizens can play an active role in holding bureaucrats accountable. The

effectiveness of whistleblower protections and the challenges faced by those exposing corruption are also critically analysed, pointing to the need for more robust safeguards.

ARTICLES

1. **Krishna K. Tummala, Combating Corruption: Lessons Out of India, 10 Int'l Pub. Mgmt. Rev., (2009).**

   The author examines the pervasive issue of corruption in India and the various strategies employed to combat it. The paper delves into the structural, cultural, and administrative factors contributing to corruption in India, starting from the historical context, highlighting how colonial legacies and post-independence political dynamics have fostered an environment where corruption can thrive. The paper identifies key areas where corruption is most prevalent, including the public sector, politics, and law enforcement. The author assesses the effectiveness of institutions like the Central Vigilance Commission (CVC) and the Central Bureau of Investigation (CBI), as well as media and civil society noting both their successes and limitations. He argues that while these institutions have made some progress, their efforts are often hampered by political interference, lack of resources, and bureaucratic inertia. Case studies of successful anti-corruption campaigns are presented to illustrate how citizen involvement can lead to significant change. He advocates for stronger legal frameworks, greater transparency, and enhanced accountability mechanisms.

2. **Srinivasa Rao Gochipata & Y.R. Haragoapal Reddy, Institutional Arrangements to Combating Corruption: A Comparative Study India's (C.B.I) and Hong Kong's Independent Commission Against Corruption (I.C.A.C), 7 NALSAR L. Rev. 46, (2013).**

   The authors provide a comparative analysis of the Central Bureau of Investigation (C.B.I) in India and the Independent Commission Against Corruption (I.C.A.C) in Hong Kong. The study evaluates the effectiveness of these institutions in combating corruption, focusing on their structural and operational differences. The C.B.I., established in 1963, is India's primary agency for investigating major crimes and corruption. Its effectiveness is often limited by political interference and

bureaucratic inefficiencies. The agency's dual role in law enforcement and anti-corruption makes maintaining focus and independence challenging. The I.C.A.C, established in 1974, is tasked with addressing systemic corruption in Hong Kong through investigation, prevention, and community education. Known for its high autonomy, the I.C.A.C has significantly reduced corruption in Hong Kong and is a model for anti-corruption agencies globally. When it comes to autonomy and independence, CBI is frequently compromised by political pressures, affecting impartiality and public trust, whereas ICAC, with high autonomy from political and administrative influences, is present, which allows unbiased investigations and effective law enforcement. CBI operates within a complex legal framework, causing inefficiencies and procedural delays. ICAC benefits from a streamlined legal structure with extensive investigative powers, facilitating rapid action against corruption. CBI focuses on reactive investigation, and ICAC has a holistic approach fostering a culture of transparency and integrity with community education. For this reason, it enjoys high public confidence, which is absent in the case of CBI.

The authors suggest that the I.C.A.C.'s model offers valuable lessons for enhancing the C.B.I.'s effectiveness. They recommend increasing the C.B.I.'s autonomy, streamlining legal and operational frameworks, and adopting proactive measures, including public education initiatives. Emphasising political will, legal empowerment, and community engagement is crucial for an effective anti-corruption regime.

3. **Priya Jain et al., An Analysis of Anti-Corruption Laws in India, 13 Res Militaris 4519 (2023).**

The author provides a comprehensive examination of the anti-corruption legal framework in India. The study explores the effectiveness, challenges, and implications of various laws designed to combat corruption within the country. The authors outline the primary anti-corruption statutes in India, including the Prevention of Corruption Act (1988), the Lokpal and Lokayuktas Act (2013), and the Whistle Blowers Protection Act (2014). These laws form the backbone of India's efforts to tackle corruption across public and private sectors. The Prevention of Corruption Act is highlighted for its stringent provisions but criticised for slow judicial processes and low conviction rates. The Lokpal and Lokayuktas Act, aimed at establishing independent ombudsmen, has faced implementation challenges and

political resistance, limiting its impact. The Whistle Blowers Protection Act, designed to safeguard individuals reporting corruption, suffers from inadequate enforcement and a lack of awareness among potential whistleblowers.

Several key challenges in this regard include political interference undermining the effectiveness of anti-corruption agencies, red tape and bureaucratic inefficiency hindering the timely investigation, ambiguities in the existing legal framework, lack of citizen engagement due to limited public understanding of anti-corruption laws, etc. The authors suggest comprehensive reforms to strengthen India's anti-corruption framework. Recommendations include enhancing the autonomy of anti-corruption agencies, expediting judicial processes, closing legal loopholes, and increasing public awareness through education and outreach programs. Emphasising the need for political will and robust enforcement mechanisms, the study argues that these reforms are essential for creating a more transparent and accountable governance system.

4. **O.P. Dwivedi & R.B. Jain, Bureaucratic Morality in India, 9 Int'l Pol. Sci. Rev. 206 (1988).**

The authors examine the ethical standards and moral conduct within the Indian bureaucracy. The authors explore the historical, cultural, and institutional factors that shape bureaucratic behaviour in India, highlighting the challenges and implications for governance and public administration. The authors provide a historical overview of the Indian bureaucracy, tracing its roots to the colonial administration. This legacy, they argue, has deeply influenced the values and operational norms of the present-day bureaucratic system. The authors also consider the impact of traditional Indian values, such as hierarchy and patronage, on bureaucratic behaviour. The prevalence of nepotism and favouritism within the bureaucratic system is noted, with appointments and promotions often influenced by personal connections rather than merit. Dwivedi and Jain argue that a lack of accountability mechanisms contributes to unethical behaviour, as bureaucrats are rarely held responsible for misconduct or poor performance. The authors analyse the institutional and structural factors that affect bureaucratic morality. They point to the rigid hierarchical structure and excessive centralisation of power as contributing to a culture of impunity and lack of initiative among bureaucrats.

Additionally, inadequate training and professional development opportunities are identified as barriers to fostering a culture of ethical conduct.

The authors propose several measures to enhance bureaucratic morality in India, such as implementing accountability mechanisms, promoting transparency and training, and encouraging meritocracy. The authors provide a critical examination of the ethical issues within the Indian bureaucracy. This study offers valuable insights for policymakers and scholars interested in improving governance and public administration in India.

5. **Shiladitya Chakraborty, Designing an Anti-Corruption Strategy for Contemporary Indian Administration, 12 Int'l Pub. Mgmt. Rev. 106 (2011).**

   This article offers an in-depth exploration of the complexities and challenges of formulating an effective anti-corruption strategy for the Indian administration. The paper presents a comprehensive analysis of corruption's pervasive nature in Indian governance and proposes strategic interventions to mitigate it. The author employs a multidisciplinary approach, drawing from political science, economics, and administrative theory to build a conceptual framework for understanding corruption in India. Chakraborty uses this framework to identify the root causes of corruption, such as bureaucratic inefficiencies, lack of transparency, and the interplay between political and administrative entities. Chakraborty conducts a comparative analysis of anti-corruption strategies from other countries, examining their applicability to the Indian context. He looks at successful case studies from nations like Singapore and Hong Kong, where comprehensive anti-corruption frameworks have yielded positive results. By identifying best practices from these examples, Chakraborty suggests adaptations that could be effective in India.

CHAPTER II

EVOLUTION OF CIVIL SERVICES

2.1. Introduction

The development of civil services in India has taken a complicated path that various factors, including historical events, socio-political shifts, and administrative initiatives, have influenced. In India, the history of public services is a large and complicated tapestry that can be traced back to when the country was under colonial rule. It began with the formation of the Indian Civil Service (ICS) when India was still under British rule. It continued through the development and adoption of the Indian Administrative Service (IAS) in India after it gained its independence. With the help of legislative reforms, administrative changes, and socio-political movements that changed the structure and operation of public services in India, this chapter aims to investigate the evolutionary trajectory of civil services in India. In addition, the chapter chronicles the history of civil services in ancient and medieval India. It illustrates the transformations from the time of Kautilya to the contemporary Indian Administrative Service (IAS), and it reflects on the definitions, duties, and responsibilities of civil servants across various eras.

The roots of administrative practices in India can be traced back to the Vedic period (1500-500 BCE). During this era, the concept of governance was intertwined with religious and social norms. The Vedic texts, particularly the Rigveda, mention various officials and functionaries assisting the king's administration. The king, regarded as the protector of Dharma (righteousness), was supported by a council of ministers called the Sabha and the Samiti. These assemblies were advisory, comprising nobles, priests, and prominent members of society. There is a mention of the recruitment, qualifications, salary, leave, pension, and other benefits of government employees in the ancient administration system, just as there is in the modern one. In a nutshell, it is possible to assert that the current administration of India is the product of a long and illustrious history and a state of continuity. When it comes to its progress, it is accurate to state that the stages of its development are associated with the past in some way or another. On the other hand, the British government is credited with contributing to the administrative structure currently in place in India. As opposed to individuals engaged

in military and naval activities, the British East India Company referred to its personnel who worked on the civil side as "civil servants."[3]

2.2. Ancient Origins of Civil Services in India

The roots of civil services in India may be traced back to the oldest historical records, notably to the time of Kautilya (also known as Chanakya), the principal counsellor and Prime Minister to Emperor Chandragupta Maurya. In his foundational book, "Arthashastra," Kautilya methodically described the criteria for appointment, duties, obligations, and ethical behaviour of public workers, known as "Amatyas" and "Sachivas". Corruption was forbidden and dealt with harshly if the unjustly obtained money was seized. There were 'stanikas' who used to function as executive officials. The highest ranking officers in the administrative hierarchy were the 'mantrins' chosen from the 'Amatyas'. During the Gupta period, it is said that civil administration was under the charge of the 'Mantrins'. A new office of 'Sandhivigrahika', in charge of foreign affairs, was introduced during this period. In ancient times, recruitment to these offices was done based on heredity and family background. The study of administration in India originates with the work of Kautilya. Mauryan administrative institutions were further developed during the reign of the Guptas, and during their time, many initiatives were undertaken in the sphere of administration.

Kautilya's Arthashastra is deliberately practical. It is primarily concerned with the actual concerns of governance and outlines its machinery and operations, both in peace and conflict. It may also be noticed that Kautilya's Arthashastra does not mainly depict the actual administration set-up of the Mauryans. It, at best, outlines an ideal system which should be built up. It is normative as well as empirical in its approach. Even though Kautilya never stressed the philosophical origins of the state, one may discover parallels to Thomas Hobbes' social contract theory in Kautilya's origin of the State. The initial state of nature is considered utter anarchy, which might be right. When people were tormented by matsyanyaya, the law of the fish, according to which bigger fish devour the smaller fish, they declared Manu, the son of Vivasvat, king. Thus, Kautilya emphasises the necessity for a strong ruler to create order to escape anarchy.

Kautilya's Principles: The "Arthashastra" of Kautilya outlined a well-structured administrative system that clearly differentiated positions and responsibilities. The

[3] Shriram Maheshwari, Indian Administration (6th ed. 2001).

administration, the finances, the judiciary, and the military were all responsibilities that were assigned to civil servants. There was a strong focus placed by Kautilya on meritocracy, espionage for the purpose of acquiring intelligence, and tough legislation to combat embezzlement and public corruption. It is possible to consider the Mauryan administration, which was led by Kautilya, to be one of the oldest instances of an organized civil service system that was designed to achieve operational efficiency in government.

Bureaucratic Hierarchy: The ancient Indian public service system was characterized by a hierarchical structure, which was an essential component. At the very top of the hierarchy was the Emperor, followed by the Mantris, the ministers, and the Amatyas, who were in charge of the many administrative departments. This hierarchical structure made it possible to perform a methodical division of labour, which in turn made accountability and transparency in government much easier to achieve.[4]

The Gupta Empire (320-550 CE) witnessed a decentralization of administrative functions compared to the Mauryan period. However, it retained a structured bureaucracy to manage the vast empire. The king, often referred to as Maharajadhiraja (king of kings), was the highest authority, with ministers and officials supporting the governance. In addition to the central empires, various regional kingdoms developed their own administrative systems, reflecting local customs and traditions. The Cholas (9th- 13th Century), known for their advanced local self-governance, implemented the Kudavolai system, where village assemblies (Ur, Sabha) managed local affairs, including revenue collection, dispute resolution, and public works. The Vijayanagara Empire (1336-1646) had a decentralised administration with efficient local governance. The empire was divided into Nayankaras (provinces) governed by Nayakas, who enjoyed considerable autonomy in managing their territories.

2.3. Medieval Period: Mughal Administrative System

The medieval period witnessed significant changes in administrative institutions, notably during the Mughal Empire. The establishment of the Delhi Sultanate (1206-1526) ushered significant changes to the administrative structure, influenced by Islamic principles and Persian culture. The Sultans of Delhi implemented a centralised

[4] Thomas R Trautmann, Kautilya and the Arthashastra (1971).

administration with a robust bureaucracy to manage the diverse and expansive territories. During the reign of the Mughal administration, which was led by emperors such as Akbar, the foundations for a civil service structure that was more complex and centralised were established. The administration was significantly altered as a result of Akbar's leadership, and Akbar's successors, with some minor deviations here and there, continued to follow the pattern that he established.

When contrasted with the Mauryas, the Mughal dynasty headed in the path of more and increasingly effective centralization. They did not give much attention to social services, such as health, welfare, and morals, which were areas of great interest for the Mauryan kings. However, the Mughals had an effective civil service. They valued excellence and accepted Hindu intelligence in the upper public service. Its sole problem was that it was 'land-based'. It indicates it was principally concerned with revenue operations and was a 'highly urbanised institutions'.

Mansabdari System: The "Mansabdari" system, instituted by Akbar, was a crucial part of the Mughal administration. The title "Mansab" refers to a rank or post, and the Mansabdars were public servants responsible for administration, tax collection, and military tasks. The method guaranteed that administrative tasks were dispersed among a cadre of officials who were recruited based on their devotion and skill.

Revenue Administration: Another important element was the "Zamindari" system, where revenue administrators called Zamindars were chosen to monitor land revenue collection. These officials performed an important role in keeping a regular flow of revenue to the imperial treasury, thereby assuring the financial stability of the empire.

Ethics and responsibility: The Mughal administrative architecture also promoted ethical conduct and responsibility. Corruption and incompetence were punished with rigorous penalties, therefore safeguarding the integrity of the administrative system.[5]

2.4. Colonial Era and the Birth of Indian Civil Service

The introduction of British rule created a fundamental shift in the civil service environment in India. The emergence of the British East India Company in the early

[5] Sathish Chandra, Medieval India: From Sultanat to the Mughals-Delhi Sultanat (1206-1526) Part One (2019).

17th century launched a new chapter in the history of Indian civil services. The East India Company, initially a trade company created under a charter issued by Queen Elizabeth on December 31, 1600, was a middle-class mercantile firm that arrived to India for solely economic objectives. Over time, the East India Company began to take over administrative tasks, and the necessity for an organized, loyal, and professional civil service became apparent. This led to the foundation of the Indian Civil Service (ICS), the cadre of bureaucrats responsible for managing British India. The ICS was once an entirely European agency, created to serve the interests of the British Crown and Company.

Many trace the birth of the ICS to various points in history: some to the year 1600, when the East India Company received its charter; others to 1769, when members began to perform characteristic functions; and yet others to 1853, when merit-based recruitment through open competitive exams became the norm. These shifts reflect the developing administrative demands and the increased complexity of government under British control.[6]

East India Company: Lord Cornwallis developed the Civil Services Code and is rightly known as the Father of Modern Civil Services. The development of the civil services in India dates back to the first quarter of the 17th century, when some British merchants, under the banner of the East India Company, came to India for the purposes of trade. The earliest organised civil service in British India was the 'Covenanted Civil Service' which constituted a group of men who carried on the trade of the East India Company and were known as its 'civil servants'. The servants had to enter into a covenant or indenture with the company. It was a long document that contained many conditions, including faithful, honest, diligent, and careful service, and it bound the servants to observe, keep, and fulfil each and every order of the company and the Court of Directors. Hence, they were known as covenanted civil servants. These were distinct from the naval and military officers of the company. The servants of the company were purely commercial agents, known as 'factors', and were in charge of the trading stations which were established along the sea coasts. These 'factors' were neither statesmen nor

[6] L.S.S. O'Malley, Indian Civil Service 1601-1930 (1965).

administrators but those who had some knowledge of Eastern trade. For over a century and a half, the service remained a purely commercial service.[7]

The development of the civil service under the East India Company witnessed three broad phases. We discuss each of these three phases in some detail –

The first phase (from 1600 up to 1765) – The first phase of the development of the civil service began with the coming of the East India Company to India sometime in 1600 and ended with the grant of the Diwani in Bengal in 1765. Before 1806, there was no regular provision for giving elitist and special education to junior civil servants. There was a system that required the junior civil servants, on their arrival in the country, to stay in the presidency towns and pass examinations in law and the local languages before commencing their public duties.

Initially, the power of appointment to these posts vested with the Court of Committees, but in 1714, it was laid down that appointments in the company were to be made through the recommendatory nomination of the members of the Court of Directors. From its establishment, the civil service under the East India Company was composed predominantly of British officials. The term "civil service" was used specifically to distinguish these administrative officers from military personnel. The British administration sought to create an efficient bureaucratic apparatus to manage colonial affairs effectively. Later, from 1760 onwards, as trade expanded, administrative tasks increased, and the civil service of the company started assuming more administrative responsibilities.

The second phase (1765 - 1798) – In 1765, the Mughal Emperor granted the Diwani of the three Mughal provinces of Bengal, Bihar and Orissa to the East India Company. This led to its emergence as a territorial power and made the East India Company responsible for civil administration on a large scale. By 1765, the term 'civil servant' had come to be used in the company's records. From 1772 onwards, the British Parliament started enacting measures that not only periodically reviewed the Company's affairs in India but also provided for the disciplinary control of its civil servants. It was also around this period that the directors of the company decided to function as diwans themselves and took over the administration. Besides, the civil

[7] S. R Maheshwari, Public Administration in India: The Higher Civil Service, (2005).

service needed to be streamlined, as there was the problem of the covenanted servants being engaged in private trade and bribery. Lord Cornwallis further reorganised the civil service, incorporating structural changes into it. He established a strong government with a highly organised network of judicial and executive administration. The Regulating Act of 1773 made a clear distinction between the civil and commercial functions of the company, which resulted in a separate personnel classification. The commercial transactions of the company were to be kept separate from revenue and judicial administration, which were to be conducted by a separate class of servants. The Act also prohibited private trading by all those civil servants responsible for the collection of revenues or administration of justice. Private trading was restricted to those engaged in commercial transactions. It forbade civil servants from accepting any gifts from the people. Lord Cornwallis ensured that civil servants received handsome salaries and did not engage in trade or receive presents. His tenure marked the beginning of the modern administrative system in India.

The patronage principle, which was in vogue in the recruitment of servants, was also extended to promotions in the service. Nepotism was rampant, and all this had an effect on the civil service, which was demoralised. The Pitt's India Act of 1784, with regard to civil service, laid down that the vacancies in the Governor General's Council were to be filled by the covenanted civil servants. The Crown was given the power to remove or recall any servant of the company. It can be said that the Charter Act of 1793 made a significant contribution to the development of civil services in India. The Act excluded outsiders from entering the service even though they enjoyed patronage in England. The Act tried to improve the morale of the civil service by making it a closed and exclusive service. The case of R v. James Warren Hastings [citation needed] was the impeachment trial of Warren Hastings, the first Governor-General of Bengal, which highlighted issues of governance and accountability that would later influence the ethos of the ICS.

The third phase (1798 - 1858) – In the 19th century, the bureaucracy had a body of land legislation enacted and a record of rights prepared for different provinces. These enactments governed agrarian relations and reduced the scope of arbitrary proceedings on the part of landlords. When Wellesley became the Governor-General of India in 1798, the involvement of the British in wars with Indian powers necessitated the establishment of a strong and trained bureaucracy. The control of the East India

Company ended in 1858 with the transfer of power to the Crown. Although the control of the East India Company ended, the civil servants appointed by them consolidated their hold over the entire administration of British India. The civil servants were 'gifted laymen, who frequently moved from job to job within the service, could take practical views on any problem, irrespective of subject matter, in the light of their knowledge and experience of the government machine'.[8]

The Charter Act of 1833, which completely prohibited trade and commerce, proposed a significant change in civil services. It proposed the introduction of a limited competitive examination. The need for a strong bureaucracy was felt in the 1830s as a replacement for the patronage exercised by the Company. A system of open competition through examination and adequate provision of education and training of the civil servants was sought. The pivotal change came with Lord Macaulay's Report of the Select Committee of the British Parliament in 1854, which introduced the concept of a merit-based civil service. This report recommended the replacement of the patronage system with a permanent civil service based on competitive examinations. Consequently, a Civil Service Commission was established in London in 1854, and the first competitive examinations were held in 1855. Initially, these examinations were only conducted in London, making it challenging for Indian candidates due to age restrictions and a European-centric syllabus. However, in 1864, Satyendranath Tagore became the first Indian to succeed in these examinations.

Indian Civil Service (ICS): The formal inception of the Indian Civil Service (ICS) occurred in 1858, following the transfer of power from the East India Company to the British Crown after the revolt of 1857. Queen Victoria proclaimed in 1858 that there would be complete equality between Indians and Europeans in the Civil Services. The Queen's Proclamation issued in 1858 reaffirmed the provision of the Government of India Act of 1833, which had stated that no Indian would, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place or employment under the Government of the East India Company. However, Queen Victoria's assurance remained a dead letter. The Covenanted Civil Service remained exclusively European, with no Indian getting employment even for the other services recruited in England. Indians were, on the other hand, mainly employed in the un-

[8] B.B Misra, The bureaucracy in India: An historical analysis of development up to 1947 (1977).

covenanted service, which was meant especially for them. This service was not an organised service at all. It was a much more numerous body that would carry out all the details of civil administration and whose members would be locally recruited from India at reasonably cheap rates. There was no uniformity in the mode of recruitment or qualification for appointment to the Un-Covenanted Service, no fixed scales of pay, and no security of tenure. Though appointed to respectable posts, especially in revenue and judicial departments, Indians were not allowed to rise above subordinate positions. They were not associated with higher administration, which was the monopoly of Europeans, more especially of covenanted civilians. When compared to the members of the Covenanted Civil Services, the members of the Uncovenanted Services not only suffered from gross inequality in terms of status and salary but also found their prospects blocked by rigid service systems.[9]

The Indian Civil Service Act of 1861 envisaged an elite cadre of administrators selected through rigorous examinations conducted in England. The ICS officers held paramount positions in the colonial administration and were instrumental in implementing British policies and maintaining law and order. With the formal introduction of the English language as a part of the school curriculum in India and the introduction of open competitive examinations in London as the mode of public recruitment for the Indian Civil Services, the English-educated Indian youth started making demands for the employment of Indians in the ICS. They argued that it was practically impossible for the Indians to undertake the long voyage to London to sit for the civil service examinations. The provisions of this Act did not obviously satisfy the Indian public opinion and its growing demand for the indianization of services. The Act virtually remained a 'dead letter' partly on account of the disinclination of authorities to give effect to it and largely because of the basic difficulty in implementing the recruitment requirements of the Act. The British Parliament passed an Act in 1870 authorising the appointment of any Indian (of proven merit and ability) to any office or the civil service without reference to the Act of 1861, which reserved specific appointments to the covenanted service. It also did not make the desired headway, as the opinion was divided on throwing open all civil appointments or establishing a proportion between Indians and Europeans in the tenure of higher offices. With the Indian National Congress passing in its very first session, in December 1885, a resolution for

[9] *Ibid, 89*

simultaneous civil service examination in England and India, the pressure for indianization increased further.

In 1886, the Aitchison Commission was appointed under the Government of India (Home Department) Resolution. The scope of its inquiry was limited to the question of employment of Indians, both in appointments reserved by law for members of the Covenanted Civil Service and in the Un-covenanted Service. According to the recommendations of the Aitchison Commission, the Covenanted Civil Service was denominated as the Indian Civil Service, to be recruited by open competition in England and open to all natural-born British subjects as before. The Un-covenanted Service came to be called the Provincial Civil Service. The Aitchison Commission recommended that recruitment to the Provincial Civil Service should be made partly by promotion from the subordinate civil service and partly by direct recruitment, preferably through a competitive examination for the executive branch and by nomination under certain conditions for the judiciary. The civil service of the country, thus, came to be divided into two main categories – The Indian Civil Service (I.C.S) and the Provincial Civil Service (P.C.S). In spite of it all, problems remained in the entry of Indians into the Indian Civil Service. This was because there were a number of conditions attached to the entry of Indians into the Indian Civil Service.

The ICS, anyhow, became the backbone of the British administrative machinery in India, characterized by a highly selective and competitive recruitment process. Initially, nominations to the ICS were made by the provincial government, and approval was needed from the Secretary of State for India. This exclusivity was later challenged through the institution of open competitive examinations, which created a merit-based entry system. Despite the introduction of competitive exams, the ICS remained predominantly European, and Indian nationals faced significant barriers to entry. The monopoly of the ICS was supported by the Covenanted Civil Service and restricted to Europeans, while other administrative services remained locally recruited and considered inferior.

Indianization of ICS: The early 20th century saw increased demands for Indian representation in the ICS. The Islington Commission of 1912 and later commissions examined the possibilities of greater Indian participation in civil services. The Islington Commission, for the first time, began the process of Indianization of the civil services.

The Islington Commission deliberated upon fixing a ratio of Indians to be admitted to India's superior civil services. However, the Islington Commission envisaged no radical change in the structure of the civil service organisation, and it also excluded Indians who succeeded in the competitive examination in London. Also, it took nearly four years to submit the report. As a result, due to a lapse of time, the proposed measures came to be regarded as inadequate by the enlightened public opinion in India.

In the midst of great political furore in India over the negative British response towards the indianization of services and in view of the several complicated problems about public service matters, in 1923, a Royal Commission on Superior Civil Services in India under the chairmanship of Lord Lee was appointed. Lee Commission of 1924 also made significant recommendations towards this end. The Lee Commission advocated for the inclusion of a larger number of Indians in the ICS and suggested the establishment of a Public Service Commission to oversee recruitment and service conditions. On the recommendation of the Lee Commission, the first Public Service Commission was set up at Allahabad in 1925. Lee Commission recommended the establishment of central services. Subordinate services were advocated for removal from the classification of civil services and transferred to the regional levels for conducting exams and filling up of positions only by Indians. So, basically, it was a system to prevent Indians from entering the higher civil services as everybody could not afford to go to England for training and exam purposes, and the lower levels were more approachable and attainable by the Indians. Also, English as a compulsory language offered little scope of success for non-westernised Indians.

The Lee Commission recommended that a 40-40 per cent split of Europeans and Indians fill up the superior ICS and that the remaining 20% be filled up with promotions from the provincial Indian subordinate services. This led to the Britishers losing interest in joining the services as they feared a monopoly of Indians, and so the number of Indians in the services increased gradually. Thus, the cumulative effect of increasing Indianization was a corresponding reduction in the number of Europeans in the Indian Civil Service, which, in turn, weakened the ICS itself as a Service. Under the pressure of politics in India, the Civil Services ceased to be viewed as an integral group of professionals bound together to carry on the business of government independently of social or political compulsions. They were being identified as Europeans and Indians,

not as administrators, a tendency which encouraged the growth of separate Service associations for each group.

As The Government of India Act of 1935 introduced provincial autonomy under responsible Indian Ministers, the rights and privileges of the members of the civil services were carefully protected. It was provided that a civil servant was not to be dismissed from service by an authority below the rank of the officers who had appointed him. The Act also provided for the setting up of a Public Service Commission for the federation and a Public Service Commission for each of the provinces, though two or more provinces could agree to have a Joint Public Service Commission. The Act provided for the setting up of federal public service commissions and recommended similar institutions at the state levels. This was the realisation of giving the All India Service an Indian flavour and moving towards the indianization of Civil Services.[10] However, significant obstacles remained until the aftermath of World War II when native Indians began to join the ICS in larger numbers.

Prior to World War II, the ICS was predominantly composed of British officers; however, the increasing demand for greater Indian representation led to more native Indians being inducted into the service. This shift was catalysed by growing nationalist sentiments and the push for Indian participation in higher echelons of administration. Leaders of the Indian National Congress and other socio-political groups saw the ICS as a critical instrument for self-governance. The indianization of the ICS was gradual but inevitable. By the time of India's independence in 1947, a significant number of Indian nationals had entered the service, marking a transition in the bureaucratic landscape from a European-dominated service to one increasingly reflective of India's socio-political milieu.

The Role of the Public Service Commission: The establishment of the Public Service Commission in 1926 marked a critical development in the Indian civil services. Initially set up under the Government of India Act of 1919, the commission was tasked with regulating recruitment and service matters. This body later evolved into the Union Public Service Commission (UPSC) with the adoption of the Constitution of India in 1950.

[10] J.D. Shukla, Indianization of All-India Services and Its Impact on Administration (1983).

2.5. Post-Independence Era: Emergence of Indian Administrative Service

With India's independence in 1947, the structure of the civil services underwent significant changes to suit the needs of a democratic and sovereign nation. The Indian Administrative Service (IAS) replaced the ICS, and other central services were restructured to reflect the federal nature of the Indian polity. This marked the beginning of a new chapter in the evolution of civil services in India. In 1966, another All-India Service, i.e. the Indian Forest Service, was created. The members of the All India Services, like the central services, are recruited and trained by the central government, but they are assigned to different states. They serve the respective state government to which they are allotted, and their service conditions are also governed by the states, except that disciplinary action against them can be taken only by the President of India in consultation with the Union Public Service Commission. They also serve the central government on deputation, and after a fixed tenure, they are expected to return to their respective states.

Though many Indian administrative and political features evolved post-1947, there are still certain features that we can see as a legacy of the British times, continuing for the sake of its efficient practices, and there is no better alternative to the same till now. In the early years of independence, the Indian Administrative Service (IAS) was the primary civil service in India. After independence, the IAS continued to play a crucial role in governing the country, with its officers being responsible for implementing the government's policies and programs. At the time of independence, India faced numerous challenges, including poverty, illiteracy, and a lack of infrastructure. The civil services were instrumental in addressing these issues, often under difficult circumstances. The initial focus was on building a robust administrative framework to support the nascent democracy.

Constitutional Framework: The Indian Constitution, adopted in 1950, laid the foundation for a structured and democratic civil service. The Indian Constitution provides a comprehensive framework for the Civil Services under various articles, primarily from Article 308 to 323. These articles outline the structure, appointment, and conditions of service for civil servants. Article 315 provides for the establishment of the Union Public Service Commission and the State Public Service Commissions. The

UPSC is responsible for recruiting civil servants for the central government, while the State Public Service Commissions recruit civil servants for the state governments. Article 308 defines the scope of civil services in India, covering both the central and state services. It establishes the foundational premise for the civil services, indicating their pervasive role across different levels of government. Article 309 empowers the Parliament and state legislatures to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or any state. This legislative power ensures that recruitment procedures and service conditions can be periodically updated to meet evolving administrative needs. Article 310 establishes the doctrine of pleasure, meaning civil servants hold office during the pleasure of the President (or Governor in case of state services). However, this pleasure doctrine is tempered by procedural safeguards to prevent arbitrary actions. Article 311 provides safeguards for civil servants against arbitrary dismissal, removal, or reduction in rank, ensuring procedural fairness and just cause. The article ensures that civil servants are given a reasonable opportunity to be heard and that due process is followed in disciplinary actions. Article 312 of the Constitution empowered the Parliament to create new All India Services, including the IAS and the Indian Police Service, in consultation with the states. The IAS, along with other All India Services, such as the IPS and Indian Forest Service (IFS), was created to maintain a uniform and professional administrative framework across the country. Article 315-323 establishes the Union Public Service Commission (UPSC) and State Public Service Commissions (SPSCs), which are responsible for conducting examinations for recruitment, advising on disciplinary matters, and ensuring that recruitment is based on merit.

The civil services were envisioned to uphold the values of integrity, impartiality, and commitment to the public good, ensuring the continuity of governance through political changes. The framing of the Indian Constitution and subsequent administrative reforms aimed at restructuring the colonial legacies and adapting them to meet the needs of a sovereign, democratic republic.

Reforms: In the 1950s, the Indian government initiated several reforms aimed at modernising the civil services. One of the key reforms was the establishment of the All-India Services Act in 1951, which created the Indian Police Service (IPS), the Indian Forest Service (IFS), and the Indian Revenue Service (IRS). These services were designed to provide specialised expertise to the government and to promote regional

representation. The establishment of the Administrative Reforms Commissions (ARC) in the 1960s and later in the 2000s marked significant milestones in the evolution of civil services. These commissions recommended various measures to improve the administrative machinery, focusing on decentralisation, transparency, and accountability. The Kothari Commission, appointed in 1964, recommended several reforms to the civil services, including the introduction of in-service training programs, the establishment of the Union Public Service Commission (UPSC), and the creation of specialised cadres within the IAS. The Estimates Committee of the Parliament, in its 1967-68 report, also recommended the decentralisation of administrative powers and the strengthening of the state governments. The 1970s and 1980s saw further reforms in the civil services, including the introduction of the lateral entry scheme, which allowed the recruitment of specialists from outside the civil services. The government introduced several new services, including the Indian Defence Accounts Service (IDAS), the Indian Ordnance Factories Service (IOFS), and the Indian Information Service (IIS). These services were designed to provide specialised expertise to the government and to promote regional representation.

First Administrative Reforms Commission (1966-1970): The first ARC was set up in 1966 to review the public administration system and recommend measures for its improvement. The commission's recommendations covered a wide range of areas, including personnel management, administrative ethics, and organisational structure.[11] Key recommendations included:

- Decentralization: Advocating for the devolution of administrative powers to lower levels of government to ensure better local governance and public participation.
- Transparency: Emphasizing the need for transparency in government operations to combat corruption and build public trust.
- Accountability: Proposing mechanisms for greater accountability of public officials, including performance evaluation and disciplinary actions.

[11] 1st Administrative Reforms Commission, 11th Report of the Administrative Reforms Commission titled Personnel Administration (1969).

- Second Administrative Reforms Commission (2005-2009): The second ARC was constituted in 2005 to prepare a detailed blueprint for revamping the public administration system. Its recommendations focused on making governance more people-centric and improving service delivery.[12] Key recommendations included:
    - E-Governance: Promoting the use of information technology to improve transparency, efficiency, and accountability in government processes.
    - Civil Service Reforms: Suggesting measures for improving the recruitment, training, and performance evaluation of civil servants.
    - Public Grievance Redressal: Proposing the establishment of effective mechanisms for addressing public grievances and ensuring citizen satisfaction.

S.R. Bommai v. Union of India[13] is a landmark case on federalism that indirectly impacted the functioning of the civil services by underscoring the balance of power between the Centre and the States. In *T.S.R. Subramanian v. Union of India*[14], the Supreme Court issued directives to ensure the independence of the civil service from political interference, including fixed tenure and performance-based postings. The case of *Prakash Singh v. Union of India*[15] led to significant police reforms, which also influenced the administrative reforms in civil services, emphasising the need for a professional and accountable service. *Union of India v. Deep Chand Pandey*[16] clarified the jurisdiction of the Central Administrative Tribunal and reinforced the protection available to civil servants under the administrative tribunal system.

Recruitment and Training: The selection process for the IAS is conducted by the UPSC through a highly competitive examination, ensuring that only the most capable candidates are chosen. One of the significant changes post-independence was the democratisation and expansion of recruitment processes. The UPSC was established to conduct examinations for various services, including the IAS, ensuring a meritocratic

[12] 2nd Administrative Reforms Commission, 10th Report of the Administrative Reforms Commission titled Refurbishing of Personnel Administration & Scaling New Heights (2008).
[13] S.R. Bommai v. Union of India (1994) 3 SCC 1
[14] T.S.R. Subramanian v. Union of India (2013) 15 SCC 732, 752-755
[15] Prakash Singh v. Union of India (2006) 8 SCC 1, 15-17
[16] Union of India v. Deep Chand Pandey (1992) 4 SCC 432, 434

and inclusive selection process. This move sought to eliminate the elitism associated with the ICS and promote equal opportunities for all citizens.

Roles and Responsibilities: IAS officers are entrusted with a wide range of responsibilities, from district administration to policy-making at the highest levels of the government. They serve as the key links between the central and state governments, ensuring the effective implementation of government schemes and policies. Their roles encompass maintaining law and order, overseeing developmental programs, and ensuring efficient public service delivery.

Policy Implementation

One of the primary functions of civil servants is to implement the policies formulated by the political executive. This involves translating policy decisions into actionable plans and programs. Civil servants draft regulations, ensure compliance with laws, and monitor the progress of various government schemes.

- Drafting Regulations: Civil servants play a crucial role in drafting regulations that give effect to legislative policies. They ensure that the regulations are comprehensive, enforceable, and aligned with the policy objectives.
- Ensuring Compliance: Once regulations are in place, civil servants are responsible for ensuring that individuals and organisations comply with the laws. This involves enforcement actions, inspections, and penalties for non-compliance.
- Monitoring and Evaluation: Civil servants continuously monitor the implementation of policies and programs, assessing their impact and effectiveness. They collect data, analyse outcomes, and recommend adjustments to improve performance.

Public Administration

Civil services manage the day-to-day operations of the government, ensuring smooth administration across various sectors. This includes managing public resources, overseeing infrastructure projects, and maintaining essential services such as health, education, and public safety.

- Resource Management: Efficient management of public resources, including finances, human resources, and materials, is a key function of civil servants. They ensure that resources are allocated judiciously and utilized effectively.
- Project Oversight: Civil servants oversee the implementation of infrastructure projects, ensuring that they are completed on time, within budget, and to the required standards. This includes coordinating with contractors, managing funds, and addressing any issues that arise.
- Essential Services: Civil servants ensure the delivery of essential services such as healthcare, education, water supply, and sanitation. They work to improve access to these services and enhance their quality.

Law and Order

Maintaining law and order is a critical function of the civil services, particularly the Indian Police Service (IPS). Civil servants in the IPS ensure public safety, prevent and investigate crimes, and maintain communal harmony, thereby upholding the rule of law.

- Public Safety: The IPS is responsible for maintaining public safety through regular patrols, surveillance, and emergency response. They work to prevent crime and ensure the safety of citizens.
- Crime Prevention and Investigation: The IPS investigates crimes, gathers evidence, and apprehends offenders. They also work on crime prevention strategies, such as community policing and awareness campaigns.
- Communal Harmony: The IPS plays a crucial role in maintaining communal harmony, especially in areas prone to communal tensions. They work to prevent communal violence and ensure that conflicts are resolved peacefully.

Public Welfare

Civil servants work towards the country's socio-economic development by implementing welfare schemes to improve the living standards of marginalized sections of society. This includes initiatives in areas such as poverty alleviation, rural development, and social justice.

- Poverty Alleviation: Civil servants implement programs aimed at reducing poverty, such as employment generation schemes, food security programs, and housing projects. They ensure that these programs reach the intended beneficiaries and are effective in improving their living conditions.
- Rural Development: Development of rural areas is a key focus of civil servants. They work on programs related to agriculture, rural infrastructure, and rural employment. Their efforts aim to improve the quality of life in rural areas and reduce rural-urban disparities.
- Social Justice: Civil servants implement policies and programs aimed at promoting social justice and reducing inequalities. This includes affirmative action programs, schemes for the welfare of Scheduled Castes and Scheduled Tribes, and initiatives to empower women and other marginalized groups.

Advisory Role

Civil servants often serve as advisors to political leaders, providing expert opinions and data-driven insights on various issues. Their administrative experience and knowledge are crucial in formulating sound policies and making informed decisions.

- Expert Opinions: Civil servants provide expert opinions on a wide range of issues, including economic policies, social programs, and international relations. Their advice is based on extensive research, analysis, and experience.
- Data-Driven Insights: Civil servants use data and analytics to provide insights into policy issues. They collect and analyse data, identify trends, and recommend evidence-based solutions.
- Policy Formulation: In their advisory role, civil servants contribute to the formulation of policies. They provide inputs on policy options, assess their potential impact, and help in drafting policy documents.

2.6.Conclusion

The evolution of civil services in India is a multifaceted narrative intricately woven with historical developments, socio-political transformations, and administrative reforms. Tracing its roots from ancient to modern times, the civil service system has continually adapted to the changing needs of governance and society. In the ancient period, the foundations of civil administration were laid during the Vedic era, with the king acting as the protector of Dharma, assisted by a council of ministers. This system, deeply embedded in religious and social norms, provided a rudimentary framework for governance. The seminal work of Kautilya, "Arthashastra", further refined these concepts, detailing the qualifications, duties, and ethical standards for public officials. His contributions laid the groundwork for a structured administrative system that emphasised merit and integrity.

The medieval period brought significant advancements in administrative practices, particularly during the Mughal era. The Mughal administrative system, influenced by Persian models, introduced a sophisticated and hierarchical structure. Key administrative roles were well-defined, with the central administration led by the emperor and supported by officials such as the Diwan (finance minister) and Mir Bakshi (military commander). The Mughals established an efficient revenue collection system and a judicial framework, which contributed to the stability and prosperity of their empire. This period was characterized by a blend of indigenous practices and Persian influences, creating a unique administrative culture that laid the groundwork for future bureaucratic developments.

The advent of British colonial rule marked a significant turning point in the evolution of civil services in India. The British East India Company initially employed "civil servants" to distinguish those engaged in administrative functions from military personnel. Over time, the Indian Civil Service (ICS) emerged as the backbone of British administration in India. The ICS was initially dominated by Europeans, but the demand for Indian representation grew, leading to gradual Indianization. The Government of India Acts of 1919 and 1935 introduced reforms that expanded the role of Indians in the civil services, laying the groundwork for a more inclusive administrative structure. The establishment of the Public Service Commission in 1926 was a landmark

development aimed at regulating recruitment and service conditions. This body evolved into the Union Public Service Commission (UPSC) with the adoption of the Indian Constitution in 1950. The UPSC played a crucial role in ensuring merit-based recruitment and maintaining the integrity of the civil services.

Post-independence, the civil services underwent significant restructuring to align with the needs of a sovereign democratic nation. The Indian Administrative Service (IAS) replaced the ICS, symbolising a shift towards a more egalitarian and decentralised administrative system. The IAS, along with other All-India Services like the Indian Police Service (IPS) and the Indian Forest Service (IFS), was designed to provide a uniform and professional administrative framework across the country. The Indian Constitution, through various articles, provided a comprehensive framework for the civil services, ensuring their role in maintaining governance continuity through political changes. Articles 308 to 323 of the Constitution provide a comprehensive structure for the civil services, ensuring procedural fairness and safeguarding against arbitrary actions.

The early years of independence saw the IAS playing a crucial role in addressing the country's challenges, including poverty, illiteracy, and lack of infrastructure. The focus was on building a robust administrative framework to support the nascent democracy. Reforms continued in the decades following independence, aimed at modernising and improving the efficiency of the civil services. The establishment of the All-India Services Act in 1951 and the creation of specialised services such as the Indian Revenue Service (IRS) and the Indian Defence Accounts Service (IDAS) were part of these efforts. The Administrative Reforms Commissions (ARC) of the 1960s and 2000s along with the recommendations of the Kothari Commission in 1964 recommended measures to enhance decentralisation, transparency, and accountability. Initiatives like the lateral entry scheme and the introduction of e-governance further underscored the commitment to making civil services more responsive and effective.

In conclusion, the evolution of civil services in India reflects a journey from ancient advisory councils to a structured and professional administrative framework. The historical trajectory, marked by significant milestones and reforms, highlights the continuous efforts to adapt and improve the civil services to meet the changing needs of governance.

CHAPTER III

CORRUPTION AMONG CIVIL SERVANTS: ANALYSIS OF CURRENT LEGAL FRAMEWORK

3.1. Introduction

Corruption is a worldwide phenomenon, and the degree to which it is prevalent varies from one nation to the next. There is a correlation between corruption and the existence of weaknesses in political, social, legal, and economic institutions.[17] Those who engage in corrupt practices make every effort to conceal their activities from the public eye, even in situations when corruption is widespread. The phenomenon of corruption is not a recent phenomenon, nor is it isolated to any one sector of the global economy. The development of democracy, the promotion of fundamental rights, and the preservation of civil liberties are all significantly impacted by this. One of the most widely held beliefs is that the extent and pervasiveness of corruption is becoming increasingly prevalent. In recent years, corruption has emerged as a significant obstacle for administration and society. In any society, it is unwanted; nevertheless, its impact on the economy that is still emerging is much more detrimental since it impedes the nation's socioeconomic progress. Historically, corruption has been regarded as one of the most significant obstacles that are preventing the development of contemporary India. Though India's economy stands tall and resilient, it has not reached its complete potential since corruption has, in the present context, hindered and undermined not only the economic progress but also the proper functioning of democracy. Corruption, a social evil, has made our country susceptible to and helpless against the oncoming forces of anti-social elements. The relationship between the bureaucracy, politicians, and criminals in India is the root cause of the country's widespread corruption.

The Santhanam Committee on Prevention of Corruption[18] defined corruption as the "improper or selfish exercise of power and influences attached to a public office or to the special position one occupies in public life." The committee report also notes about the opening up of new avenues of corruption in the bureaucracy during the "licence raj" by noting that "The sudden extension of the economic activities of the Government

[17] Kottapetta Lakshman, *Institutional Framework for Anti-Corruption in India*, 20 S. India J. Soc. Scis., (2014), https://journal.sijss.com/index.php/home/article/view/35/29.
[18] K. Santhanam, Report of the Committee on Prevention of Corruption (1964)

with a large armoury of regulations, controls, licenses and permits provided new and large opportunities for corruption."[19]

Any and all forms of widespread corruption pose a significant obstacle to the prosperity of the nation. The Indian society is currently facing a significant obstacle in the form of the elimination of corruption. The central government has implemented anti-corruption laws to deal with the prevention of crimes related to corruption and combat the evil of corruption. A number of bodies, including the Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI), and the Anti-Corruption Bureau (ACB), were established in order to execute anti-corruption laws efficiently. This chapter will look into the various legislative and institutional frameworks that have been enacted to combat corruption in India's bureaucracy.

3.2. Current Legal Framework for Addressing Corruption

In accordance with the recommendations given by the Committee on Prevention of Corruption, widely known as the Santhanam Committee, the Central Vigilance Commission was established by the Government of India by a Resolution. At the federal level, key institutions like the Central Vigilance Commission (CVC), The Central Bureau of Investigation (CBI), The Office of the Comptroller and Auditor General (C&AG) and the State Level Anti -Corruption Bureaus (ACB) of each State were created to combat corruption in India. Public servants in India can be punished for corruption under the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988. The Benami Transactions (Prohibition) Act of 1988 criminalises Benami transactions. The Prevention of Money Laundering Act of 2002 restricts public servants from committing money laundering offences.

To counteract corruption, the Indian Penal Code was the principal instrument during the pre-independence period. The code contained a chapter on 'offences by public servants'. Section 161 of the Indian Penal Code of 1860 set up the primary legal source aimed to deal with bribe-taking and favouritism. While no precise definition of the word "corruption" was provided, this section gives the most comprehensive explanation of a corrupt person as "*...being or expecting to be a public servant, accepts, or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other*

[19] *Id.*

person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central or any State or with any public servant as such..."

The sections from 161 to 165 provide the legal basis to punish corrupt public officers. At that time, the need for a particular statute to deal with corruption was not felt. But the Second World War brought challenges. Taking advantage of that scenario, the unscrupulous individuals abused the situation, which led to broad-scale corruption in public life. Then the legislative really thought that serious legislative steps needed to be adopted promptly. Hence the Prevention of Corruption Act, 1947 was created to tackle the ills of bribery and corruption. This Act did not reinterpret nor expand the definition of offences that result in corruption, already existent in the IPC. However, the statute defined a new offence, 'criminal misconduct in the discharge of official duty', for which harsher penalties were imposed. To safeguard innocent civil servants from persecution, it further stipulated that no authority lower than the one who nominated an officer may remove or penalise otherwise. This provision has been encapsulated in Article 311(1) of the Constitution[20] as well. The sanctioning authority may be brought in at the time of prosecution to adduce evidence on the sanction. Also, the complainant/bribe giver is protected from prosecution as without such protection, no one may come forward to report the crime. Criminal Law (Amendment) Act of 1952 introduced various modifications, such as making the abetting of offences an offence.

Perhaps the most important development in this aspect was the 1964 Report of the Committee on Prevention of Corruption, better known as the Santhanam Committee, cited above. This Committee, following the rationale that an executive body impartially investigating its own conduct is more or less an aberration, suggested the formation of a Commission led by a Commissioner independent of the executive part of the government, i.e., the Ministries. The government accepted it and formed the Central Vigilance Commission (CVC) in the same year. Each Ministry also comes to have a

[20] Article 311 in Constitution of India- Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State
(1) No person who is a member of a civil service of the Union or an all India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by a authority subordinate to that by which he was appointed.

Vigilance Officer, whose nomination would be subject to the veto of the CVC Commissioner. The Prevention of Corruption Act of 1947 was also amended to make it a criminal violation to hold wealth disproportionate i.e. which cannot be adequately explained to the income of a public officer.[21]

Later in 1988, the Prevention of Corruption Act was enacted. It consolidates the provisions of the Prevention of Corruption Act of 1947, the Criminal Law Amendment Act of 1952 and several provisions of IPC. It also contains specific regulations intended to prevent corruption effectively among public servants. In this Act, the word 'Public Servants' was widely defined, and a new notion 'Public Duty', was introduced. It also envisioned speedy trials and provided that no court shall stay the proceedings on the grounds of any error or irregularity in the punishment given unless, in the view of the court, it has resulted in a failure of justice. The Act listed (a) offences of bribery and other related offences and penalties; (b) abuse of authority by favouring or harming someone without any pecuniary consideration or gratification; (c) obstruction or perversion of justice by unduly influencing law enforcement; and (d) squandering public money. In addition to the aforementioned, there are additional Service Conduct Rules detailing the "dos" and "don'ts" for the civil servants. Moreover, at the turn of the century, in order to fight corruption, the Prevention of Money Laundering Act of 2002 was enacted, empowering the Directorate of Enforcement, India, and Financial Intelligence Unit, India, to investigate and prosecute such public servants who hold ill-gotten wealth in foreign countries and transfer to their homeland through money laundering. Further, as secrecy in public administration promotes corruption, The Right Information Act of 2005 has been implemented, aiming at fostering efficiency, openness and accountability in public life. This is a revolutionary step towards the elimination of corruption from public life.[22]

[21] Krishna K. Tummala, *Combating Corruption: Lessons Out of India*, 10 Int'l Pub. Mgmt. Rev., (2009).
[22] Srinivasa Rao Gochipata & Y.R. Haragoapal Reddy, *Institutional Arrangements to Combating Corruption: A Comparative Study India's (C.B.I) and Hong Kong's Independent Commission against Corruption (I.C.A.C)*, 7 NALSAR L. Rev. 46, (2013).

The Prevention of Corruption Act, 1988

The Prevention of Corruption Act of 1988 is an essential Act to battle the evil of corruption. It is a great weapon to combat this immorality. The success of the movement against the evil of corruption rests upon the performance of this legislation. In the pre-1988 era, India lacked a comprehensive law particularly combatting corruption. The absence of a comprehensive legal framework prevented the efficient prosecution of corrupt people and encouraged a culture of impunity. Recognising the need to address this critical issue, the Indian government adopted the Prevention of Corruption Act of 1988 to offer a particular legal structure for combatting corruption. With the implementation of this Act, the provisions of the Prevention of Corruption Act of 1947 (which worked as a model for its enactment) were merged. The Act describes corruption in its numerous manifestations, including bribery, misuse of power, and unlawful enrichment. It encompasses public servants, both in the government and public sector organisations, who participate in corrupt behaviour. The Prevention of Corruption Act of 1988 received an amendment to meet developing difficulties and boost the fight against corruption. The revised Act is known as the Prevention of Corruption (Amendment) Act, 2018. This amendment included numerous key reforms, including the prohibition of bribe-giving, the protection of public officials against malicious or vexatious charges, and the formation of special tribunals for rapid adjudication of corruption cases. It also provided procedures for the attachment and seizure of property acquired through corrupt means. These modifications seek to strengthen the Act's efficacy and streamline the judicial procedure.

A number of significant definitions are included in Section 2 of the Prevention of Corruption Act, which contributes to the clarification of the Act's scope and implications. "Public duty" and "public servant" are the two definitions that are considered to be the most significant provisions of the Act. "A duty in the discharge of which the State, the public or the community at large has an interest" is what is meant by the term "public duty." A comprehensive list of all those who are considered to be public servants is provided under the Act. A person who is "in the service or the pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty" is considered to be a public servant, according to section 2 of the Prevention of Corruption Act of 1988. This definition applies to civil servants as well. For the actions that they took in violation of the terms of the Prevention

of Corruption Act of 1947, the wrongdoers, who were public servants, were subjected to punishment. However, it did not define the word "public servant" clearly. The meaning of the phrase stated in the Indian Penal Code was the determining factor in this matter. Under the Prevention of Corruption Act of 1988, the word "public servant" was specifically defined for the very first time within the context of anti-corruption law. In contrast to the definitions provided by earlier legislation, the Prevention of Corruption Act of 1988 provides a more comprehensive explanation of the word. The definition of the phrase "public servant" may be found in Section 2 (c) of the Prevention of Corruption Act, 1988. These provisions were obtained from Section 21 of the Indian Penal Code. Additionally, additional sections have been inserted into the act in order to make it more comprehensive and wide. In fact, the genuine test to determine whether an individual is a public servant is whether they are paid by the government and whether they have the authority to carry out public duties. If both of these requirements are met, then the nature of their office is irrelevant, as established in the *G.A. Monterio v. State of Ajmer*[23] case, which was decided before the Prevention of Corruption Act, 1988.

The term 'known source of income' is quite relevant in implementing anti-corruption laws. A public servant is under the duty of performing various functions of the State. For this, he is paid a salary which comes from the money paid by the taxpayers. Hence, it becomes the duty of the public servants to account for their dealings with respect to the government and the general public. He is responsible for working in a transparent manner towards the general public. He has to declare all the sources of income for the sake of transparency. The expression 'known sources of income' was not characterised in the erstwhile Prevention of Corruption Act of 1947 or in the Criminal Law Amendment Act of 1964, which incorporated this offence for the first time. However, the term was later on devised by the courts of law.

Section 17 of the Prevention of Corruption Act, 1988 outlines the power conferred upon police officers to conduct investigations into allegations of corruption. It states that "no police officer below the rank, (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police; (b) in the metropolitan areas of Bombay, Calcutta, Madras, and Ahmedabad and in any other metropolitan area, of an Assistant Commissioner of Police; and (c) elsewhere, of a Deputy Superintendent of Police or a police officer of

[23] G.A Monterio vs State of Ajmer AIR 1957 SC 13

equivalent rank, shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant." It implies that no officer other than approved authorities can conduct investigations or make arrests unless an order is acquired from the Metropolitan Magistrate or Magistrate of First Class. Section 17C[24] of the Act empowers authorities to take action to prevent the disposal or transfer of properties that are suspected to be proceeds of corruption or linked to corrupt practices. The Act allows for the attachment of any property, both movable and immovable, which is believed to be the proceeds of corruption or connected to corrupt activities. This includes assets acquired through illegal gratification or disproportionate to the known sources of income. As defined in the Act, the competent authority has the power to initiate the attachment proceedings. This authority is usually a designated officer or an agency responsible for investigating corruption cases, such as the Central Bureau of Investigation (CBI) or state Anti-Corruption Bureaus (ACBs).

The higher-level officers include the Central Bureau of Investigation (CBI), state Anti-Corruption Bureaus (ACBs), and Vigilance Departments that examine corruption charges. These authorities enjoy wide-ranging powers, including search and seizure, interception of communications, and the right to arrest anyone accused of corrupt actions. The CBI is a top investigative body that has authority over corruption charges involving central government workers and public servants. State ACBs are responsible for investigating corruption matters within their respective states. Additionally, Vigilance ministries in various government ministries and organisations have the jurisdiction to examine corruption claims against their own staff. These authorised institutions play a significant role in detecting corruption, compiling evidence, and commencing legal processes against the accused. Apart from this, there are specific limitations linked to the inquiry in particular circumstances, which are listed under

[24] **17C. Powers of attachment of property—** (1) If an officer (not below the rank of Deputy Superintendent of Police) of the Anti-Corruption Bureau, investigating an offence committed under this Act, has reason to believe that any property in relation to which an investigation is being conducted has been acquired by resorting to such acts of omission and commission which constitute an offence of 'criminal misconduct' as defined under section 5, he shall, with the prior approval in writing of the Director of the Anti-Corruption Bureau, make an order seizing such property and, where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order or of the Designated Authority to be notified by the Government.

Section 17A[25] of the Amendment Act, 2018. It indicates that no police officer can investigate the matter if it includes a decision/recommendation made by a public worker in the course of his official duties. If such an inquiry is to be done, then the consent of the Central Government involving Union matters and the State Government concerning state affairs is necessary.

The appointment of special judges in accordance with the Prevention of Corruption Act of 1988 is a significant component that plays a crucial part in ensuring the efficient investigation and resolution of cases involving corruption. The Act acknowledges the need of moving matters involving corruption through the judicial system as quickly as possible and either creates special courts or appoints specific judges to hear cases of this nature. With regard to the "Power to appoint special Judges," Section 3 of the Act states, "The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely: (a) any offence punishable under this Act; and (b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a) as well as any other offences that may be specified in the notification." The Act also emphasises that "A person shall not be qualified for appointment as a special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure," as stated in Section 3(2) of the Act.

[25] **17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties—** No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval—

(a) In the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;
(b) In the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;
(c) In the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed.

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person: Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.

Under the Prevention of Corruption Act of 1988, numerous parts of the Act detail the offences that can be committed and the punishments that can be imposed. Here are some of the most serious offences, along with the sections that relate to them:

- **Section 7**: 'Offence relating to public servant being bribed'
  - **Offence**: If a public servant takes or gains gratification other than lawful pay as an incentive or reward for doing or abstaining from carrying out an official act, then the public servant is said to be corrupt. This section relates to the public servant asking for a bribe, and for the purpose of this section, it is immaterial whether they obtain the bribe directly or through a third party.
  - **Penalty**: Imprisonment for a term not less than three years, which may extend to seven years and a fine.
- **Section 8**: 'Offence relating to bribing of a public servant'
  - **Offence**: If a public servant takes or gets any bribe as a reason or reward for doing or abstaining from doing an official act, then they are said to be corrupt. According to Section 8, "Any person who gives or promises to give an undue advantage to another person or persons, with the 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" is considered to be in violation of the law. This section deals with the bribe-giver seeking to influence the public servant.
  - **Penalty**: Imprisonment for a term which may extend to seven years or with a fine or both.
- **Section 9**: 'Offence relating to bribing a public servant by a commercial organisation'
  - **Offence**: A public servant who takes or gets any bribe as a motivation or reward for demonstrating favour or disfavour to any business organisation in the execution of official powers.
  - **Penalty**: In accordance with Section 10 of the Act, the offence carries 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 11**: 'Public servant obtaining undue advantage, without consideration from person concerned in proceeding or business transacted by such public servant'

- **Offence**: A public servant who, by corrupt or unlawful means, gets any valuable item without any consideration from a person who is interested in any proceeding or business handled by such public servant.
- **Penalty**: Imprisonment for a term not less than six months, which may extend to five years, and a fine.

- **Section 13**: 'Criminal misconduct by a public servant'
  - **Offence**: A public official who, by corrupt or unlawful means, derives any monetary gain for himself or any other person or holds assets disproportionate to his recognised sources of income. Section 13 states that "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."
  - **Penalty**: Imprisonment for a term not less than four years, which may extend to ten years, and a fine.

Apart from this, Section 12 of the Prevention of Corruption Act, 1988, states that "Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, 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." Also, in Section 14[26] of the Prevention of Corruption Act, 1988, habitual offenders are punished with imprisonment for a term not less than 5 years, which may extend to 10 years, and are liable to fine.

Lokpal and Lokayuktas Act, 2013

This act was enacted by Parliament in 2013 in response to social activist Anna Hazare's well-known Aandolan, which at last received the President's assent and was subsequently published in the Gazette on January 1, 2014. The act calls for the appointment of different officers to combat corruption, known as Lokpal at the Central Level and Lokayukta at the State level. Some states had already passed legislation prior to the act and appointed Lokayuktas to deal with corruption cases. The fact that the

[26] **14. Punishment for habitual offender—** Whoever convicted of an offence under this Act subsequently commits an offence punishable under this Act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and shall also be liable to fine.

Lokpal and Lokayuktas are empowered to look into the complaints made against public workers is its most appealing feature. With a few noteworthy exceptions in the areas of public order, atomic and space research, international relations, etc., this also covers the prime minister of India. Furthermore, Groups A, B, C, and D civil servants are all brought under their jurisdiction.

In addition, the Lokpal has the authority to direct the Central Bureau of Investigation (CBI) without first obtaining approval from the Central Government. The Lokpal has been given the authority of a civil court, which includes the ability to call witnesses and anybody connected to the case, enforce their presence, and demand their appearance. The Lokpal, which upholds the idea that all people are equal before the law, has the authority to order the seizure of any assets, profits, or capital that have been obtained by any Minister, Public Servants, or anybody else, even the Prime Minister of the Nation.[27]

The Benami Transactions (Prohibition) Act, 1988

In its 57th and 130th reports, the Law Commission suggested passing laws that forbade "Benami Transaction" and the purchase of properties held in Benami or under a false name. Corrupt public officials frequently store their riches in "benami" accounts or invest in real estate held in other people's names. Strict implementation of the Benami Transactions (Prohibition) Act of 1988 might rapidly uncover properties and hinder corrupt officers' ability to amass ill-gotten property. As a result, in 1988, the Benami Transactions (Prohibition) Act was passed. Regretfully, the Indian government has failed to enact regulations for the purpose of sub-section (1) of Section 5 over the past 22 years, meaning that the government is still unable to seize assets that have been acquired by the true owners under the names of their benamidars. This demonstrates unequivocally that the law itself may be applied in a way that is detrimental to it or not applied at all.[28]

Whistle Blowers Protection Act, 2014

The Whistle Blowers Protection Act, 2014 seeks to establish a mechanism to receive complaints relating to corruption or wilful misuse of power or discretion by public servants, to inquire into those complaints, and to prevent the victimisation of the

[27] Priya Jain et al., *An Analysis of Anti-Corruption Laws in India*, 13 Res Militaris 4519 (2023).
[28] O.P. Dwivedi & R.B. Jain, *Bureaucratic Morality in India*, 9 Int'l Pol. Sci. Rev. 206 (1988).

complainants. The Act, drafted in 2011, was renamed The Whistleblowers Protection Act, 2014, and was passed by both houses of parliament, but it has not been notified in the official gazette yet. The definition of public servant is the same as the definition provided under the Prevention of Corruption Act, 1988. Disclosure has been defined under the Whistleblowers Act as a complaint relating to an attempt/commission of an offence under the Prevention of Corruption Act, the wilful misuse of power or discretion causing loss to the Government, or an attempt to commit, or a commission of, a criminal offence by a public servant, that made in writing or electronic mail against a public servant before a Competent Authority. The complainant may be any public servant or any person and may include an NGO. The Whistleblowers Act makes it mandatory for the identity of the complainant to be disclosed to the Competent Authority. However, the Competent Authority shall conceal the identity of the complainant except in the narrow circumstance that disclosure to a Head of Department is necessary while making an inquiry. Even when this is so, written consent from the complainant is mandatory, and the Head of Department shall be directed not to disclose the identity of the complainant. The Whistleblowers Act also makes it mandatory for the disclosure to be accompanied by full particulars and supporting documents.

Upon receipt of a complaint, the Competent Authority will decide if the matter needs investigation. If it determines it does, it shall conduct a discreet inquiry to ascertain if there is a basis to proceed. If this is so, it shall seek an explanation or a report from the concerned Head of Department. If, on receipt of the concerned Head of Department's comments, explanation, or inquiry, it finds that there has been a wilful misuse of power or discretion or an act of corruption, it will recommend taking measures, including the initiation of proceedings or taking corrective measures against the public servant to the concerned public authority. The public authority then takes a decision, within three months of receiving the recommendation, on whether a given course of action should be pursued. If it decides in the negative, it will record its reasons for electing not to take action.[29]

The Whistleblowers Act also provides for safeguards against complainants making disclosures, as well as people making disclosures during the inquiry process. Section

[29] Devika Rana, *Whistle Blowers Protection Act, 2014: A cracked foundation?*, Mondaq (Oct. 4, 2021), https://www.mondaq.com/india/whistleblowing/1118060/whistle-blowers-protection-act-2014-a-cracked-foundation.

11 provides that a person shall not be victimized or proceeded against merely on the ground that he has made a disclosure or rendered assistance to an inquiry. If a person is being victimized, he may make an application to the Competent Authority which will take action following a hearing with the public authority and the victim. Moreover, if the Competent Authority is under the impression that the complainant needs to be protected, it may issue directions to the concerned government authorities to protect such persons.

The Whistleblowers Protection (Amendment) Bill of 2015 has seemingly diluted the Whistleblowers Act and introduced ten categories of information with respect to the prohibition on reporting or making disclosures. The proposed amendments also include removing immunity given to the whistle-blowers from being prosecuted under the Official Secrets Act of 1923. Despite the global move towards legislating for increased obstacles for whistleblowers citing national security reasons, countries, including India, have seen an increase in whistleblowing reports.

All India Services (Conduct) Rules, 1968 & Central Civil Services (Conduct) Rules, 1964

The All India Services (Conduct) Rules, 1968 and the Central Civil Services (Conduct) Rules, 1964 represent cornerstone regulatory frameworks designed to guide the ethical and professional conduct of civil servants in India. These rules were instituted to foster an environment of integrity, impartiality, and transparency within the Indian administrative system, which is crucial for maintaining public trust and effective governance. The genesis of these conduct rules lies in the early years of independent India, a period marked by the need to establish a robust civil service that could support nation-building efforts. The All India Services (Conduct) Rules, 1968, were framed under the All India Services Act, 1951, aiming to regulate the behaviour of officers in the Indian Administrative Service (IAS), Indian Police Service (IPS), and Indian Forest Service (IFoS). These services constitute the elite administrative machinery of the country, and the conduct rules were intended to ensure that members of these services adhere to the highest standards of professionalism and ethics. Parallelly, the Central Civil Services (Conduct) Rules, 1964, were established to govern the conduct of employees under the Central Government of India. These rules were essential in setting

a uniform standard for behaviour across various departments and ministries, ensuring that government servants maintain a standard of behaviour that upholds the dignity of the service and fosters public confidence in the integrity of government operations.

Both sets of rules emphasise the principles of integrity, honesty, and impartiality. They explicitly prohibit civil servants from engaging in acts of corruption, accepting illegal gratification, or indulging in any behaviour that compromises their impartiality. For instance, the rules mandate that civil servants must avoid any conflict of interest, maintain confidentiality of official information, and refrain from accepting gifts that could influence their official duties. These provisions are crucial in creating a deterrent against corrupt practices and ensuring that civil servants perform their duties without fear or favour.

One of the most significant provisions aimed at curbing corruption is the requirement for civil servants to make periodic declarations of assets and liabilities. This measure is designed to monitor wealth accumulation and identify any disproportionate assets that may indicate corrupt practices. The case of IAS officer Arvind Joshi and his wife Tinu Joshi, who were found with assets worth crores of rupees disproportionate to their known sources of income, underscores the importance of this requirement. The couple was subsequently suspended and faced disciplinary action, highlighting the effectiveness of asset declaration in identifying and addressing corruption. Political neutrality is another critical aspect of the conduct rules. Civil servants are prohibited from participating in political activities or elections, ensuring that they remain apolitical and impartial in their official duties. An illustrious example in this regard is that of T. N. Seshan, the former Chief Election Commissioner of India. Seshan's strict enforcement of the conduct rules during his tenure was instrumental in ensuring free and fair elections, reinforcing the importance of political neutrality in maintaining the integrity of the electoral process.

Despite the robust framework provided by the conduct rules, their effectiveness in curbing corruption is often challenged by implementation gaps. Bureaucratic inertia, lack of resources, and political interference can undermine the enforcement of these rules. The case of Sanjiv Chaturvedi, an Indian Forest Service officer who exposed corruption within the Haryana Forest Department, illustrates these challenges. Despite the protections provided by the conduct rules, Chaturvedi faced significant harassment

and victimisation, highlighting the need for stronger enforcement mechanisms and better protection for whistleblowers.

3.3. Institutional Framework for Tackling Corruption

The Indian government has created an extensive and complex administrative machinery to joust with bureaucratic corruption. There are various bodies in place to implement anti-corruption policies and raise awareness of corruption issues. The two main institutions that are tasked with keeping corruption in check are the Central Vigilance Commission (CVC), and the Central Bureau of Investigation (CBI). The importance of the CBI and CVC cannot be overstated. These institutions are the backbone of India's anti-corruption framework, working tirelessly to detect, investigate, and prosecute corrupt practices among civil servants and other public officials. Their efforts are crucial for maintaining the integrity and credibility of the Indian administrative system, which in turn fosters public confidence and promotes good governance.

One of the landmark cases that reshaped the functioning of the CBI and CVC is *Vineet Narain v. Union of India*[30], popularly known as the Jain Hawala Case. The Supreme Court issued several directives to insulate the CBI from external influences and enhance the CVC's oversight capabilities. In the broader context, the judgment directed the Union government to give statutory status to the Central Vigilance Commission and entrust the watchdog to ensure that the CBI functions effectively and efficiently and is viewed as a non-partisan agency. The Union government was further directed to take steps to constitute an impartial agency comprising persons of unimpeachable integrity to perform functions akin to those of the Director of Prosecutions in the United Kingdom. The body was meant to be entrusted with the task of supervising prosecutions launched by the CBI. However, this was only the beginning of an arduous tug-of-war between the judiciary and the executive. Six years later, Section 6A of the Delhi Special Police Establishment Act, 1946, was introduced by the Union government to restore the prior approval requirement. Section 6A (1) stipulated that any investigation into charges against officials of the rank of joint secretary and above can begin only after its approval. The effect of the Single Directive was brought back, defeating the objectives

[30] Supra at note 1

of *Vineet Narain vs Union of India*[31]. In 2014, in *Subramanian Swamy vs Director, CBI*[32], the Court struck down this section too, holding that it violated the norm of equality by extending its protection only to a class of public servants and not everyone. This judgement has not yet been challenged by the Union government.

Central Bureau of Investigation (CBI)

The Central Bureau of Investigation (CBI) is the premier investigative agency in India, known for its expertise in handling complex and high-profile cases. The CBI was established in 1963 by a resolution of the Ministry of Home Affairs, drawing its origins from the Special Police Establishment (SPE) formed in 1941. The SPE was initially tasked with investigating bribery and corruption in the War & Supply Department during World War II. The said ordinance lapsed with the end of the war. In the year 1946, the Parliament enacted the Delhi Special Police Establishment Act 1946. The Act was intended to create a Special Police Establishment, a specialised agency, for making enquiries and investigations into certain specified offences. Section 5 of the Act provides that the Central Government can, with the concurrence of the State Governments, extend the jurisdiction of the SPE to all States. Special Police Act is envisaged as supplementary to the State police forces, enjoying great powers of investigation in cases notified under section 5 in respect of offences notified under section 3 of the DSPE Act, 1946, which can, of course, be exercised in a State only with, the consent of the Government of that State. The SPE may commence an investigation on its own initiative or it may be referred cases by a ministry. In cases made over to it, the SPE may either choose to commence a criminal prosecution in the courts or to pursue a departmental inquiry. The Central Bureau of Investigation, in its present form, came into being in 1963 through the resolution adopted by the Government of India pursuant to the recommendations of the Santhanam Committee. The Resolution formed The Central Bureau of Investigation, and the Special Police Establishment (S.P.E) was made one of its divisions. It did not change the jurisdiction, powers and function of the Establishment. The Resolution also specified the types of cases which would be investigated by the CBI, which, of course, continues to derive its legal powers for investigation from the aforesaid Act.

[31] Ibid
[32] Subramanian Swamy vs Director, CBI (2014) 8 SCC 682, 740

The transformation of the DSPE into the CBI marked a significant step in India's fight against corruption. The CBI's mandate was broadened to include a wide range of offences, such as economic crimes, serious crimes, and cases of corruption involving public officials. Over the years, the CBI has earned a reputation for its professionalism, integrity, and efficiency in investigating cases of national and international importance. Its jurisdiction extends across the entire country, subject to state consent, and it often works in collaboration with international agencies like Interpol to tackle transnational crimes. An analytical appraisal of the functioning of the CBI reveals that it has established itself as a premier investigating agency of the Central Government which creates awe and fear in the minds of corrupt officials and plays a vital role in the preservation of essentials for being the most potent agency for checking the corruption which is eating into the vitals of Indian democracy. Due to its meritorious work, it has been kept directly under the cabinet secretary and not the Ministry of Personnel since January 30, 2003.[33]

The Central Vigilance Commission (CVC)

The Central Vigilance Commission (CVC) is an independent watchdog agency established in 1964. The CVC has the power to undertake inquiries or investigations of transactions involving certain categories of public servants. It also has supervisory powers over the Central Bureau of Investigations. The CVC can investigate complaints against high-level public officials at the central level in cases where they are suspected of having committed an offence under the Prevention of Corruption Act. The CVC is mandated to investigate public sector corruption at the federal level and not at the state level. Two types of vigilance organisations at the department level exist (a) The Administrative Vigilance Division in the Ministry of Home Affairs and (b) the Vigilance Unit in the respective Ministries and Development and their counterparts in the public sector undertakings. The Administrative Vigilance Division was established in August 1955. It assumed the overall responsibility and provided the necessary drive, direction and coordination to ensure sustained and vigorous action by individual ministers and departments. The CVC is only an investigating agency and does not have power to formulate or make policy. The Ministry of Home Affairs deals with cases involving the All India Service personnel.

[33] Supra at Note 17

The Central Vigilance Commission was established in 1964 based on the recommendations of the Committee on Prevention of Corruption, chaired by K. Santhanam. The committee's report emphasised the need for an independent and autonomous body to oversee and coordinate vigilance activities across various government departments and public sector undertakings. In response to these recommendations, the CVC was created as an apex vigilance institution with the primary responsibility of ensuring the integrity and efficiency of public administration. Initially, the CVC operated through administrative orders, but its powers and functions were later formalised through the enactment of the Central Vigilance Commission Act of 2003. The CVC is tasked with supervising vigilance activities, advising the government on vigilance matters, and ensuring that corruption cases are investigated impartially and efficiently. It plays a crucial role in promoting ethical standards and transparency in public administration.

Section 8 of the Central Vigilance Commission Act lays out the powers and functions of the Central Vigilance Commission, which include exercising superintendence over the Delhi Special Police Establishment for the examination of offences under Prevention of Corruption Act, inquire or cause an investigation to be made on the recommendation of the Central Government for offences under Prevention of Corruption Act, review the progress of investigations conducted by the Delhi Special Police Establishment, etc. Central Vigilance Commission will have the same powers as a civil court to summon and enforce attendance, receive evidence on affidavits, etc. Section 12 clarifies that the proceedings before the Commission are deemed to be judicial proceedings.[34]

[34] Nithish Desai Associates, *An Overview View of Anti-Corruption Laws of India: A Legal, Regulatory, Tax and Strategic Perspective* (2016), https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/A_Comparative_View_of_Anti-Corruption_Laws_of_India.pdf

3.4. Conclusion

Corruption in any form is treated as an incurable disease and may be caused by social and economic evils in society. It damages the moral and ethical fibres of civilisation. Undisputedly, corruption breeds many evils in the society. Once the seed of corruption starts growing, it takes root slowly and gradually and cancerously. It passes through the whole nation and becomes a perilous disease. To fight against pervasive, institutionalised corruption is a daunting task, yet it is as necessary as breathing for the survival of a government, a state or a civilised society. This fight needs to be systematic, incremental and collective, guided by a national anticorruption strategy that institutes structural reforms to minimise the opportunities for corruption in institutions, establishes ethical codes of conduct and strategies that stigmatise corrupt behaviour and uses the power of punishment to effectively deter corrupt activities. Bureaucratic corruption in India takes on many forms. Indeed, part of the inefficiency of legal and administrative control stems from a failure to appreciate the significant differences in type and effect. But, in India, the issue rests upon value choices which the government has already made. Anti-corruption policy is well entrenched in the "modernisation ideals" of the country.

One of the most important and fundamental anti-corruption laws in India is the Prevention of Corruption Act of 1988 (43 of 1988). One major weakness of the PC Act of 1988 is that it does not distinguish between 'collusive' and 'coercive' corruption. Regarding the cases of collusive corruption, the Moily Committee[35], in its report on Ethics in Governance, observed:

"*Getting conviction in these cases is extremely difficult as both the bribe-giver and the bribe-taker collude and are beneficiaries of the transaction. The negative impact of collusive corruption is much more adverse, and the government and society, at large, are sufferers. The Commission is of the view that "collusive" corruption needs to be dealt with by effective legal measures so that both the bribe-giver and the bribe-taker do not escape punishment. Also, the punishment for collusive corruption should be made more stringent. In case of collusive corruption, the burden of proof should be shifted to the accused."*

[35] 2nd Administrative Reforms Commission, 4th Report of the Administrative Reforms Commission titled Ethics in Governance (2007)

Another problem related to the Prevention of Corruption Act of 1988 is that the Act does not define the term 'corruption'. It only lists offences such as bribery, criminal misconduct involving receiving gratification, misappropriation and the penalties for such offences from Sections 7 to 15. However, the experience of the past two decades shows that such an indirect definition of corrupt practices under the Prevention of Corruption Act of 1988 is paradoxically restrictive, and a whole range of official conduct detrimental to the public interest is not covered by strong penal provisions.[36]

Strengthening whistle-blower protection is another area that requires attention. Encouraging the reporting of corrupt practices without fear of retaliation is essential for effective enforcement of the conduct rules. The Whistle Blowers Protection Act of 2014 provides a framework for protecting whistleblowers, but its implementation has been inconsistent. Ensuring robust protections for whistleblowers and addressing their concerns promptly is critical for fostering a culture of accountability and transparency.

The establishment of the CBI and CVC marked a paradigm shift in India's approach to combating corruption. These institutions serve as watchdogs, ensuring that public officials adhere to the highest standards of integrity and accountability. By investigating and prosecuting cases of corruption, they deter potential offenders and promote a culture of transparency and ethical conduct.

The CBI's role is particularly significant in handling high-profile and complex cases that require specialized investigative expertise. Its ability to operate across state boundaries, subject to state consent, and its collaboration with international agencies enable it to address a wide range of corruption-related offenses effectively. The CBI's investigative prowess is complemented by its prosecutorial functions, ensuring that corrupt officials are held accountable through the judicial system.

The CVC, on the other hand, focuses on preventive vigilance and systemic improvements in public administration. By overseeing and guiding the vigilance activities of government departments and public sector undertakings, the CVC ensures that anti-corruption measures are implemented effectively. Its advisory role helps shape policies and practices that minimize opportunities for corruption, thereby enhancing the overall integrity of the public sector.

[36] Shiladitya Chakraborty, *Designing an Anti-Corruption Strategy for Contemporary Indian Administration*, 12 Int'l Pub. Mgmt. Rev. 106 (2011).

The judiciary has played a pivotal role in strengthening the CBI and CVC. Landmark judgments, such as the *Vineet Narain v. Union of India*[37] case, have underscored the need for the autonomy and accountability of these institutions. The Supreme Court's directives in this case emphasized the importance of insulating the CBI from political and bureaucratic pressures, thereby ensuring its independent functioning. The court also empowered the CVC to supervise the CBI's investigations, reinforcing the collaborative framework between these two institutions.

Subsequent reforms and legislative measures have further bolstered the CBI and CVC. The amendments to the Prevention of Corruption Act, 1988, introduced in 2018, have enhanced the legal framework for addressing corruption. These amendments include stringent penalties for corruption and streamlined investigation processes, aligning India's anti-corruption laws with international standards.

Within the legal system, there is room for improvement. Laws and conduct rules can be unified, harmonised, and extended to include acts of quasi-corruption and pre-corruption. The enforcement organisation and procedures can be streamlined and greater emphasis could be placed on the courts.

[37] Supra at note 1

CHAPTER IV

ROLE OF THE JUDICIARY IN PREVENTING CORRUPTION AMONG CIVIL SERVANTS

4.1 Introduction

Corruption, defined as the abuse of entrusted power for private gain, remains a formidable challenge in India, permeating various levels of society and governance. It manifests in multiple forms, from petty bribery and favouritism to grand corruption involving high-ranking officials and large sums of money. The civil service, often regarded as the backbone of public administration, is particularly susceptible to corruption due to its extensive reach and the significant discretionary powers vested in civil servants. This issue undermines public trust, hampers economic development, and distorts the effective delivery of services. Amidst this pervasive challenge, the Indian judiciary stands as a critical bulwark, playing a pivotal role in preventing and addressing corruption among civil servants. A civil servant is answerable for his misconduct, which constitutes an offence against the state of which he is a servant, and is also liable to be prosecuted for violating the law of the land. Apart from various offences dealt with in the Indian Penal Code, sections 161 to 165 thereof, a civil servant is also liable to be prosecuted under section 5 of the Prevention of Corruption Act, 1947 (which is promulgated specially to deal with the acts of corruption by public servants). A government servant is not only liable to a departmental enquiry but also to prosecution. If prosecuted in a criminal court, he is liable to be punished by way of imprisonment or fine or both. However, in a departmental enquiry, the highest penalty that could be imposed is dismissal. Therefore, when a civil servant is guilty of misconduct which also amounts to an offence under the penal law of the land, the competent authority may either prosecute him in a court of law or subject him to a departmental enquiry or subject him to both simultaneously or successively. A civil servant has no right to say that because his conduct constitutes an offence, he should be prosecuted; nor to say that he should be dealt with in a departmental enquiry alone.[38]

[38] Venkataraman v. State, AIR 1954 SC 375; State of U.P. v. Harischandra, AIR 1969 SC 1020 at 1023; Bhagat Singh v. State of Punjab, AIR 1960 SC 1210.

This chapter aims to provide a comprehensive analysis of the judiciary's role in combating corruption within the Indian civil service. The judiciary, through its interpretative, supervisory, and enforcement functions, ensures that civil servants adhere to constitutional values and principles of good governance. By exploring the judiciary's proactive measures, landmark judgments, and the legal frameworks it upholds, this chapter will highlight how judicial interventions contribute to curbing corrupt practices.

The civil service is the primary interface between the government and the public. It is responsible for implementing policies, delivering public services, and maintaining law and order. Corruption within this crucial sector can have far-reaching consequences. It not only erodes the efficiency and effectiveness of governance but also leads to the misallocation of resources, increased inequality, and a loss of public trust in governmental institutions. Addressing corruption within the civil service is, therefore, essential for fostering economic growth, ensuring social justice, and maintaining the rule of law.

The Indian judiciary's role in this context is multifaceted. It involves interpreting and enforcing laws, safeguarding fundamental rights, and holding public officials accountable. Through its decisions and directives, the judiciary shapes the ethical and legal standards that govern the conduct of civil servants. This paper will examine the various dimensions of the judiciary's involvement in preventing corruption and promoting accountability within the civil service.

Civil servants in India enjoy certain immunities that can complicate efforts to prosecute them for corruption. Under Article 311 of the Indian Constitution, civil servants are afforded protection against arbitrary dismissal, removal, or reduction in rank. This provision ensures that civil servants cannot be dismissed from service without a proper inquiry and allows them to present their defence. While this protection is designed to shield honest officials from undue political pressure, it can also be exploited by corrupt officials to evade accountability.

Additionally, the Prevention of Corruption Act of 1988, which is the primary legislation for addressing corruption among public servants, requires prior sanction from the appropriate authority before prosecuting a civil servant. This requirement, intended to prevent frivolous and vexatious prosecutions, often becomes a significant hurdle in

initiating legal action against corrupt officials. The necessity of obtaining prior sanction has been criticised for causing delays and providing a shield to corrupt officials, thereby undermining anti-corruption efforts. It is the desire for transparency and objectivity in the civil services that saw the issue of the Single Directive by the Union government, which required government permission for the investigating agency to initiate a preliminary inquiry against an official at the level of joint secretary and above. However well-meaning this directive was, it did result in certain licentious conduct by a few in the higher bureaucracy. The Indian judiciary has played a crucial role in overcoming these immunities and ensuring that corrupt civil servants are held accountable. Through landmark judgments and innovative interpretations of the law, the judiciary has sought to balance the need for protecting honest officials with the imperative of addressing corruption effectively. The directive was struck down by the Supreme Court of India in the Hawala case[39] as unconstitutional. However, from a purely executive order, it became law through an appropriate provision, both in the Central Vigilance Commission Act, 2003 and the Delhi Special Police Establishment (DSPE) Act, 1946, from which, incidentally, the CBI derives its powers to investigate. In 2014, on a challenge by Subramanian Swamy[40] and the Centre for Public Interest Litigation[41], the Supreme Court struck down the Single Directive as embodied in Section 6A of the DSPE Act as discriminatory and violative of the constitutional principle of equality before the law. Any fresh attempt to give life to the Single Directive through legal subterfuge under pressure from the senior bureaucracy will only send the wrong signal to those pursuing graft at the very top in government. In a large number of States, known for high levels of corruption, the anti-corruption directorates still require government permission to proceed even on a preliminary inquiry against a senior officer. This mandatory provision protects and preserves the unholy nexus between a dishonest minister and the secretary to the department the former presides over. Courts have come down on this rather heavily. After repeated expressions of displeasure by the Supreme Court on the matter, the Union government proposed an amendment to the PCA, making a decision mandatory within three months of a request for sanction.[42]

[39] Supra at note 1
[40] Supra at note 32
[41] Union of India vs Centre for Public Interest Litigation (2012) 3 SCC 117
[42] R.K. Raghavan, *Corruption in Civil Services: The Stained Steel Frame*, THE HINDU (Jan. 28, 2016), https://www.thehindu.com/opinion/lead/The-stained-steel-frame/article14023107.ece.

The importance of addressing corruption in the civil service cannot be overstated. Corruption within this sector can lead to inefficiencies, misallocation of resources, and a loss of public trust. It can hinder economic development, perpetuate social inequalities, and undermine the rule of law. The judiciary's role in combating corruption is therefore critical. By interpreting and enforcing laws, overcoming procedural hurdles, and promoting transparency and accountability, the judiciary acts as a formidable check against corruption. The proactive measures, landmark judgments, and commitment to upholding ethical standards demonstrate the judiciary's critical role in fostering a corruption-free civil service. The landscape of judicial oversight in the fight against corruption is continually evolving. With each landmark case and significant ruling, the judiciary not only addresses immediate issues but also sets precedents that shape future governance. The judiciary's role in overseeing the implementation of anti-corruption laws extends beyond mere interpretation. It involves active engagement in ensuring that these laws are effectively operationalised within the administrative framework.

4.2.Judicial Review and Interpretation of Anti-Corruption Laws

Judicial review is a cornerstone of the judiciary's role in combating corruption. It allows courts to scrutinise the actions and decisions of the executive and legislative branches, ensuring that they conform to constitutional principles and legal norms. Through judicial review, the judiciary can invalidate actions that are arbitrary, unconstitutional, or tainted by corruption. This mechanism acts as a deterrent against malfeasance by civil servants and ensures that public power is exercised in a lawful and accountable manner.

The judiciary's interventions in high-profile corruption cases have set important precedents for future conduct. The trials revolving around the Single Directive are the most prominent example of judicial review and judicial activism regarding corruption in the civil services. The 'Single Directive' was issued by the government with the principal objective to safeguard public servants against the risk or discomfiture of malicious and vexatious investigations if hurled on them. Often, the public servants who are responsible for making decisions might get concerned about the probability of getting harassed by influential people for making the right decisions. This can adversely affect the efficacy and effectiveness of these officers, thus keeping them from reaching

any conclusion. As a result, in order to protect these officials from any malignant interrogation, a 'Single Directive' was issued. It is also imperative to take note of the fact that these directives were issued only for the official acts of the government functionaries and not for the non-official acts. The Government, through executive resolution, first issued the 'Single Directive' in 1969. It specified that, as a preliminary requirement before initiating any investigation against officers of the government, the public sector undertakings and the nationalised banks above a certain level prior to sanctioning the designated authority to take action against them are the foremost conditions. Since the principal investigating institution to inquire against alleged public servants is the Central Bureau of Investigation (CBI), the Single Directive was a consolidated set of instructions issued to the CBI by the various Ministers/Departments on this behalf. It contained clear and fundamental instructions to the CBI concerning modalities of initiating an inquiry or registering a case against certain categories of civil servants.

Accordingly, the CBI could not take up any inquiry, investigate or register a case or conduct a search or make an arrest in respect of the said decision-making level public servants without the previous consent or permission of the concerned authorities. In common parlance, the CBI, in order to even conduct a preliminary inquiry into allegations of corruption against officers in all civil services of the rank/grade of joint secretary and above, was directed to get prior approval from the government as a mandate. Though the 'Single Directive' appeared formally on paper in 1969, it was subsequently amended on many occasions. However, in 1988, when a fresh set was issued following the Bofors scandal, it became highly controversial because it commanded 'prior consultation' and 'government concurrence' for the CBI to probe into corruption matters. Consequently, though in the beginning the directive was enacted by the government with the affirmative and straight mindset to protect public servants from false allegations, this provision ultimately became a baton of delay in the hands of political functionaries and public servants to escape the crutches of justice delivery system by adjourning the process of prosecution. Hereafter, it followed continuous abuse and misapplication at the hands of manipulators.

However, taking into consideration the timeline of events, the Hon'ble Supreme Court took nearly a decade to strike it down as unconstitutional in the case of *Vineet Narain*

& Ors. v. Union of India[43]. The judiciary has also addressed the issue of delays in granting sanctions for the prosecution of corrupt officials in this case. The Supreme Court set a time limit of three months for granting sanctions for prosecution under the PCA. The Court held that if the sanctioning authority fails to take a decision within three months, it would be deemed that the sanction has been granted. This judgment significantly reduced the scope for political interference in corruption cases and ensured that investigations could proceed without undue delay. However, due to the overpowering characteristics of the 'Single Directive', the government couldn't do without it for long. Therefore, a few years later, in 2003, the Government, with stronger backup, reinstated it again. This time, it materialised in the statutory form when the Central Vigilance Commission (CVC) Act of 2003 was promulgated. The provisions were formally witnessed when Section 26C was introduced in the CVC Act, and Section 6A was introduced by way of amending the Delhi Special Police Establishment Act, 1946. CBI owes its legal status and power to investigate to Delhi Special Police Establishment Act of 1946. It provided that the Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (PCA), except with the previous approval of the Central Government. As a result of this enactment, the single directive acquired a statutory form.

Immediately, one year later, in 2004, it was straightaway challenged in the case of *Dr Subramanian Swamy v. Director, CBI*,[44] on the grounds of its lawfulness. The Hon'ble Supreme Court again took another decade to strike it down as unconstitutional. In 2014, the apex court, while reaching its conclusion in the said case, used the very same contentions that appeared in the Hawala judgment. Among other things, the Hon'ble Supreme Court observed that the single directive 'neither eliminates public mischief nor achieves some positive public good; however, it advances public mischief and protects the crime doer. Therefore, this provision thwarts an independent, unhampered, unbiased, efficient and fearless inquiry/investigation to track down the corrupt public officials.' In 2018, taking note of its profound importance in spite of repeated struck downs by the judiciary, it has resurfaced again. This time, it is brought to record by

[43] Supra at note 1
[44] Supra at note 32

amending the country's historic 30-year-old anti-corruption law, namely the Prevention of Corruption Act, 1988, by inserting a new provision in the form of Section 17A.

Moreover, the judiciary has been instrumental in addressing the issue of disproportionate assets, often a tell-tale sign of corruption among civil servants. In cases like *Neeraj Dutta vs State (Govt. Of N.C.T. Of Delhi)*[45], the courts have upheld the principle that the possession of assets disproportionate to known sources of income can be grounds for conviction under the PCA. This interpretation has provided a powerful tool for anti-corruption agencies to prosecute corrupt officials who may otherwise have hidden behind the complexity of financial transactions. The courts have consistently held that once the prosecution establishes that a public servant possesses assets disproportionate to their known sources of income, the burden of proving the legitimate source of such assets shifts to the accused. This approach recognises the practical difficulties in proving corruption through direct evidence and allows for conviction based on circumstantial evidence, significantly strengthening the hands of anti-corruption agencies.

Additionally, the judiciary has played a critical role in interpreting the provisions of the Lokpal and Lokayuktas Act, 2013. This Act, which established anti-corruption ombudsmen, was a significant step towards institutionalizing anti-corruption mechanisms in India. Judicial interpretations of this Act have clarified the powers and functions of the Lokpal and Lokayuktas, ensuring that these bodies can operate effectively and independently. For example, courts have ruled on the procedural aspects of investigations conducted by the Lokpal, ensuring that they are fair and transparent and uphold due process. The judiciary's interpretations have also addressed the interplay between the PCA and other legal frameworks, such as the Prevention of Money Laundering Act (PMLA) and the Right to Information (RTI) Act. By harmonising these laws, the judiciary has reinforced a holistic approach to tackling corruption. For instance, judicial rulings have facilitated the use of information obtained through RTI requests in corruption investigations, thereby enhancing transparency and accountability.

The judiciary's role extends beyond mere interpretation of laws. It has actively promoted transparency and accountability in governance through various measures.

[45] Neeraj Dutta vs State (Govt. Of N.C.T. Of Delhi) (2021) 17 SCC 624, 625

One such measure is the judiciary's support and interpretation of the Right to Information Act of 2005. This Act, which empowers citizens to seek information from public authorities, has been a game-changer in the fight against corruption. In numerous judgments, the courts have upheld the citizens' right to information and have directed public authorities to disclose information, thereby promoting transparency and making it harder for corrupt practices to remain hidden. The judgements not only strengthened the RTI Act but also sent a clear message that transparency is non-negotiable in public administration. The Court held that the right to information is a facet of the fundamental right to freedom of speech and expression under Article 19(1) (a) of the Constitution, thereby giving it the highest constitutional protection. The judiciary has also been proactive in addressing the issue of black money and its link to corruption. In *Ram Jethmalani v. Union of India*[46], the Supreme Court constituted a Special Investigation Team (SIT) to probe the issue of black money stashed in foreign banks. This intervention highlighted the judiciary's willingness to take on complex issues of financial corruption that often involve high-ranking officials and politicians. The Court directed the government to disclose the names of individuals who had accounts in foreign banks and were suspected of tax evasion and money laundering. This judgment was significant not only for its immediate impact on the investigation of black money but also for emphasising the judiciary's role in addressing large-scale economic offences that often have links to corruption in high places. The Court held that the right to information about black money holders is part of the right to life under Article 21 of the Constitution, as it affects the economic health of the nation.

Public Interest Litigation (PIL) has emerged as a powerful tool for addressing corruption. Through PILs, the judiciary has enabled citizens and civil society organisations to bring issues of public concern, including corruption, before the courts. This mechanism democratises access to justice and empowers the public to hold the government accountable. Another significant contribution of the judiciary has been in the realm of public interest litigation (PIL). This innovative judicial tool, developed by the Indian courts in the 1980s, has allowed citizens and civil society organisations to bring matters of public importance, including issues of corruption, directly before the courts. Through PILs, the judiciary has been able to address systemic issues of corruption that may have otherwise gone unchallenged. The PIL mechanism has been

[46] Ram Jethmalani v. Union of India (2011) 8 SCC 1, 38

particularly effective in cases involving high-level corruption or where traditional legal remedies have proven inadequate. A notable example is the 2G spectrum case[47], which came to light through a PIL filed by the Centre for Public Interest Litigation.

Another one of the most challenging aspects of combating corruption in the civil service is the issue of procedural safeguards that sometimes inadvertently protect corrupt officials. Article 311 of the Constitution, which provides certain protections to civil servants against arbitrary dismissal or reduction in rank, has sometimes been misused to shield corrupt officials. The judiciary has had to strike a delicate balance between protecting the rights of honest civil servants and ensuring that these protections do not become a shield for the corrupt. In cases like *Union of India v. Tulsiram Patel*[48], the Supreme Court has clarified the scope of Article 311 and held that in cases of corruption, the safeguards under this article can be dispensed with if it is not reasonably practicable to hold an inquiry. This interpretation has made it easier for the government to take action against corrupt officials without getting entangled in protracted legal proceedings. The Court held that in cases where the conduct of a civil servant poses a threat to national security or integrity, the protection under Article 311 can be bypassed. This judgment provided a crucial tool for the government to swiftly remove corrupt officials from sensitive positions.

4.3. Promoting Ethical Conduct and Protecting Whistleblowers

The judiciary plays a significant role in promoting ethical conduct among civil servants. Through its judgments, it emphasises the importance of integrity, honesty, and transparency in public administration. The judiciary sets a clear benchmark for acceptable conduct in the civil service by upholding strict ethical standards and penalising corrupt behaviour. The judiciary's role in preventing corruption among civil servants is not limited to punitive measures. It has also emphasised the importance of preventive measures and ethical governance. In various judgments, the courts have stressed the need for ethics training for civil servants, the implementation of codes of conduct, and the promotion of a culture of integrity in public service. The judiciary also plays a crucial role in developing and enforcing codes of conduct for civil servants. By

[47] Supra at note 41
[48] Union of India v. Tulsiram Patel (1985) 3 SCC 398, 527

upholding disciplinary actions against officials who breach ethical norms, the judiciary ensures that there are tangible consequences for unethical behaviour. This enforcement acts as a deterrent, dissuading other officials from engaging in similar misconduct. The judiciary's role in this regard is not merely punitive but also educative, as it continually reaffirms the ethical framework within which civil servants must operate.

Furthermore, the judiciary has been instrumental in protecting whistleblowers who expose corruption. Whistleblowers play a crucial role in uncovering corrupt practices and holding officials accountable. Judicial interventions, such as directives to create mechanisms for whistleblower protection, ensure that these individuals can report corruption without fear of retaliation. The protection of whistleblowers is another area in which the judiciary has made significant contributions. Recognising the crucial role that whistleblowers play in exposing corruption, the courts have time and again emphasised the need to protect those who come forward with information about corrupt practices. In the absence of comprehensive whistleblower protection legislation, the judiciary has stepped in to provide protection through its judgments. The judiciary's interventions have been instrumental in safeguarding these individuals, thereby encouraging more people to come forward with information about corrupt activities. In the case of the *Indirect Tax Practitioners Association v. R.K. Jain*[49], the Supreme Court laid down guidelines for the protection of whistleblowers and emphasised the importance of encouraging individuals to expose corruption without fear of reprisal. The Court held that whistleblowers perform a public duty and should be protected from victimisation. It directed the Central and State governments to put in place mechanisms for protecting whistleblowers and ensuring that their complaints are properly investigated. Courts have recommended the establishment of dedicated units within governmental and public institutions to handle whistleblower complaints promptly and effectively. These units are tasked with investigating allegations of corruption and ensuring that whistleblowers receive adequate protection throughout the process. Courts have mandated that allegations brought forward by whistleblowers must be thoroughly investigated by competent authorities. This judicial oversight ensures that whistleblower reports are taken seriously and that appropriate actions are taken against

[49] Indirect Tax Practitioners Association v. R.K. Jain (2010) 8 SCC 281, 311-312

corrupt officials. This not only validates the efforts of whistleblowers but also enhances public trust in the anti-corruption framework.

By advocating for such mechanisms, the judiciary ensures that whistleblower protection is not merely theoretical but practical and effective. This proactive stance of the judiciary has been crucial in creating an environment where corruption can be reported and addressed. In *Ashok Kumar Aggarwal v. Union of India*[50], an IRS officer who exposed large-scale corruption within the Income Tax Department faced severe backlash and threats, and he approached the judiciary for protection. The Supreme Court intervened, providing legal protection to the officer and directing the government to ensure that whistleblowers are not victimised for their actions. These interventions reinforce the judiciary's commitment to protecting those who risk their careers and personal safety to expose corruption. Furthermore, the judiciary has highlighted the importance of public awareness and education regarding whistleblower protections. By promoting awareness, the judiciary ensures that potential whistleblowers are informed about their rights and the protections available to them. This knowledge empowers individuals to report corruption without fear, thereby enhancing the overall effectiveness of anti-corruption measures.

The judiciary has also played a significant role in addressing the issue of bureaucratic transfers and postings, which are often manipulated for corrupt purposes. In *T.S.R. Subramanian v. Union of India*[51], the Supreme Court issued directives to insulate the bureaucracy from political pressure and to ensure that transfers and postings are based on merit and public interest rather than extraneous considerations. The Court directed the Centre and State governments to set up Civil Services Boards to manage transfers, postings, and disciplinary action for civil servants. It also mandated fixed tenures for bureaucrats to prevent arbitrary transfers. This judgment was a significant step towards creating a more professional and less corrupt civil service by reducing political interference in administrative matters. The Court emphasised that civil servants should be loyal to the Constitution and not to any political party, underscoring the need for an impartial and efficient bureaucracy.

[50] Ashok Kumar Aggarwal v. Union of India (2021) 284 DLT 5 (DB)
[51] Supra at note 14

The role of the judiciary in preventing corruption extends to ensuring the integrity of the anti-corruption institutions themselves. The courts have consistently emphasised the need for independence and impartiality of bodies like the CBI, CVC, and Lokpal. In a series of judgments, the Supreme Court has laid down guidelines for the appointment of officials to these bodies and for ensuring their functional autonomy. In the case of *Vineet Narain v. Union of India*[52], the Court directed that the CVC should be given statutory status and that the Central Vigilance Commissioner should be appointed by a committee comprising the Prime Minister, the Home Minister, and the Leader of the Opposition. These directives were later incorporated into the Central Vigilance Commission Act of 2003, demonstrating the judiciary's role in shaping anti-corruption legislation.

4.4. Enforcing Disciplinary Measures

The judiciary also oversees the enforcement of disciplinary measures against civil servants accused of corruption. The judiciary ensures that disciplinary actions against corrupt officials are not only initiated but also carried out effectively and justly. This enforcement serves as both a deterrent to potential wrongdoers and a mechanism for upholding the integrity of public administration. By reviewing and validating disciplinary actions taken by administrative bodies, courts ensure that such actions are fair, just, and in accordance with the law. This judicial oversight prevents the abuse of power and ensures that corrupt officials are held accountable. Courts have elucidated the procedural components of disciplinary hearings via a series of decisions, guaranteeing their impartiality, openness, and conformity to natural justice.

In addition to enforcing disciplinary measures, the judiciary has advocated for systemic reforms to enhance the efficacy of disciplinary mechanisms. Courts have recommended improvements in the investigation processes, better training for disciplinary authorities, and the establishment of more robust internal controls to prevent corruption. These recommendations have often led to significant changes in the way disciplinary actions are handled, contributing to a more transparent and accountable public administration. The judiciary's role in enforcing disciplinary measures is not limited to punitive actions. It also involves ensuring that due process is followed and that the rights of the accused

[52] Supra at note 1

are protected. This balance between enforcement and fairness is crucial in maintaining the credibility and legitimacy of the disciplinary process. By ensuring that disciplinary actions are conducted in accordance with the law and principles of justice, the judiciary helps in creating an environment where ethical conduct is the norm and corruption is not tolerated. In landmark cases like *Union of India v. K.V. Jankiraman*[53], the Supreme Court emphasised the importance of timely disciplinary proceedings. The Court held that delays in initiating and completing disciplinary actions not only affect the morale of the public service but also compromise the principles of fairness and justice. This ruling has led to a more streamlined approach to handling disciplinary cases, ensuring that corrupt officials are dealt with swiftly and decisively. Recognising the need for swift justice in corruption cases, the judiciary has also advocated for the establishment of fast-track courts. These courts are designed to expedite the trial process, reducing delays and ensuring timely justice. The effectiveness of fast-track courts in handling corruption cases underscores the judiciary's commitment to combating corruption efficiently.

Furthermore, the judiciary has been instrumental in reinforcing the accountability of disciplinary authorities. In cases where disciplinary authorities have failed to act or have acted improperly, the courts have not hesitated to step in and rectify the situation. This judicial oversight ensures that disciplinary measures are enforced consistently and effectively across the public service, preventing any undue influence or bias in the process. Judicial pronouncements have also underscored the importance of maintaining a clean and efficient public administration. By upholding disciplinary measures against corrupt officials, the judiciary reinforces the principle that public office is a public trust, and any breach of this trust must be dealt with firmly. This approach not only helps in rooting out corruption but also in restoring public confidence in the integrity of the civil service. In addition to enforcing disciplinary measures, the judiciary has advocated for systemic reforms to enhance the efficacy of disciplinary mechanisms. Courts have recommended improvements in the investigation processes, better training for disciplinary authorities, and the establishment of more robust internal controls to prevent corruption. These recommendations have often led to significant changes in the way disciplinary actions are handled, contributing to a more transparent and accountable public administration. The judiciary's role in enforcing disciplinary

[53] Union of India v. K.V. Jankiraman (1991) 4 SCC 109, 128-129

measures is not limited to punitive actions. It also involves ensuring that due process is followed and that the rights of the accused are protected. This balance between enforcement and fairness is crucial in maintaining the credibility and legitimacy of the disciplinary process. By ensuring that disciplinary actions are conducted in accordance with the law and principles of justice, the judiciary helps in creating an environment where ethical conduct is the norm and corruption is not tolerated.

4.5. The Role of Technology and Innovation

In the digital age, technology presents both challenges and opportunities in the fight against corruption. On one hand, digital platforms can enhance transparency and reduce opportunities for corrupt practices by minimising direct interactions between citizens and bureaucrats. On the other hand, technology can also be exploited for corrupt activities, such as cybercrime and money laundering. The integration of technology and innovation into the judiciary's anti-corruption efforts has revolutionised the way corruption is identified, monitored, and prosecuted among civil servants in India. Technology has enabled more efficient, transparent, and accountable processes, reducing opportunities for corrupt practices and enhancing the judiciary's capacity to enforce anti-corruption laws.

One significant advancement is the digitisation of court records and legal processes. The implementation of e-courts has streamlined case management, making it easier to track and process corruption cases involving civil servants. Digital records reduce the risk of tampering and loss of evidence, ensuring that all documentation is accurate and easily accessible. This transparency fosters greater accountability and trust in the judicial process, as stakeholders can monitor the progress of cases in real time. The use of technology has also enhanced the judiciary's ability to handle complex financial transactions and forensic evidence. Advanced data analytics and forensic accounting tools enable the courts to scrutinise financial records meticulously, uncovering hidden assets and transactions that might indicate corrupt practices. These tools are crucial in high-profile corruption cases where significant financial resources are involved. By leveraging technology, the judiciary can build stronger cases based on concrete evidence, increasing the likelihood of successful prosecutions. Furthermore, technology has facilitated better coordination between various agencies involved in anti-corruption efforts. Integrated platforms allow for seamless communication and

information sharing among the judiciary, law enforcement agencies, and anti-corruption bodies like the Central Vigilance Commission (CVC) and the Central Bureau of Investigation (CBI). This inter-agency collaboration is vital for gathering comprehensive evidence, tracking the movement of illicit funds, and ensuring that all aspects of a corruption case are thoroughly investigated.

The judiciary has also endorsed the use of digital platforms for public grievances and whistleblowing. Online portals and mobile applications have made it easier for citizens to report instances of corruption anonymously and securely. These platforms ensure that whistleblower complaints are documented and tracked, reducing the risk of retaliation and increasing the likelihood of action being taken. The judiciary's support for these technological innovations has empowered citizens to actively participate in the fight against corruption, creating a more transparent and accountable governance framework. Blockchain technology is another innovative tool that holds significant potential for anti-corruption efforts. Its immutable and transparent ledger system can be used to track transactions and ensure that public funds are used appropriately. Moreover, artificial intelligence (AI) and machine learning (ML) are being increasingly utilised to detect patterns and anomalies indicative of corrupt behaviour. These technologies can analyse vast amounts of data to identify suspicious activities that may not be immediately apparent through traditional methods.

The role of technology and innovation in the judiciary's efforts to combat corruption among civil servants in India cannot be overstated. Through the adoption of digital records, advanced data analytics, inter-agency coordination platforms, surveillance technologies, and blockchain, the judiciary has enhanced its capacity to detect, monitor, and prosecute corruption effectively. By supporting technological advancements and administrative reforms, the judiciary not only curtails opportunities for corrupt practices but also fosters a culture of transparency and accountability in public administration. This holistic approach, combining legal rigour with technological innovation, is essential for building a corruption-free governance framework in India.

4.6. Notable Cases of Corrupt Civil Servants

Numerous cases involving corrupt civil servants highlight the pervasive nature of corruption in Indian bureaucracy and underscore the judiciary's role in addressing this

challenge. These cases illustrate the various ways in which civil servants have exploited their positions for personal gain and the judiciary's efforts to bring them to justice. By ensuring that corrupt officials are prosecuted and penalised, the judiciary upholds the principles of justice and accountability, deterring others from engaging in similar misconduct.

1. **S. Malaichamy**[54]: A former Indian Administrative Service officer, S. Malaichamy, was convicted for amassing disproportionate assets worth several crores. The judiciary's intervention ensured that Malaichamy faced severe penalties for his corrupt activities, setting a precedent for similar cases.

2. **R.K. Jain**: An IRS officer, R.K. Jain, was caught in a sting operation accepting bribes. The judiciary's role in his prosecution underscored the necessity of stringent legal measures to deter corruption in revenue services.

3. **Basheer Ahmed Khan**: Another IAS officer, Basheer Ahmed Khan, was found guilty of disproportionate assets. The judiciary's involvement ensured that he was held accountable, reinforcing the principle that no public servant is above the law.

4. **Shashi Karnawat**: An IAS officer involved in financial irregularities, Shashi Karnawat faced judicial scrutiny for her corrupt practices. The judiciary's intervention demonstrated its commitment to upholding ethical standards in public service.

5. **Nithish Janardhan Thakur**: As a senior bureaucrat, Nithish Janardhan Thakur was involved in multiple corruption cases. The judiciary's decisive actions in prosecuting him served as a warning to other officials engaged in similar activities.

6. **Arvind Joshi and Tinoo Joshi**: This IAS couple amassed wealth far beyond their known sources of income. The judiciary's thorough investigation and subsequent prosecution highlighted the effectiveness of legal mechanisms in tackling high-level corruption.

[54] C.B.I. vs. S. Malaichamy CC No.18/11. In the Court of Special Judge (PC Act) 01, CBI, Saket Courts, New Delhi

7. **Nira Yadav**[55]: An IAS officer, Nira Yadav, was convicted for her role in a land allotment scam. The judiciary's handling of the case underscored its role in ensuring that public resources are used responsibly and ethically.

8. **T.O. Suraj**[56]: A senior bureaucrat, T.O. Suraj, faced charges for disproportionate assets. The judiciary's intervention ensured that he was held accountable, reinforcing the deterrence effect of legal penalties.

9. **Subhash Ahluwalia**[57]: An IAS officer, Subhash Ahluwalia, faced charges for his involvement in financial irregularities. The judiciary's role in his prosecution highlighted the importance of maintaining ethical standards in financial management.

4.7. Challenges and Future Directions

The judiciary's role in preventing corruption among civil servants is not without challenges. One of the primary challenges is the backlog of cases in Indian courts, which often leads to delays in the adjudication of corruption cases. This delay undermines the deterrent effect of judicial action against corrupt officials and erodes public confidence in the judicial system's ability to deliver timely justice. Prolonged legal battles also allow corrupt officials to exploit legal loopholes and continue their illicit activities, further entrenching corruption within the bureaucracy.

Limited resources and infrastructure are another significant challenge. The judiciary often operates under constraints such as inadequate staffing, outdated technology, and insufficient funding. These limitations hamper the judiciary's ability to efficiently process and adjudicate corruption cases. For instance, the lack of advanced forensic laboratories and trained personnel to handle complex financial investigations can delay proceedings and weaken the prosecution's case. Enhancing the judiciary's resources and infrastructure is crucial to improving its capacity to handle corruption cases effectively.

External interference poses a considerable obstacle to the judiciary's independence and impartiality. In several instances, attempts to influence judicial decisions have been

[55] Neera Yadav vs. CBI (2017) 8 SCC 757
[56] T. O. Sooraj v. State of Kerala 2021 SCC OnLine Ker 2896
[57] Subhash Ahluwalia v. State of H.P. 2010 SCC OnLine HP 545

reported, especially in high-profile corruption cases involving powerful figures. Such interference undermines the rule of law and compromises the judiciary's role as an impartial arbiter of justice. Ensuring the judiciary's independence from political pressures is vital to maintaining its credibility and effectiveness in combating corruption.

Another challenge is the complexity of modern forms of corruption, which often involve sophisticated financial transactions and cross-border elements. The judiciary has also had to grapple with the issue of judicial corruption. While this is not directly related to corruption among civil servants, it is crucial for maintaining the credibility of the judiciary in its fight against corruption. Addressing these challenges requires a multifaceted approach, including judicial reforms, capacity building, and ensuring the independence of the judiciary.

Despite these challenges, there are promising future directions that can enhance the judiciary's role in preventing corruption among civil servants. One significant avenue is the greater use of technology. Future directions for the judiciary in combating corruption may involve greater use of technology, such as artificial intelligence and data analytics, to detect and prevent corrupt practices. Additionally, strengthening international cooperation can help address cross-border corruption and money laundering. The judiciary's ongoing commitment to upholding the rule of law and promoting accountability will be crucial in sustaining the fight against corruption. Judicial reforms aimed at expediting the legal process are imperative. Introducing measures such as fast-track courts for corruption cases, simplifying procedural requirements, and leveraging technology for virtual hearings can reduce delays and improve the efficiency of the judicial process. Additionally, continuous training and capacity building for judges and judicial staff on handling corruption cases, forensic evidence, and financial crimes can enhance their competence and effectiveness.

The judiciary must adapt to these evolving challenges by fostering collaboration with law enforcement agencies and technical experts. By developing robust mechanisms for detecting and addressing cyber-enabled corruption, the judiciary can enhance its effectiveness in combating modern forms of corruption.

4.8. Conclusion

The judiciary's role in preventing corruption among civil servants in India is multifaceted and evolving. By interpreting and enforcing anti-corruption laws, promoting transparency, ensuring accountability, and collaborating with other institutions, the judiciary plays a pivotal role in upholding the principles of good governance. Despite facing significant challenges, its proactive stance and commitment to justice have significantly contributed to curbing corruption and fostering a culture of integrity in the civil service.

The judiciary has been instrumental in defining and reinforcing the boundaries of acceptable conduct for civil servants through its interpretation of key legislation such as the Prevention of Corruption Act of 1988. Landmark cases such as *Vineet Narain & Ors. v. Union of India*[58] and *Dr. Subramanian Swamy v. Director CBI*[59] have exemplified the judiciary's proactive stance in closing loopholes and clarifying ambiguities within the law, thus enhancing its effectiveness in combating corruption. In these cases, the judiciary has not only struck down unconstitutional provisions but also imposed time limits on procedural aspects to reduce delays and prevent political interference in corruption investigations. One of the judiciary's significant contributions has been its interpretation of laws concerning disproportionate assets. By upholding the principle that possession of assets disproportionate to known sources of income can be grounds for conviction under the PCA, the courts have provided powerful tools for anti-corruption agencies. This approach shifts the burden of proof to the accused, recognizing the practical difficulties in proving corruption through direct evidence and allowing for convictions based on circumstantial evidence. The judiciary has also played a crucial role in interpreting the Lokpal and Lokayuktas Act of 2013, which established anti-corruption ombudsmen in India. Judicial interpretations have clarified the powers and functions of these bodies, ensuring their effective and independent operation. Additionally, the judiciary has harmonized the PCA with other legal frameworks such as the Prevention of Money Laundering Act and the Right to Information Act, thereby reinforcing a holistic approach to tackling corruption.

Enforcing disciplinary measures against corrupt civil servants is another vital aspect of the judiciary's role. The courts have consistently upheld that possessing assets

[58] Supra at note 1
[59] Supra at note 32

disproportionate to known sources of income can be grounds for conviction under the PCA. By shifting the burden of proof to the accused in such cases, the judiciary has strengthened the ability of anti-corruption agencies to prosecute corrupt officials. This judicial stance ensures that procedural safeguards do not inadvertently protect corrupt officials, maintaining a balance between protecting honest officials and addressing corruption effectively.

Looking forward, the judiciary recognises the potential of technology in combating corruption. The use of artificial intelligence and data analytics can enhance the detection and prevention of corrupt practices. Moreover, strengthening international cooperation can help address cross-border corruption and money laundering. Judicial reforms aimed at expediting the legal process, such as fast-track courts for corruption cases and leveraging technology for virtual hearings, are imperative for reducing delays and improving efficiency.

In summary, the judiciary's role in preventing corruption among civil servants in India is comprehensive and evolving. Through judicial review, interpretation of laws, promotion of ethical conduct, enforcement of disciplinary measures, leveraging technology, and addressing high-profile corruption cases, the judiciary acts as a formidable check against corruption. Despite facing significant challenges, its proactive measures and commitment to upholding ethical standards significantly contribute to fostering a culture of integrity and transparency in the civil service. The judiciary's ongoing efforts and future directions promise to sustain and enhance the fight against corruption, ensuring good governance and public trust in the system.

CHAPTER V

ANTI-CORRUPTION LAWS AND POLICIES: A COMPARATIVE ANALYSIS

5.1. Introduction

Corruption within bureaucracies remains a pervasive challenge across various governance systems worldwide. The adverse impact of bureaucratic corruption extends beyond economic inefficiencies to erode public trust, impede development, exacerbate inequality, and is an obstacle to good governance. Various countries have adopted anti-corruption laws and policies tailored to their unique socio-political contexts, with varying degrees of success. This chapter explores the bureaucratic anti-corruption frameworks of the USA, UK, South Africa, and Australia alongside select Commonwealth countries to derive lessons that can inform anti-corruption strategies in India.

Historically, bureaucratic corruption has been a persistent problem in various forms across different societies. In the United States, the late 19th and early 20th centuries were marked by widespread graft and patronage, often referred to as the "spoils system", dominated federal employment practices, particularly during the Gilded Age. This system fostered extensive corruption and inefficiency, leading to the Pendleton Civil Service Reform Act of 1883. The civil service reform movement, spearheaded by the Pendleton Civil Service Reform Act of 1883, aimed to mitigate these issues by establishing a merit-based system for federal employment, significantly reducing the influence of patronage. Despite these reforms, corruption scandals continued to surface, leading to further legislative and institutional measures. For instance, the Operation Ill Wind investigation in the 1980s exposed widespread corruption within the U.S. Department of Defense. The investigation revealed that military officials had accepted bribes from defence contractors in exchange for favourable contract awards. This case underscored the ongoing challenges in combating bureaucratic corruption despite existing reforms and highlighted the need for robust enforcement mechanisms.

Similarly, in the United Kingdom, the problem of bureaucratic corruption has a long history. The 19th century saw several scandals involving senior civil servants, such as the notorious case of Sir Charles Trevelyan. As Permanent Secretary to the Treasury, Trevelyan was accused of misusing his position during the Irish Potato Famine,

prioritising personal and political interests over public welfare. Another example of bureaucratic corruption in the UK is the 2009 case involving senior officials at the UK Border Agency. An investigation revealed that some officials had accepted bribes to allow illegal immigrants to enter the country. This scandal prompted significant reforms within the agency and reinforced the need for stringent oversight and accountability mechanisms. Over the years, the UK has refined its anti-corruption framework, culminating in the Bribery Act 2010. This comprehensive legislation addresses both domestic and international bribery, establishing rigorous standards for ethical conduct.

In South Africa, the legacy of apartheid has left a profound impact on the country's bureaucratic systems. The apartheid era was characterised by systemic corruption and a lack of accountability within the bureaucratic apparatus. Post-apartheid, the government has made significant efforts to establish legal and institutional frameworks to combat corruption and to establish transparency and accountability, but this has been marred by persistent corruption issues. The establishment of the Public Protector and the enactment of the Prevention and Combating of Corrupt Activities Act of 2004 (PRECCA) were crucial steps in these efforts, criminalising a wide range of corrupt activities and mandating public officials to report corruption. However, implementation has often been hindered by political interference and resource constraints. One notable case in South Africa is the investigation into the Department of Home Affairs, where officials were found to be issuing fraudulent identity documents in exchange for bribes. This case highlighted the pervasive nature of corruption within certain bureaucratic sectors and underscored the importance of effective enforcement and oversight mechanisms.

Australia's approach to combating bureaucratic corruption has evolved significantly over time, particularly in the late 20th and early 21st centuries. The establishment of independent anti-corruption bodies, such as the Independent Commission Against Corruption (ICAC) in New South Wales, has been pivotal in investigating and prosecuting corruption. The Public Interest Disclosure Act of 2013 further strengthened protections for whistleblowers, enhancing the overall integrity of the public sector. A significant case of bureaucratic corruption in Australia is the investigation into the Queensland Health payroll scandal. In 2013, the Queensland Crime and Corruption Commission (CCC) investigated senior bureaucrats within Queensland Health who were involved in awarding a flawed payroll system contract, leading to a massive

financial loss. The case underscored the importance of independent anti-corruption bodies in uncovering and addressing corruption within the bureaucracy.

In addition to these four countries, other Commonwealth nations offer valuable insights into effective anti-corruption strategies. Canada, for instance, has the Public Servants Disclosure Protection Act, which provides robust Whistleblower protections and establishes the Office of the Public Sector Integrity Commissioner to investigate disclosures. Historical cases, such as the Sponsorship Scandal in the early 2000s, where public funds were misused for political purposes with the help of civil servants, led to significant reforms and the strengthening of anti-corruption measures. New Zealand's approach emphasises transparency and public engagement. The Public Finance Act and the State Sector Act mandate rigorous financial management and accountability standards. The Office of the Auditor-General plays a crucial role in auditing public sector entities and ensuring compliance with anti-corruption measures. Singapore, although not a Commonwealth country, provides a notable model with its Corrupt Practices Investigation Bureau (CPIB). The CPIB operates with a high degree of independence and has broad powers to investigate corruption cases across all sectors. Instances such as the 2012 cases involving Peter Lim Sin Pang, the former Commissioner of the Singapore Civil Defence Force, and Ng Boon Gay, the former Director of the Central Narcotics Bureau, both of whom were convicted of corruption, demonstrate the effectiveness of Singapore's stringent laws, efficient judicial processes, and strong political will in maintaining a low corruption environment.

Whistleblowers' protection is a crucial element of anti-corruption frameworks in these countries. In the USA, the Whistleblower Protection Act safeguards federal employees who expose government misconduct, ensuring they are protected from retaliation. The UK's Public Interest Disclosure Act of 1998 provides similar protections, encouraging employees to report wrongdoing without fear of reprisal. South Africa's Protected Disclosures Act of 2000 and Australia's Public Interest Disclosure Act of 2013 offer robust protections for whistleblowers, reinforcing the importance of transparency and accountability.

Punishments for bureaucratic corruption in these countries are severe, reflecting the seriousness with which these offences are treated. In the USA, federal employees convicted of corruption can face substantial prison sentences, fines, and forfeiture of

assets. The UK imposes similar penalties, with the added possibility of disqualification from holding public office. South Africa's PRECCA mandates strict penalties, including imprisonment and fines, for corrupt officials. In Australia, corruption offences can result in lengthy prison sentences and significant financial penalties, depending on the severity of the misconduct.

Corruption in India has deep historical roots, often intertwined with the complexities of colonial rule and the post-independence administrative structure. Despite numerous legislative measures and the establishment of bodies like the Central Vigilance Commission (CVC) and the Lokpal, corruption remains a significant challenge. The need for stronger enforcement mechanisms, greater transparency, and robust protection for whistleblowers is evident.

This chapter aims to provide a detailed comparative analysis of the anti-corruption frameworks in the USA, UK, South Africa, and Australia, examining the history, legal provisions, enforcement mechanisms, and institutional arrangements. By understanding the successes and challenges faced by these countries, we can derive practical lessons for strengthening India's anti-corruption efforts. Through this comparative lens, we can identify best practices and innovative approaches that can be adapted to the Indian context, ultimately contributing to more effective governance and enhanced public trust.

5.2. Bureaucratic Anti-Corruption Frameworks in the USA

The United States has a robust and multifaceted approach to combating bureaucratic corruption. During the 19th century, the patronage system, often referred to as the "spoils system," dominated federal employment practices. Government positions were frequently awarded based on political loyalty rather than merit, leading to widespread corruption and inefficiency. The assassination of President James A. Garfield in 1881 by a disgruntled office seeker highlighted the urgent need for reform. In response, the Pendleton Civil Service Reform Act of 1883 was enacted, establishing a merit-based system for federal employment. This landmark legislation aimed to curtail patronage and promote professionalism within the federal bureaucracy. The primary legal instruments include the Foreign Corrupt Practices Act (FCPA), although it primarily targets international bribery, and the domestic Public Integrity Section (PIN) within the Department of Justice (DOJ). [60]

The Foreign Corrupt Practices Act of 1977 marked a significant milestone in the United States' anti-corruption efforts. Although primarily targeting international bribery, the FCPA also set the stage for more comprehensive domestic anti-corruption measures. The establishment of the Public Integrity Section (PIN) within the Department of Justice (DOJ) further strengthened the fight against public corruption.[61] The PIN is responsible for investigating and prosecuting corruption involving public officials, encompassing a wide range of offences such as bribery, graft, and fraud.[62]

In addition to the FCPA and the PIN, further legislative measures, such as the Ethics in Government Act of 1978 and the Whistleblower Protection Act of 1989, aimed to strengthen oversight and protect those who expose misconduct. The former established requirements for financial disclosure by public officials to increase transparency, while the latter provided federal employees with safeguards against retaliation. The Office of Government Ethics (OGE) sets the standards for ethical conduct for the executive branch employees. These measures collectively aim to create a transparent and accountable bureaucratic environment. The USA's approach is also characterised by its emphasis on enforcement and deterrence. High-profile prosecutions and significant

[60] M. BARRIS TAYLOR, HISTORY OF THE FEDERAL CIVIL SERVICE, 1789 TO THE PRESENT (2011).
[61] SUSAN ROSE-ACKERMAN & BONNIE J. PALIFKA, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM (2016).
[62] JOHN S.T. QUAH, CURBING CORRUPTION IN ASIAN COUNTRIES: AN IMPOSSIBLE DREAM? (2011), https://doi.org/10.1108/s0732-1317(2011)20.

penalties serve as a deterrent against corrupt practices. Convicted officials face substantial prison sentences, fines, and forfeiture of assets. For example, in the case of the "Operation Ill Wind" investigation, several high-ranking officials received lengthy prison sentences and significant financial penalties. These stringent punishments serve as a deterrent, underscoring the serious consequences of corrupt behaviour. Technology also plays a crucial role in the USA's anti-corruption efforts.[63]

The Whistleblower Protection Act of 1989 is a critical component of the U.S. anti-corruption framework. Designed to protect federal employees who expose government misconduct, the Act ensures that whistleblowers are safeguarded against retaliation. It provides a mechanism for employees to report corruption and other forms of wrongdoing without fear of losing their jobs or facing other forms of retribution. The Act prohibits adverse personnel actions against employees who disclose information they reasonably believe evidences illegal or improper conduct. This includes protection against demotions, dismissals, pay cuts, and other forms of punishment.[64] The Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency that plays a vital role in enforcing the Whistleblower Protection Act. It receives disclosures of government wrongdoing and investigates complaints of retaliation against whistleblowers. Additionally, the Merit Systems Protection Board (MSPB) provides a forum for federal employees to appeal adverse actions they believe are retaliatory. The MSPB can order corrective actions, including reinstatement of employment and reimbursement of lost wages. Whistleblowers also have the right to seek legal recourse if they believe they have been retaliated against, including the ability to file a lawsuit in federal court if the OSC or MSPB does not provide adequate relief. Despite the protections offered by the Whistleblower Protection Act, challenges remain. Whistleblowers often face significant personal and professional risks, and the process of seeking protection and recourse can be daunting. Continuous efforts are needed to strengthen these protections and ensure that whistleblowers feel safe and supported in reporting corruption. The Whistleblower Protection Enhancement Act of 2012 further strengthened protections by closing loopholes and expanding the rights of whistleblowers. It clarified the scope of protected disclosures, provided whistleblowers

[63] Jordan Gans-Morse et al., *Reducing bureaucratic corruption: Interdisciplinary perspectives on what works*, 105 World Development 171–188 (2018).
[64] ROBERT G. VAUGHN, SUCCESSES AND FAILURES OF WHISTLEBLOWER LAWS (2014).

with access to jury trials in certain circumstances, and enhanced the powers of the OSC and MSPB.[65]

Advanced data analytics and monitoring systems are used to detect irregularities and prevent fraud. Civil society organisations and the media actively participate in exposing corruption, further enhancing accountability. Despite these efforts, high-profile cases like the Veterans Health Administration scandal in 2014, where officials falsified records to hide excessive wait times for veterans' healthcare, illustrate the ongoing challenges in maintaining ethical standards and accountability within the bureaucracy. The U.S. approach to combating corruption emphasises the importance of robust legal frameworks, independent oversight bodies, and protections for whistleblowers to foster a culture of integrity and transparency.[66]

5.3. Bureaucratic Anti-Corruption Frameworks in the UK

The United Kingdom employs a comprehensive legal and institutional framework to combat bureaucratic corruption. Over the centuries, the UK has developed a comprehensive legal and institutional framework to combat corruption, with significant advancements in recent decades. Historically, the UK has been perceived as having lower levels of corruption compared to many other countries, but it has not been immune to bureaucratic malfeasance. One notable case of bureaucratic corruption in the UK is the scandal involving the Department of Transport in the early 2000s, which saw senior officials implicated in the fraudulent awarding of contracts. The case revealed systemic issues in procurement processes and led to several high-profile investigations. Another prominent example is the case involving the National Health Service (NHS), where senior officials were found to have engaged in bribery and favouritism in the allocation of contracts. These cases highlighted the need for stronger oversight mechanisms and stricter enforcement of anti-corruption laws.[67]

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[65] Peter W. Schroth, *Corruption and Accountability of the Civil Service in the United States*, 54 Am. J. Compar. L. 553, (2006), https://doi.org/10.1093/ajcl/54.suppl1.553.
[66] CORRUPTION AND REFORM: LESSONS FROM AMERICA'S ECONOMIC HISTORY (NATIONAL BUREAU OF ECONOMIC RESEARCH CONFERENCE REPORT), (EDWARD L. GLAESER & CLAUDIA GOLDIN eds., 2006).
[67] MICHAEL JOHNSTON, SYNDROMES OF CORRUPTION: WEALTH, POWER, AND DEMOCRACY (2005).

The Bribery Act 2010 is the cornerstone of the UK's anti-corruption legislation. Unlike the FCPA, the Bribery Act is considered one of the most comprehensive anti-bribery laws globally. It covers both domestic and international bribery, establishing stringent standards for public and private sector conduct. It criminalises the offering, promising, giving, requesting, or accepting of bribes, with a particular emphasis on the role of corporate entities in preventing corruption. Punishments for bureaucratic corruption in the UK are severe. Convicted officials can face substantial prison sentences, fines, and disqualification from holding public office. These stringent penalties serve as a deterrent, emphasising the serious consequences of corrupt behaviour.[68]

The Serious Fraud Office (SFO) and the National Crime Agency (NCA) are pivotal in enforcing anti-corruption laws in the UK. The SFO investigates and prosecutes serious or complex fraud and corruption and operates under the powers conferred by the Criminal Justice Act of 1987, while the NCA tackles broader organised crime, particularly through its Economic Crime Command, which focuses on financial crimes, including bribery and corruption. The NCA works closely with other law enforcement agencies and regulatory bodies to identify and disrupt corrupt activities within the UK. For instance, the SFO's investigation into Rolls-Royce uncovered widespread bribery and corruption in several countries, leading to substantial fines and the implementation of stricter compliance measures within the company. Additionally, the UK has instituted a public interest disclosure framework underpinned by the Public Interest Disclosure Act 1998, which protects whistleblowers. The UK's anti-corruption efforts are further supported by rigorous transparency and accountability mechanisms. The Freedom of Information Act 2000 grants public access to government information, enhancing oversight and public scrutiny. The UK also emphasises ethical training for public officials and has established codes of conduct that align with international standards. One notable case highlighting the UK's commitment to combating corruption is the investigation and prosecution of BAE Systems. In 2010, BAE Systems was fined £300 million for false accounting and making misleading statements in relation to overseas contracts. The case, handled by the SFO, demonstrated the UK's robust enforcement capabilities and the effectiveness of its anti-corruption framework.

[68] COLIN NICHOLLS et al., CORRUPTION AND MISUSE OF PUBLIC OFFICE (2006).

While the UK has made significant strides in combating bureaucratic corruption, challenges remain. Ensuring effective enforcement of anti-corruption laws and maintaining the independence of investigative agencies are ongoing concerns. The cases of corruption within the Metropolitan Police Service, where officers were found to have accepted bribes in exchange for information, highlight the need for continuous vigilance and improvement in anti-corruption measures.

5.4. Bureaucratic Anti-Corruption Frameworks in South Africa

South Africa's anti-corruption framework has evolved significantly post-apartheid, reflecting its commitment to transparency and accountability. Post-apartheid efforts to combat corruption have included the establishment of the Public Protector and the enactment of the Prevention and Combating of Corrupt Activities Act (PRECCA) in 2004. The Prevention and Combating of Corrupt Activities Act 2004 is the cornerstone of South Africa's anti-corruption legislation. PRECCA criminalises a wide range of corrupt activities, including bribery, fraud, and embezzlement and mandates public officials to report corruption, aiming to create a more transparent and accountable government. The Act also provides for the protection of whistleblowers, encouraging the reporting of corruption. South Africa's Protected Disclosures Act 2000 offers robust protections for whistleblowers. The Act encourages individuals to report corruption and misconduct by providing safeguards against retaliation. By protecting whistleblowers, the Act promotes transparency and accountability, essential components in the fight against bureaucratic corruption. The Public Finance Management Act (PFMA) of 1999 is another critical piece of legislation aimed at promoting good financial management in the public sector. The PFMA sets out clear guidelines for financial reporting, accountability, and management within government departments and state-owned enterprises. It seeks to enhance transparency and reduce opportunities for financial mismanagement and corruption. Punishments for bureaucratic corruption in South Africa are severe. Convicted officials can face substantial prison sentences, fines, and disqualification from holding public office. These stringent penalties serve as a deterrent, emphasising the serious consequences of corrupt behaviour. However,

implementation has often been hindered by political interference and resource constraints, as seen in numerous high-profile corruption cases.[69]

The Public Protector, an independent institution established under the South African Constitution, plays a critical role in investigating allegations of maladministration and corruption within public bodies. The Special Investigating Unit (SIU) and the Directorate for Priority Crime Investigation (DPCI), also known as the Hawks, are instrumental in combating high-level corruption. These agencies investigate and prosecute corruption cases, ensuring that officials who engage in corrupt activities are held accountable. The SIU investigates allegations of corruption and maladministration, often working in collaboration with other law enforcement agencies. The Hawks focus on high-level corruption, organised crime, and serious economic offences. The SIU, in particular, has been instrumental in uncovering high-profile corruption cases within the bureaucracy. One notable case of bureaucratic corruption in South Africa is the investigation into the Department of Home Affairs. Officials were found to be issuing fraudulent identity documents in exchange for bribes. This case highlighted the pervasive nature of corruption within certain bureaucratic sectors and underscored the importance of effective enforcement and oversight mechanisms.[70]

A famous example is the irregularities uncovered within the South African Social Security Agency (SASSA). In 2017, the Constitutional Court ruled against SASSA for its handling of the social grants payment system. The agency had unlawfully extended a contract with a private company, Cash Paymaster Services (CPS), without following proper procurement procedures. This case highlighted the issues of accountability and transparency within public procurement processes. The court's ruling emphasised the importance of adhering to legal frameworks and called for stricter oversight of bureaucratic functions to prevent similar occurrences. The Department of Home Affairs has also been a hotspot for bureaucratic corruption. Numerous cases have surfaced involving officials accepting bribes to issue identity documents, passports, and work permits. In 2015, an internal investigation led to the arrest of several officials who had been part of a syndicate facilitating fraudulent documentation. These incidents not only

[69] CORRUPTION AND POST-CONFLICT PEACEBUILDING (DOMINIK ZAUM & CHRISTINE CHENG eds., 2013).
[70] R. Cameron, *New Public Management Reforms in the South African Public Service: 1999-2009*, 44 J. Pub. Admin. 897 (2009).

compromised national security but also eroded public trust in the department's ability to manage vital records honestly and efficiently. The crackdown on corrupt officials within the Department of Home Affairs demonstrated the need for continuous monitoring and rigorous enforcement of anti-corruption measures. Another pertinent case is that of the Gauteng Department of Health, where widespread corruption was uncovered in the procurement of medical supplies and services. Investigations revealed that officials had colluded with suppliers to inflate prices and award contracts without following proper procedures. This corruption not only drained public resources but also compromised the quality of healthcare services provided to the public. The subsequent arrests and prosecutions highlighted the importance of vigilance and accountability in public procurement processes. The Gauteng Department of Health case serves as a stark reminder of the human cost of bureaucratic corruption, affecting essential services that citizens rely on.

Despite these efforts, the challenge of bureaucratic corruption in South Africa remains significant. The persistence of corruption is partly due to the complex interplay of political, economic, and social factors that create an environment conducive to corrupt practices. The country's experience underscores the importance of safeguarding the independence of anti-corruption agencies and ensuring sufficient funding and political will.[71]

5.5. Bureaucratic Anti-Corruption Frameworks in Australia

A decentralised yet cohesive framework with a strong emphasis on preventive measures and independent oversight characterises Australia's approach to bureaucratic corruption, particularly through the establishment of independent anti-corruption bodies like the Independent Commission Against Corruption (ICAC) in New South Wales. Like many countries, Australia has faced its share of bureaucratic corruption, with several high-profile cases bringing attention to the need for effective measures to curb such practices. Over the years, Australia has developed a multifaceted approach to addressing corruption, incorporating stringent laws, independent oversight bodies, and robust whistleblower protection mechanisms. Punishments for bureaucratic

[71] Soma Pillay, *Corruption – The Challenge to Good Governance: A South African Perspective*, 17 Int'l J. Pub. Sector Mgmt. 586, (2004), https://doi.org/10.1108/09513550410562266.

corruption in Australia are severe. Convicted officials can face substantial prison sentences, fines, and disqualification from holding public office. These stringent penalties serve as a deterrent, emphasising the serious consequences of corrupt behaviour.[72]

The Australian legal framework to combat bureaucratic corruption is anchored by several key statutes. The Criminal Code Act 1995 is one of the primary pieces of legislation addressing corruption, including bribery, fraud, and abuse of office. Under this Act, it is an offence for public officials to solicit, receive, or provide benefits with the intention of influencing their duties. The Act also criminalises corrupt conduct by foreign public officials, reflecting Australia's commitment to combating corruption both domestically and internationally. The Public Interest Disclosure (PID) Act of 2013 is another critical piece of legislation which provides a comprehensive regime for protecting whistleblowers within the federal public sector. This Act encourages public officials to report misconduct, including corruption, by offering protection against reprisals. The PID Act aims to foster a culture of transparency and accountability within the public sector by ensuring that whistleblowers are not subjected to adverse treatment for disclosing wrongdoing. The Commonwealth Ombudsman oversees the implementation of this Act, ensuring that public interest disclosures are handled appropriately. The late 20th and early 21st centuries saw the establishment of key anti-corruption institutions and the enactment of comprehensive legislation aimed at promoting integrity within the public sector.[73]

In addition to legislative measures, Australia has established several institutions tasked with combating corruption. The Australian Federal Police (AFP) and the Australian Commission for Law Enforcement Integrity (ACLEI) are key agencies in investigating and prosecuting corruption. The AFP handles a wide range of criminal activities, including corruption, while the ACLEI specifically targets corruption within law enforcement agencies. These agencies operate independently, ensuring that investigations are conducted impartially. The Independent Commission Against Corruption (ICAC) in New South Wales and the Crime and Corruption Commission (CCC) in Queensland are exemplary models of effective state-level anti-corruption

[72] ARTHUR SHACKLOCK & FREDRIK GALTUNG, MEASURING CORRUPTION (CHARLES SAMPFORD ed., 2006).
[73] R. Ayres, *Anti-Corruption in Australia*, 29 Int'l J. Pub. Sector Mgmt. 251 (2016).

agencies. A significant case of bureaucratic corruption in Australia is the Queensland Health payroll scandal. In 2013, the Queensland Crime and Corruption Commission (CCC) investigated senior bureaucrats within Queensland Health who were involved in awarding a flawed payroll system contract, leading to a massive financial loss. The case underscored the importance of independent anti-corruption bodies in uncovering and addressing corruption within the bureaucracy. Established in 1988, ICAC has broad investigative powers to examine corruption within the New South Wales public sector. The Victorian Independent Broad-based Anti-corruption Commission (IBAC) serves a similar role in Victoria, investigating corruption and misconduct within the state's public sector. IBAC's investigations have uncovered corruption within various departments, including the education and health sectors.[74] The case of corrupt practices within the Victorian Department of Education, where officials were found to have engaged in fraudulent activities involving school funding, highlights the Commission's role in exposing and addressing bureaucratic corruption. Australia also places a strong emphasis on preventive measures. Moreover, the Australian Public Service Commission (APSC) promotes integrity through codes of conduct, ethical training, and integrity frameworks. These measures aim to foster a culture of accountability and transparency within the public sector, reducing the risk of corruption.[75]

5.6. Lessons from Other Commonwealth Countries

5.6.1. Canada

Other Commonwealth nations provide valuable insights into effective anti-corruption strategies. Canada, for example, has implemented the Public Servants Disclosure Protection Act, which provides robust protections for whistleblowers and establishes the Office of the Public Sector Integrity Commissioner to investigate disclosures. Canada's efforts to combat bureaucratic corruption are grounded in a robust legal framework and the presence of independent oversight bodies designed to ensure transparency and accountability. Historically, Canada has maintained a reputation for low levels of corruption, but it has not been entirely immune to bureaucratic malfeasance. One of the most notable cases of bureaucratic corruption in Canada is the Sponsorship Scandal in the early 2000s, where public funds were misused for political

[74] James Spigelman, *The Integrity Branch of Government,* 78 Australian L.J. 724 (2004).
[75] Rick Sarre & Timothy Prenzler, *Policing Corruption: An Australian Perspective*, *in* Policing Corruption: International Perspectives (R. Sarre et al. eds., 2005).

purposes with the involvement of civil servants, which led to significant reforms and the strengthening of anti-corruption measures. Canada's approach emphasises the importance of transparency, accountability, and robust enforcement mechanisms to combat corruption effectively.

Canada's legal framework to combat corruption includes the Corruption of Foreign Public Officials Act (CFPOA) and the Criminal Code, which addresses domestic bribery and fraud. The CFPOA, although primarily aimed at curbing international bribery, also reinforces the country's commitment to combating corruption within its borders. The Criminal Code criminalises a wide range of corrupt activities, including bribery, fraud, and breach of trust by public officials. The punishments for these offences can be severe, including imprisonment and significant fines, reflecting the seriousness with which Canada treats corruption. The Public Servants Disclosure Protection Act (PSDPA) of 2005 provides a mechanism for public servants to report wrongdoing, including corruption, within the federal public sector. The Act offers protection against reprisal for whistleblowers, thereby encouraging the reporting of corrupt activities.

Canada's institutional framework includes the Office of the Auditor General (OAG) and the Public Sector Integrity Commissioner (PSIC). The OAG conducts independent audits of government operations, identifying instances of inefficiency and corruption. The PSIC, established under the PSDPA, investigates disclosures of wrongdoing within the federal public sector and ensures that whistleblowers are protected. The role of these institutions is critical in maintaining the integrity of public administration and ensuring that corrupt practices are identified and addressed. In addition to these bodies, the Royal Canadian Mounted Police (RCMP) plays a significant role in investigating and prosecuting corruption. The RCMP's International Anti-Corruption Unit specifically targets cases involving corruption of foreign officials, while the broader mandate includes domestic corruption cases. The RCMP's investigation into the "Gomery Inquiry" surrounding the Sponsorship Scandal is a notable example of its role in addressing high-profile corruption cases. Canada's Unité Permanente Anti-Corruption (UPAC) plays a crucial role in investigating and punishing bureaucratic corruption, particularly in the province of Quebec. UPAC's mandate includes investigating corruption, collusion, and other malfeasances involving public officials and institutions. Its scope covers a wide range of activities, from municipal and provincial bureaucratic

corruption to broader public sector integrity issues. The Charbonneau Commission, established in 2011, was a landmark inquiry supported by UPAC's investigative efforts. The commission revealed widespread corruption and collusion in Quebec's construction industry, leading to numerous arrests and reforms. The investigation highlighted how bureaucrats and public officials accepted bribes in exchange for favourable contract awards, resulting in significant financial losses for the government.

Despite the strong legal and institutional frameworks, challenges remain in ensuring effective enforcement and maintaining public confidence in anti-corruption measures. The case of corruption within the Quebec construction industry, exposed by the Charbonneau Commission, highlighted ongoing issues with bid-rigging and collusion between public officials and private contractors. This inquiry led to numerous arrests and significant reforms aimed at improving transparency and accountability in public procurement processes.

5.6.2. New Zealand

New Zealand is often ranked among the least corrupt countries globally, thanks to its strong commitment to transparency, integrity, and accountability within its public sector. The Public Finance Act and the State Sector Act mandate rigorous financial management and accountability standards. The Office of the Auditor-General plays a crucial role in auditing public sector entities and ensuring compliance with anti-corruption measures. A notable case is the Auckland Transport (AT) scandal, where senior officials were implicated in bribery and fraud related to contract awards. The investigation revealed that these officials had received kickbacks from contractors in exchange for preferential treatment in the awarding of contracts. This case led to significant reforms in procurement processes and highlighted the need for continuous oversight.

New Zealand's legal framework to combat corruption includes the Crimes Act 1961 and the Secret Commissions Act 1910. The Crimes Act criminalises a wide range of corrupt activities, including bribery, fraud, and abuse of office by public officials. The Secret Commissions Act specifically addresses the issue of secret payments or benefits made to influence public officials. Punishments for these offences can be severe, including imprisonment and substantial fines, reflecting the country's commitment to

maintaining a corruption-free public sector. The Protected Disclosures Act of 2000 (PDA) provides mechanisms for whistleblowers to report wrongdoing, including corruption, within the public and private sectors. The Act offers protection against retaliation for individuals who disclose information about corrupt activities. However, the effectiveness of the PDA has been questioned, with some whistleblowers reporting inadequate protection and support. The case of Erin Leigh, a former Communications Manager who exposed the manipulation of government reports, illustrates the challenges faced by whistleblowers in New Zealand. Despite her disclosures, Leigh faced significant professional repercussions, highlighting the need for stronger enforcement of whistleblower protections.

New Zealand's institutional framework to combat corruption includes the Serious Fraud Office (SFO) and the Office of the Auditor-General (OAG). The SFO is responsible for investigating and prosecuting serious or complex fraud and corruption cases. Its role is crucial in maintaining the integrity of the public sector and ensuring that corrupt practices are addressed promptly and effectively. The SFO's investigation into the Auckland Transport scandal is a notable example of its effectiveness in uncovering and addressing high-profile corruption cases.

The OAG conducts independent audits of government operations, identifying instances of inefficiency and corruption. The Auditor-General has the authority to examine the accounts of all public sector organisations, ensuring that public funds are used appropriately and that corrupt practices are detected and addressed. The OAG's audits have been instrumental in uncovering cases of financial mismanagement and corruption, contributing to greater accountability and transparency within the public sector.

Despite New Zealand's strong legal and institutional frameworks, challenges remain in ensuring effective enforcement and maintaining public confidence in anti-corruption measures. The case of corruption within the Christchurch City Council, where officials were found to have engaged in fraudulent activities related to building consents, highlights the ongoing need for vigilance and reform. This case led to significant changes in the council's processes and the implementation of stricter oversight mechanisms.

5.6.3. Singapore

Singapore is widely regarded as one of the least corrupt countries in the world, thanks to its comprehensive legal framework and rigorous enforcement mechanisms designed to ensure transparency and accountability within its public sector. Singapore, although not a Commonwealth country, provides a notable model with its Corrupt Practices Investigation Bureau (CPIB). Historically, Singapore faced significant challenges with corruption, particularly during its early years of independence. However, the government's strong commitment to combating corruption has led to the establishment of a highly effective anti-corruption regime. A notable case is that of Edwin Yeo, a senior officer at the Corrupt Practices Investigation Bureau (CPIB), who was convicted in 2014 for misappropriating over SGD 1.76 million. Yeo's actions involved falsifying claims and misusing government funds for personal expenses. His conviction was significant given his role in the agency tasked with combating corruption, highlighting that even high-ranking officials are not immune to legal scrutiny. Another significant case involved Ng Boon Gay, the former director of the Central Narcotics Bureau (CNB), who was accused of obtaining sexual favours from a contractor in exchange for business contracts. Although Ng was acquitted in 2013 due to a lack of evidence proving corrupt intent, the case drew substantial public attention and underscored the stringent measures Singapore employs to investigate and prosecute alleged corruption cases within its bureaucracy.

Singapore's legal framework to combat corruption is anchored by the Prevention of Corruption Act (PCA) of 1960, which is one of the most comprehensive anti-corruption statutes in the world. The PCA criminalises bribery, fraud, and abuse of office by public officials. The Act provides for severe penalties, including imprisonment and hefty fines, for those found guilty of corruption. The PCA also grants wide-ranging powers to the Corrupt Practices Investigation Bureau (CPIB), enabling it to investigate and prosecute corruption cases effectively. CPIB is the cornerstone of Singapore's anti-corruption efforts. Established in 1952, the CPIB operates independently under the Prime Minister's Office, ensuring that it remains free from political interference. The CPIB is tasked with investigating and prosecuting corruption cases, as well as promoting corruption prevention and public education.[76] The Bureau's investigations have led to

[76] YAHONG ZHANG & CECILIA LAVENA, GOVERNMENT ANTI-CORRUPTION STRATEGIES: A CROSS-CULTURAL PERSPECTIVE (2015).

the prosecution and conviction of numerous high-profile individuals, reinforcing Singapore's zero-tolerance policy towards corruption.[77] The CPIB's investigation into the corruption case involving the Chief Executive Officer of the Singapore Land Authority (SLA), where the CEO was found to have embezzled millions of dollars, is a testament to its effectiveness.

Singapore's commitment to transparency and accountability is further reinforced by its public service ethos, which emphasises integrity and meritocracy. Public servants are subject to strict codes of conduct and regular audits to ensure compliance with anti-corruption standards. The Public Service Division (PSD) conducts regular training and awareness programs to instil a culture of integrity and ethical behaviour among public servants.

5.7. Lessons for India from International Anti-Corruption Frameworks

India faces significant challenges in combating bureaucratic corruption, necessitating a comprehensive overhaul of its legal framework and regulatory agencies. Examining the successful anti-corruption strategies of countries like the USA, UK, South Africa, Australia, Canada, New Zealand, and Singapore provides valuable insights into strengthening India's fight against corruption.

Strengthening Legal Frameworks

To effectively combat bureaucratic corruption, India must strengthen its legal framework by enacting comprehensive anti-corruption legislation akin to the laws in these countries. For instance, the USA's Foreign Corrupt Practices Act (FCPA) and the UK's Bribery Act 2010 provide robust mechanisms to address both domestic and international bribery. India can emulate these laws by ensuring stringent penalties for corrupt practices and expanding the scope to cover a wider range of corrupt activities, including bribery, fraud, and abuse of office.

Canada's Corruption of Foreign Public Officials Act (CFPOA) and Singapore's Prevention of Corruption Act (PCA) offer exemplary models for drafting

[77] JON S.T QUAH, ANTI-CORRUPTION AGENCIES IN ASIA PACIFIC COUNTRIES: AN EVALUATION OF THEIR PERFORMANCE AND CHALLENGES (2017).

comprehensive anti-corruption statutes. These laws provide severe penalties for corruption and grant extensive investigative powers to anti-corruption agencies, ensuring effective enforcement. By adopting similar provisions, India can create a legal environment that deters corrupt practices and facilitates rigorous prosecution of offenders.

Enhancing Whistleblower Protections

Robust whistleblower protections are crucial for encouraging the reporting of corrupt activities. The UK's Public Interest Disclosure Act (PIDA) and New Zealand's Protected Disclosures Act (PDA) provide mechanisms for whistleblowers to report wrongdoing while ensuring protection against retaliation. India's existing whistleblower protection framework, established under the Whistle Blowers Protection Act 2014, needs significant strengthening to provide better support and protection to whistleblowers.

Implementing comprehensive whistleblower protection laws, similar to Canada's Public Servants Disclosure Protection Act (PSDPA) and Australia's Public Interest Disclosure Act 2013, can help create a safe environment for individuals to report corruption. Ensuring robust enforcement of these laws and providing adequate resources for whistleblower protection agencies will be critical in encouraging more individuals to come forward with information about corrupt activities.

Establishing Independent Oversight Bodies

Independent oversight bodies play a pivotal role in detecting and addressing corruption. The USA's Office of Government Ethics (OGE) and the UK's National Audit Office (NAO) provide models for establishing independent institutions that oversee government operations and ensure transparency. India can benefit from creating similar bodies with the authority to conduct independent audits and investigations into public sector activities.

Canada's Office of the Auditor General (OAG) and Singapore's Corrupt Practices Investigation Bureau (CPIB) demonstrate the importance of empowering oversight bodies with extensive investigative powers and operational independence. By establishing and empowering such institutions, India can enhance the effectiveness of its anti-corruption efforts. These bodies should be granted the authority to investigate

and prosecute corruption cases, conduct audits, and enforce compliance with anti-corruption regulations.

Promoting Transparency and Accountability

Transparency and accountability are fundamental to preventing corruption. Countries like New Zealand and Singapore have successfully implemented measures to promote transparency in government operations and ensure accountability of public officials. India can adopt similar strategies by mandating the disclosure of assets by public officials, implementing strict codes of conduct, and ensuring regular audits of government activities.

The implementation of transparent procurement processes, as seen in New Zealand's reforms following the Auckland Transport scandal, can help reduce opportunities for corruption. Establishing clear guidelines for public procurement and ensuring rigorous oversight can prevent bid-rigging and collusion, thereby enhancing the integrity of the procurement process.

Fostering a Culture of Integrity

Fostering a culture of integrity within the public sector is essential for combating corruption. Singapore's emphasis on meritocracy and ethical behaviour among public servants provides a valuable lesson for India. Implementing regular training and awareness programs to instil values of integrity and ethical conduct can help create a public service culture that is resistant to corruption.

Establishing strict codes of conduct, as seen in New Zealand and the UK, can help set clear standards for public officials and ensure accountability. Encouraging public participation and promoting transparency in government operations can also help build public trust and deter corrupt practices.

Strengthening Enforcement Mechanisms

Effective enforcement mechanisms are critical to the success of anti-corruption efforts. Countries like Australia and Canada have demonstrated the importance of having specialised anti-corruption agencies with the authority to investigate and prosecute corruption cases. India can benefit from establishing and empowering such agencies,

ensuring they have the resources and independence needed to carry out their functions effectively.

The establishment of the Serious Fraud Office (SFO) in New Zealand and the Australian Commission for Law Enforcement Integrity (ACLEI) highlights the importance of specialised agencies in addressing complex corruption cases. By creating similar bodies with clear mandates and operational independence, India can enhance its capacity to combat corruption.

Leveraging Technology for Anti-Corruption Efforts

Leveraging technology can significantly enhance the effectiveness of anti-corruption efforts. Countries like Singapore have successfully implemented digital platforms to promote transparency and streamline government processes. India can adopt similar technological solutions, such as e-procurement systems and online platforms for reporting corruption, to reduce opportunities for corrupt practices and improve accountability.

Implementing data analytics and artificial intelligence (AI) tools can help detect patterns of corrupt activities and identify high-risk areas. By investing in technological infrastructure and building the capacity of anti-corruption agencies to utilise these tools, India can enhance its ability to prevent and address corruption.

International Cooperation and Collaboration

International cooperation is essential in addressing cross-border corruption and enhancing domestic anti-corruption efforts. India can benefit from collaborating with international organisations and countries with successful anti-corruption frameworks to share best practices and gain insights into effective strategies. Participating in international anti-corruption initiatives and agreements can also help strengthen India's commitment to combating corruption and enhance its global reputation.

In conclusion, India can significantly strengthen its legal framework and regulatory agencies by drawing lessons from the anti-corruption frameworks and practices of countries like the USA, UK, South Africa, Australia, Canada, New Zealand, and Singapore. Implementing comprehensive anti-corruption legislation, enhancing whistleblower protections, establishing independent oversight bodies, promoting transparency and accountability, enhancing financial oversight, fostering a culture of

integrity, strengthening enforcement mechanisms, leveraging technology, and promoting international cooperation are crucial steps towards building a corruption-free public sector in India.[78]

[78] Joseph G. Jabbra, *Bureaucratic Corruption in the Third World: Causes and Remedy*, 22 Indian J. Pub. Admin. 673, (1976), https://doi.org/10.1177/0019556119760407.

5.8. Conclusion

This chapter has provided a comprehensive comparative analysis of the anti-corruption laws and policies in the United States, the United Kingdom, South Africa, Australia, and select Commonwealth countries. The analysis has highlighted the historical and contemporary challenges faced by these countries in combating bureaucratic corruption, as well as the various legal and institutional frameworks they have established to address these challenges.

United States

The United States employs a multifaceted approach to combat bureaucratic corruption. Key legislative measures include the Pendleton Civil Service Reform Act of 1883, which established a merit-based system for federal employment, and the Foreign Corrupt Practices Act (FCPA) of 1977, which primarily targets international bribery but has influenced domestic anti-corruption efforts. The Public Integrity Section (PIN) within the Department of Justice (DOJ) investigates and prosecutes corruption involving public officials. Additional legislation, such as the Ethics in Government Act of 1978 and the Whistleblower Protection Act of 1989, strengthens oversight and protects those who expose misconduct.

United Kingdom

The United Kingdom has developed a comprehensive anti-corruption framework, highlighted by the Bribery Act 2010, which addresses both domestic and international bribery with stringent standards. Enforcement bodies like the Serious Fraud Office (SFO) and the National Crime Agency (NCA) play pivotal roles in investigating and prosecuting corruption. Historical cases, such as the scandals involving senior officials in the UK Border Agency and the National Health Service (NHS), have prompted significant reforms and reinforced the need for stringent oversight mechanisms.

South Africa

South Africa's anti-corruption framework is significantly shaped by its post-apartheid context. The Prevention and Combating of Corrupt Activities Act (PRECCA) of 2004 criminalises a wide range of corrupt activities and mandates public officials to report corruption. The establishment of the Public Protector and the Special Investigating Unit (SIU) has been crucial in uncovering high-profile corruption cases within the

bureaucracy, such as those involving the Department of Home Affairs and the South African Social Security Agency (SASSA).

Australia

Australia has made significant strides in combating bureaucratic corruption through the establishment of independent anti-corruption bodies, such as the Independent Commission Against Corruption (ICAC) in New South Wales. The Public Interest Disclosure Act of 2013 further strengthened protections for whistleblowers, enhancing the integrity of the public sector. Notable cases, such as the Queensland Health payroll scandal, underscore the importance of independent bodies in addressing corruption within the bureaucracy.

Whistleblower Protections and Penalties

Whistleblower protection is a critical element in the anti-corruption frameworks of these countries. The Whistleblower Protection Act in the USA, the Public Interest Disclosure Act of 1998 in the UK, and similar acts in South Africa and Australia provide robust protections for those who expose corruption. Penalties for bureaucratic corruption in these countries are severe, often including substantial prison sentences, fines, and disqualification from public office.

Lessons for India

India's anti-corruption efforts can benefit from understanding the successes and challenges of these countries. Key lessons include the importance of:

1. Merit-Based Employment Systems: Establishing and maintaining a merit-based system for public employment to reduce patronage and corruption.
2. Robust Legislative Frameworks: Implementing comprehensive anti-corruption laws that cover both domestic and international bribery.
3. Independent Oversight Bodies: Establishing and empowering independent bodies to investigate and prosecute corruption.
4. Whistleblower Protections: Ensuring strong protections for whistleblowers to encourage the reporting of corrupt activities.

5. Severe Penalties: Enforcing severe penalties for corrupt officials to deter corrupt practices.

By adopting these best practices and adapting them to the Indian context, India can enhance its anti-corruption efforts, leading to more effective governance and increased public trust.

CHAPTER VI

CONCLUSION AND SUGGESTIONS

This dissertation has meticulously examined the evolution and structure of the civil services in India, the persistent issue of corruption among civil servants, the existing legal framework, and the crucial role of the judiciary in preventing corruption. By conducting a comparative analysis of anti-corruption laws and policies from various countries, it has highlighted best practices and potential strategies that could be tailored to the Indian context. The research underscores the importance of a multifaceted approach involving legal reforms, institutional strengthening, technological advancements, and international cooperation to effectively combat corruption and enhance governance. This comprehensive study aims to provide a roadmap for achieving a transparent, accountable, and ethical civil service in India, thus fostering good governance and developmental goals.

Chapter 2 of dissertation traces the evolution of civil services in India which represents a rich and complex historical tapestry woven through various eras, each contributing to the administrative frameworks that govern contemporary India. The journey of civil services can be traced back to the Vedic period (1500-500 BCE), where governance was deeply intertwined with religious and social norms. During this era, the king was seen as the protector of Dharma (righteousness), supported by councils like the Sabha and the Samiti, which comprised nobles, priests, and prominent societal members. These assemblies were advisory in nature, indicating an early form of participatory governance. Officials and functionaries mentioned in the Rigveda assisted the king, reflecting an organised approach to administration even in ancient times. As India transitioned into the Maurya and Gupta empires, the complexity and structure of civil services evolved significantly. The Mauryan Empire, under the leadership of Chandragupta Maurya and the guidance of his advisor Kautilya, established a well-organized administrative system. Kautilya's Arthashastra, an ancient Indian treatise on statecraft, economic policy, and military strategy, laid down the principles for efficient administration. It detailed government officials' recruitment, qualifications, and duties, as well as their salaries, leave policies, and benefits. This period marked the beginning of a merit-based system of governance, emphasising the importance of a qualified and ethical bureaucracy. The Gupta Empire, often referred to as the Golden Age of India,

further refined the administrative practices. The Gupta administration was decentralised, with local governance playing a crucial role. The king was assisted by a council of ministers and various officials responsible for different administrative functions. This period saw the establishment of a structured bureaucracy with clearly defined roles and responsibilities for civil servants. The emphasis on education and scholarship during the Gupta period also contributed to a more knowledgeable and efficient administration. The medieval period in India saw the rise of various dynasties, each contributing to the evolution of civil services. The Delhi Sultanate and the Mughal Empire, in particular, profoundly impacted the administrative practices in India. Compared with the earlier Mauryan and Gupta empires, the Delhi Sultanate was mainly land-based and focused on revenue operations rather than giving attention to social services, thus creating a feudalistic structure. However, the Mughal Empire under Akbar brought about significant administrative reforms. Akbar's administration was characterised by a centralised system of governance with a strong emphasis on merit and efficiency. The Mansabdari system, introduced by Akbar, classified officials into different ranks based on their merit and performance, ensuring a systematic and efficient bureaucracy. The arrival of the British in India marked a significant turning point in the evolution of civil services. The British East India Company initially employed civil servants primarily for trade and revenue collection. However, as the Company's political and administrative control expanded, so did the role of its civil servants. The establishment of the Indian Civil Service (ICS) in the 19th century marked the beginning of a structured and formalised bureaucracy in India. The ICS was initially dominated by British officials, but over time, Indians were gradually admitted into the service through competitive examinations. The ICS was characterised by its emphasis on merit, discipline, and integrity, setting high standards for administrative efficiency. The period of British colonial rule also saw the introduction of various legislative and administrative reforms aimed at improving governance. Implementing the Government of India Acts and establishing provincial legislatures and local self-government institutions were significant steps towards a more participatory and accountable administration. The British also introduced modern concepts of administration, such as the rule of law, separation of powers, and civil rights, which had a lasting impact on the Indian administrative system. Post-independence, the Indian Administrative Service (IAS) was established as the successor to the ICS. The IAS inherited the legacy of the ICS but was imbued with a new sense of purpose and national

pride. The IAS was envisioned as an instrument of nation-building, tasked with implementing the policies and programs of the government and ensuring efficient governance. The administrative reforms in post-independence India were guided by the recommendations of various committees and commissions, such as the Administrative Reforms Commission (ARC). These reforms aimed at improving the civil services' efficiency, transparency, and accountability. Measures such as establishing the Central Vigilance Commission (CVC), introducing performance appraisal systems, and implementing e-governance initiatives were significant steps towards modernising the Indian administrative system. Despite these reforms, the Indian civil services have faced numerous challenges in the post-independence period. Issues such as bureaucratic red tape, corruption, political interference, and lack of accountability have plagued the civil services, undermining their efficiency and effectiveness. The need for continuous administrative reforms to address these challenges and improve the functioning of civil services has been a recurring theme in the discourse on governance in India.

Chapter 3 talks about corruption among civil servants in India, which is a deeply entrenched issue that significantly undermines the effectiveness of public administration and hampers socio-economic development. The historical, socio-economic, and political factors that contribute to this phenomenon have created a complex environment where corrupt practices are not merely individual moral failings but are also deeply rooted in systemic issues and structural deficiencies. Understanding the multifaceted nature of corruption within the Indian bureaucracy is essential for devising effective strategies to combat it. At its core, corruption in civil services is defined as the misuse of public office for private gain. This misuse manifests in various forms, ranging from petty corruption involving small-scale, everyday abuses of power by lower-level officials to grand corruption involving large-scale misappropriation of public funds by high-ranking officials. Petty corruption is particularly pervasive, affecting the daily interactions of ordinary citizens with government services. Instances of bribery to expedite processes, such as obtaining licenses and permits or accessing public utilities, create an environment of mistrust and inefficiency. In contrast, grand corruption often involves significant financial transactions and collusion between senior bureaucrats and political leaders, leading to major scandals that erode public trust in governance. Several socio-economic factors contribute to the prevalence of corruption among civil servants. Inadequate salaries and job insecurity are significant

motivators, pushing many civil servants to resort to corrupt practices to supplement their income or secure their positions. The influence of political patronage further exacerbates this issue, as promotions and transfers are often based on political connections rather than merit. Moreover, societal norms and cultural attitudes towards corruption play a crucial role. In many cases, corrupt practices are normalised and even expected as a means of navigating bureaucratic processes, further entrenching corruption within the system. The impact of corruption on governance and development is profound. Corruption erodes public trust in government institutions, undermines the rule of law, and distorts policy-making processes leading to failure of good governance. It leads to inefficiencies in public service delivery, diverting resources from their intended purposes, resulting in substandard infrastructure, poor healthcare, and inadequate education services. Several case studies illustrate how corruption in specific sectors such as public works, healthcare, and education has had detrimental effects on development outcomes. These examples underscore the need for robust anti-corruption measures to ensure effective governance and equitable development. The legal and institutional framework established to combat corruption in India includes key anti-corruption laws such as the Prevention of Corruption Act, 1988, and institutions like the Central Vigilance Commission (CVC) and the Lokpal and Lokayuktas. These legal instruments and institutions are designed to detect, investigate, and prosecute corrupt practices among public officials. However, the effectiveness of these measures is often hindered by challenges in enforcement, lack of coordination among agencies, and political interference. Despite the existence of a comprehensive legal framework, the implementation of anti-corruption measures remains inconsistent and often lacks the necessary political will. Administrative reforms aimed at curbing corruption in the civil services have focused on increasing transparency and accountability. E-governance initiatives, for example, reduce opportunities for corrupt practices by minimising direct interactions between citizens and officials. Performance-based appraisal systems and stricter accountability mechanisms are potential solutions to reduce corruption. The successes and limitations of these reforms highlight the need for a holistic approach that addresses both the symptoms and root causes of corruption. Civil society and media play a crucial role in combating corruption. Civil society organisations and the media raise awareness about corruption, advocate for policy changes, and hold public officials accountable. Successful anti-corruption movements and investigative journalism have exposed major corruption scandals and made significant policy changes. However, civil

society organisations and journalists often face challenges, including threats to their safety and attempts to undermine their credibility. Protecting these actors is essential to ensure a vibrant and effective anti-corruption ecosystem. In conclusion, addressing corruption among civil servants in India requires comprehensive and sustained efforts. A multi-pronged strategy that includes strengthening legal and institutional frameworks, promoting administrative reforms, enhancing transparency and accountability, and fostering a culture of integrity and ethical behaviour is essential. Greater political will and public support are crucial to drive the anti-corruption agenda and ensure that civil servants are held to the highest standards of conduct. Combating corruption is essential for improving governance and development outcomes, restoring public trust in government institutions, and ensuring social justice. The evolution of corruption among civil servants in India highlights the continuity and change in administrative practices over the years. Historical insights and lessons from the past provide a valuable framework for guiding future reforms and enhancing the effectiveness of the Indian administrative system. Addressing the challenges of corruption, political interference, and lack of accountability through comprehensive administrative reforms and fostering a culture of integrity and efficiency in civil services is crucial for ensuring good governance and achieving the nation's developmental goals. The journey from the ancient Vedic period to the modern IAS reflects the dynamic and resilient nature of Indian administration, underscoring the need for continuous efforts to build a more transparent, accountable, and efficient civil service.

Chapter 4 delves into the role of the judiciary in preventing corruption among civil servants which is a critical aspect of the broader anti-corruption framework in India. As an independent and impartial arbiter, the judiciary is responsible for interpreting and enforcing the law, ensuring that public officials adhere to the highest standards of integrity and accountability. The effectiveness of the judiciary in combating corruption is pivotal in maintaining public trust and upholding the rule of law. At the heart of the judiciary's role in combating corruption is its power to interpret and apply anti-corruption laws. The Indian legal framework includes several statutes aimed at curbing corruption, such as the Prevention of Corruption Act of 1988, which criminalises various forms of corruption among public officials. The judiciary's interpretation of these laws shapes the enforcement landscape, providing clarity and setting precedents

for future cases. Through landmark judgments, the judiciary has reinforced the principles of accountability and transparency, holding corrupt officials accountable and deterring others from engaging in similar conduct. These judgments serve as a deterrent by signalling the judiciary's commitment to addressing corruption and upholding ethical standards in public administration. One of the judiciary's significant contributions to the anti-corruption agenda is its proactive stance in high-profile corruption cases. The judiciary has played a crucial role in investigating and prosecuting several high-profile corruption scandals that have shaken the nation. By taking a firm stance against powerful individuals implicated in these scandals, the judiciary has demonstrated its independence and willingness to uphold the rule of law, regardless of the individual's social or political standing. These actions have reinforced the message that no one is above the law and that the judiciary is a key pillar in the fight against corruption. In addition to interpreting and enforcing anti-corruption laws, the judiciary has also contributed to institutional reforms aimed at enhancing transparency and accountability within the civil services. Judicial directives have led to the implementation of various measures, such as the establishment of vigilance commissions, ombudsman offices, and the promotion of e-governance initiatives. These reforms aim to reduce opportunities for corrupt practices by increasing oversight and minimising direct interactions between citizens and officials. The judiciary's role in advocating for and overseeing these reforms underscores its commitment to creating a more transparent and accountable public administration system. The judiciary's independence is a cornerstone of its effectiveness in combating corruption. An independent judiciary is crucial for ensuring that anti-corruption laws are applied impartially and public officials are held accountable without fear or favour. The Indian Constitution guarantees judicial independence, providing mechanisms to protect judges from external pressures and ensuring their decisions are based solely on the merits of the cases before them. This independence allows the judiciary to act as a check on the executive and legislative branches of government, preventing abuses of power and safeguarding the principles of democracy and good governance. Despite its critical role, the judiciary faces several challenges in its efforts to combat corruption among civil servants. One of the primary challenges is the backlog of cases, which can delay the delivery of justice and reduce the deterrent effect of anti-corruption measures. The judiciary's limited resources and the complexity of corruption cases often contribute to prolonged legal proceedings, undermining public confidence in the judicial process.

Addressing this challenge requires systemic reforms to improve the efficiency and capacity of the judiciary, ensuring that corruption cases are resolved promptly and effectively. Another challenge is the issue of judicial corruption, which can erode the judiciary's credibility and effectiveness in combating corruption. Instances of corruption within the judiciary itself highlight the need for robust mechanisms to ensure judicial accountability and integrity. The judiciary also plays a crucial role in safeguarding the rights of whistle-blowers, who are often instrumental in exposing corrupt practices within the civil services. By providing legal protections and ensuring whistleblowers are not subjected to retaliation, the judiciary can encourage more individuals to come forward with information about corruption. Landmark judgments and directives from the judiciary have emphasised the importance of protecting whistleblowers and creating an environment where they can report corruption without fear of retribution. These protections are vital for uncovering and addressing corruption, as whistleblowers often provide critical insights that can lead to successful investigations and prosecutions. Public interest litigation (PIL) has emerged as a powerful tool for the judiciary in addressing corruption. Through PIL, individuals and organisations can bring cases to the court on behalf of the public interest, challenging corrupt practices and seeking judicial intervention to uphold the rule of law. The judiciary's receptiveness to PIL has enabled civil society to play a more active role in the fight against corruption, using the courts to hold public officials accountable and advocate for systemic reforms. This collaboration between the judiciary and civil society has strengthened the overall anti-corruption framework and highlighted the judiciary's role as a defender of public interest. The judiciary's engagement with international anti-corruption frameworks further underscores its commitment to combating corruption. India is a signatory to various international conventions and agreements that promote anti-corruption measures, such as the United Nations Convention against Corruption (UNCAC). The judiciary's alignment with these international standards enhances its ability to address corruption effectively and reinforces the global consensus on the importance of transparent and accountable governance. By incorporating international best practices into its judgments and directives, the judiciary can strengthen the domestic anti-corruption framework and contribute to global efforts to combat corruption. In summary, the judiciary plays a multifaceted and indispensable role in preventing corruption among civil servants in India. Through its interpretation and enforcement of anti-corruption laws, proactive

stance in high-profile cases, advocacy for institutional reforms, and protection of whistleblowers, the judiciary upholds the principles of accountability and transparency. Despite facing challenges such as case backlogs and judicial corruption, the judiciary's independence and commitment to the rule of law position it as a key pillar in the fight against corruption. Strengthening the judiciary's capacity and ensuring its integrity are essential for maintaining public trust and advancing the broader anti-corruption agenda.

Chapter 5 makes a comparative analysis of anti-corruption laws and policies across different jurisdictions and provides critical insights into the effectiveness of various approaches to combating corruption among civil servants. By examining the legal frameworks and policy measures adopted by countries with varying degrees of corruption, we can identify best practices and areas for improvement in India's anti-corruption strategy. There is a need to delve into the anti-corruption laws and policies of several countries, comparing their successes and challenges in order to derive lessons that can be applied to the Indian context. One of the primary aspects of anti-corruption frameworks is the establishment of comprehensive legal statutes that define and criminalise corrupt practices. Countries with robust anti-corruption laws often have detailed provisions that cover a wide range of corrupt activities, including bribery, embezzlement, abuse of power, and money laundering. For instance, the United States has enacted the Foreign Corrupt Practices Act (FCPA), which prohibits bribery of foreign officials and mandates rigorous accounting standards for companies. Similarly, the United Kingdom's Bribery Act of 2010 extends its jurisdiction beyond national borders, penalising both the offering and receiving of bribes, and includes provisions for corporate liability. These comprehensive legal frameworks serve as powerful tools in the fight against corruption, setting clear standards and penalties that deter corrupt behaviour. In addition to legal statutes, the effectiveness of anti-corruption efforts is significantly influenced by the presence of independent and empowered anti-corruption agencies. Countries like Singapore have established specialised agencies that are well-resourced and autonomous, allowing them to operate without political interference. The Corrupt Practices Investigation Bureau (CPIB) and the Independent Commission Against Corruption (ICAC) in Singapore have achieved notable success in reducing corruption through rigorous investigations, proactive measures, and public education campaigns. The independence and authority of these agencies are crucial factors that contribute to their effectiveness, ensuring that anti-corruption efforts are consistent and

impartial. Transparency and accountability mechanisms are also fundamental components of effective anti-corruption frameworks. Access to information laws, public financial disclosure requirements, and transparent procurement processes help to create an environment where corrupt practices are more difficult to conceal. For example, the United Kingdom's Freedom of Information Act and similar laws in other countries empower citizens to request information from government agencies, fostering a culture of transparency. As mandated in countries like Canada, public financial disclosure by civil servants further enhances accountability by making it more difficult for officials to engage in illicit activities without detection. These transparency measures are essential for building public trust and enabling civil society to hold public officials accountable. Comparative analysis also highlights the importance of strong judicial systems in enforcing anti-corruption laws. Countries with independent and efficient judiciaries are better equipped to prosecute corruption cases and uphold the rule of law. The judiciary's role in interpreting anti-corruption statutes, adjudicating cases, and imposing penalties is crucial for ensuring that corrupt officials are held accountable. In countries like New Zealand, the judiciary is recognised for its independence and integrity, contributing to lower levels of corruption. Efficient judicial processes that minimise delays and ensure timely resolution of cases are essential for maintaining the deterrent effect of anti-corruption measures. Preventive measures, including public awareness campaigns and education, are vital components of a holistic anti-corruption strategy. Countries that prioritise education and public engagement in their anti-corruption efforts tend to have lower levels of corruption. These preventive measures help to instil a culture of integrity and reduce the social acceptance of corrupt practices. These countries create a more informed and vigilant society by educating citizens about the dangers of corruption and their role in combating it. The role of civil society and the media cannot be understated in the fight against corruption. A vibrant civil society and a free press are essential for exposing corrupt practices and advocating for reforms. Corruption is more likely to be uncovered and addressed in countries with active civil society organisations and investigative journalism. Examples from countries like South Africa demonstrate how civil society and the media can drive anti-corruption efforts by investigating and reporting corruption cases, mobilising public opinion, and pressuring governments to act. Supporting and protecting these actors is crucial for maintaining a robust anti-corruption ecosystem. International cooperation and adherence to global anti-corruption standards also play a significant role in shaping

national anti-corruption policies. Participation in international conventions, such as the United Nations Convention against Corruption (UNCAC) and the OECD Anti-Bribery Convention, encourages countries to adopt and implement comprehensive anti-corruption measures. These international frameworks provide guidelines and benchmarks for national policies, promoting a coordinated global effort to combat corruption. Countries that actively engage in international anti-corruption initiatives benefit from shared knowledge, technical assistance, and peer reviews, enhancing their capacity to address corruption effectively. Despite the diverse approaches and varying degrees of success, common challenges persist across different jurisdictions. Political will is a crucial determinant of the effectiveness of anti-corruption efforts. In countries where political leaders are committed to combating corruption, anti-corruption agencies and legal frameworks tend to be more effective. Conversely, a lack of political will can undermine even the most comprehensive anti-corruption strategies. Ensuring sustained political commitment and insulating anti-corruption bodies from political influence are essential for the success of anti-corruption initiatives. The comparative analysis of anti-corruption laws and policies underscores the importance of a multi-faceted approach that combines legal, institutional, and societal measures. While no single approach is universally applicable, certain best practices can be adapted to the Indian context to enhance the effectiveness of its anti-corruption efforts. Strengthening the legal framework by incorporating comprehensive provisions and ensuring strict enforcement is a fundamental step. Establishing and empowering independent anti-corruption agencies with adequate resources and autonomy is equally crucial. Enhancing transparency and accountability mechanisms, promoting public awareness and education, and fostering a culture of integrity through preventive measures are essential components of a robust anti-corruption strategy. Furthermore, supporting and protecting civil society organisations and the media, ensuring judicial independence and efficiency, and actively participating in international anti-corruption initiatives can significantly bolster India's anti-corruption efforts. By learning from the successes and challenges of other countries, India can refine its anti-corruption policies and create a more transparent, accountable, and ethical public administration. This comprehensive and comparative approach provides a roadmap for strengthening India's anti-corruption framework and achieving the goal of a corruption-free society. In conclusion, the comparative analysis of anti-corruption laws and policies reveals a diverse array of strategies and measures that countries have adopted to combat corruption among civil

servants. By examining various jurisdictions' legal frameworks, institutional structures, and societal approaches, valuable lessons can be drawn to inform and enhance India's anti-corruption efforts. The integration of best practices tailored to the unique socio-political context of India can lead to more effective and sustainable anti-corruption outcomes. The journey towards a corruption-free society requires continuous adaptation, innovation, and commitment from all stakeholders, including the government, judiciary, civil society, and the public.

In closing, this dissertation has underscored the critical need for robust and adaptive measures to tackle corruption within India's civil services. The analysis has demonstrated that while significant strides have been made in formulating and enforcing anti-corruption laws, substantial gaps remain that hinder the realization of a fully transparent and accountable administrative framework. Drawing lessons from international practices and emphasizing the role of the judiciary, this research advocates for a holistic reform strategy that encompasses legal, institutional, and technological dimensions. By fostering a culture of integrity and vigilance, India can pave the way for a more effective and ethical public administration, ultimately contributing to the nation's democratic and developmental aspirations. The findings and recommendations presented herein aim to inspire ongoing efforts and future research in the quest to eradicate corruption and uphold the principles of good governance.

6.1. Suggestions

The following are the suggestions that the researcher putting forward:

1. **Strengthening Legal Frameworks and Enforcement Mechanisms:**

To effectively combat corruption, it is crucial to establish and continually strengthen a comprehensive legal framework that specifically addresses various forms of corruption. This framework should cover traditional forms of corruption, such as bribery and embezzlement, and newer, more sophisticated forms of corruption that may arise in modern governance. Though significant, the existing Prevention of Corruption Act of 1988 needs to be updated to close loopholes and address contemporary challenges. Amendments should include stricter definitions and broader coverage of offences related to digital transactions and financial technologies to ensure all potential corrupt activities are encompassed within the law. Another vital aspect is the establishment of comprehensive whistleblower protection laws. These laws should offer robust protections for individuals who report corruption, including anonymity, legal

safeguards against retaliation, and incentives for reporting. Encouraging whistleblowers can lead to the uncovering of corruption that might otherwise remain hidden, thus playing a critical role in the enforcement process.

Ensuring the enforcement of these laws is equally critical. Robust enforcement mechanisms require a multi-pronged approach that includes both punitive and preventive measures. Stringent penalties must be established and consistently applied to serve as a deterrent to potential offenders. This involves imposing heavy fines and prison sentences and implementing measures such as asset forfeiture and disqualification from holding public office. The legal statutes must clearly define these penalties to leave no room for ambiguity. To enhance the efficacy of legal enforcement, it is imperative to establish special anti-corruption courts. These courts should be tasked with handling corruption cases exclusively, thus expediting the judicial process and reducing the backlog of cases that often delay justice. Specialised judges and prosecutors trained in handling complex corruption cases should be appointed to these courts. Their expertise would ensure that cases are dealt with efficiently and judiciously and that technicalities do not obstruct the delivery of justice.

2. Enhancing the Independence and Capacity of Anti-Corruption Agencies:

Ensuring the independence and capacity of anti-corruption agencies is paramount to effectively combatting corruption. Anti-corruption agencies, such as the Central Bureau of Investigation (CBI) and the Lokpal, must operate without political interference to maintain their integrity and credibility. This independence is crucial for unbiased investigations and prosecutions, which are fundamental to holding corrupt officials accountable.

Additionally, providing sufficient resources and training for law enforcement agencies is crucial to enhance their capacity to effectively investigate and prosecute corruption cases. Law enforcement agencies play a crucial role in investigating and prosecuting corruption cases. Therefore, it is essential to provide these agencies with adequate resources, both financial and human. This includes modern investigative tools and technologies, such as forensic accounting software and digital surveillance equipment, which can help in tracking and gathering evidence against corrupt practices. Moreover, continuous training and capacity-building programs should be instituted to keep law

enforcement personnel updated on the latest techniques in anti-corruption investigations.

Regular audits and accountability measures are necessary to prevent corruption within anti-corruption agencies themselves. Internal oversight mechanisms, such as ethics committees or inspector generals, can monitor the activities of agency staff and ensure adherence to ethical standards. External audits by independent bodies can further enhance transparency and accountability. Whistleblower protection within these agencies is also crucial, encouraging staff to report any misconduct without fear of retaliation. Collaborating with international anti-corruption bodies and adopting best practices from countries with successful anti-corruption agencies can further strengthen their effectiveness.

3. Promoting Transparency and Accountability in Public Administration

Transparency and accountability are fundamental pillars in the fight against corruption. By promoting these principles within public administration, governments can significantly reduce the opportunities for corrupt practices and increase public trust in governmental institutions. A multifaceted approach is required to embed these values deeply into the fabric of public governance. All government transactions and decisions should be made transparent and accessible to the public. Implementing robust access to information laws that allow citizens to obtain information about government operations is essential. Public officials should be required to disclose their assets, liabilities, and income sources regularly. This can prevent illicit enrichment and allow for the detection of unexplained wealth. Such disclosures should be made publicly available and be subject to regular audits by independent bodies. By making this information accessible, citizens and watchdog organisations can scrutinise the financial dealings of public officials, thereby promoting accountability.

4. Integrating Technology and E-Governance

Leveraging technology can significantly reduce opportunities for corruption by minimising human discretion in government processes. E-governance initiatives should be expanded to cover all aspects of public administration, including procurement, licensing, and service delivery which can streamline operations and make them more transparent and accountable. Automated systems can help track and monitor transactions, reducing the chances of manipulation. By minimising human intervention,

automation lowers the risk of corrupt practices, making government operations more efficient and reliable. Public engagement through digital platforms is another important aspect of integrating technology into governance. Secure and user-friendly platforms for whistleblowing and public grievances encourage citizens to report corruption anonymously, ensuring that complaints are documented and tracked. This reduces the risk of retaliation and increases the likelihood of action being taken. Empowering citizens to access services and report corruption incidents more easily fosters greater public participation in anti-corruption efforts and enhances the overall transparency of government operations.

5. Fostering a Culture of Integrity and Ethical Behaviour

Promoting a culture of integrity and ethical behaviour within the civil services is essential for long-term success in combating corruption. A proactive approach to ethics can transform the public sector by ingraining values of integrity, accountability, and public service in government officials at all levels. Establishing clear codes of conduct and ethical guidelines can help set standards for behaviour. These codes provide a concrete set of expectations for behaviour, making what is considered acceptable and unacceptable conduct clear. Additionally, creating reward systems for ethical behaviour and exemplary service can motivate officials to maintain high ethical standards. Furthermore, fostering a culture of integrity involves creating an environment where ethical behaviour is the norm and corruption is not tolerated. This can be achieved by ensuring that there are robust mechanisms in place for reporting and addressing unethical behaviour.

6. Encouraging Public Participation and Civil Society Engagement

Public participation and civic engagement are essential elements in the fight against corruption. By involving citizens in governance processes, governments can foster a culture of transparency, accountability, and collective responsibility. Enhanced public participation ensures that the voices of the people are heard, their concerns addressed, and their rights upheld, which in turn helps to identify and combat corruption effectively.

Firstly, creating institutional frameworks that facilitate citizen participation in decision-making is vital. This can be achieved by establishing participatory platforms where citizens can voice their opinions and contribute to policy formulation and

implementation. These platforms can include public consultations, town hall meetings, and advisory committees that engage diverse segments of the population, including marginalised groups. By institutionalising such mechanisms, governments can ensure that public input is systematically integrated into governance. Civil society organisations should be supported and empowered to monitor government activities, advocate for reforms, and educate the public about the dangers of corruption. These programs should focus on educating citizens about their rights, the functioning of government institutions, and the importance of transparency and accountability. Schools, universities, and civil society organisations can play a crucial role in delivering civic education. Governments can build a strong foundation for participatory governance by fostering an informed and engaged citizenry. Facilitating platforms for dialogue between the government, civil society, and the private sector can foster collaboration and ensure that anti-corruption efforts are comprehensive and inclusive.

7. Enhancing International Cooperation and Adopting Global Best Practices

Corruption is a global issue that transcends borders, making international cooperation and the adoption of global best practices essential components of an effective anti-corruption strategy. By working together with other countries and international organisations, governments can strengthen their efforts to combat corruption and enhance the effectiveness of their anti-corruption measures. Strengthening collaboration with international anti-corruption bodies and adhering to global conventions can enhance national efforts. Sharing information, resources, and best practices with other countries can help identify effective strategies and address cross-border corruption. Participating in international peer reviews and assessments can provide valuable insights and benchmarks for improving domestic anti-corruption measures.

8. Developing Sector-Specific Anti-Corruption Strategies

Different sectors may face unique corruption challenges that require tailored strategies. Developing sector-specific anti-corruption strategies allows for targeted approaches that address the particular vulnerabilities and risks within each sector, thereby enhancing the overall effectiveness of anti-corruption efforts. For example, the healthcare sector may require measures to prevent procurement fraud and ensure the

integrity of medical services. To combat these issues, strategies could include stringent oversight mechanisms for procurement processes, ensuring transparency in the allocation and use of funds, and implementing robust audit systems. The education sector may need strategies to combat nepotism and ensure fair access to educational opportunities. Sector-specific strategies here could involve establishing transparent admission processes, enforcing strict regulations against academic fraud, and ensuring fair distribution of resources. Targeted interventions can be designed to mitigate corruption and enhance integrity by identifying the specific vulnerabilities and risks in each sector.

9. Monitoring and Evaluation of Anti-Corruption Initiatives

Regular monitoring and evaluation of anti-corruption initiatives are essential to assess their effectiveness and identify areas for improvement. Establishing robust monitoring and evaluation frameworks can provide data and insights on the impact of various measures. This information can be used to refine strategies, allocate resources more efficiently, and ensure that anti-corruption efforts are achieving the desired outcomes. Developing a comprehensive monitoring and evaluation framework begins with clearly defining the objectives and expected outcomes of anti-corruption initiatives. This involves setting measurable goals, such as reducing the incidence of bribery, increasing transparency in public procurement, or enhancing the efficiency of legal processes related to corruption cases. Clear, quantifiable indicators should be established to track progress toward these goals. These indicators might include the number of corruption cases prosecuted, the amount of recovered assets, or public perceptions of corruption levels. Transparent reporting on the progress and challenges of anti-corruption initiatives can also enhance accountability and build public trust. Regular public reporting on the progress and outcomes of anti-corruption initiatives builds trust and ensures that stakeholders are informed about the effectiveness of these measures. Governments should publish comprehensive reports detailing the activities, achievements, challenges, and future plans of anti-corruption programs. These reports should be accessible to the public and provide clear, understandable information.

10. Addressing the Root Causes of Corruption

It is important to address its root causes to achieve sustainable success in combating corruption. Addressing the root causes of corruption involves tackling the fundamental issues that create an environment conducive to corrupt practices. One of the primary

drivers of corruption is economic inequality. When there is a significant disparity in wealth and income distribution, individuals in lower economic strata may resort to corruption as a means of survival, while those in higher strata may use corruption to maintain or enhance their wealth and influence. Another critical factor is the lack of education. Education shapes values and ethical standards, playing a pivotal role in preventing corruption. Ensuring access to quality education for all individuals, regardless of their socio-economic background, can instil values of integrity and civic responsibility from a young age. Weak governance structures also contribute significantly to corruption. Corruption flourishes when institutions are weak and lack the necessary mechanisms to function effectively. Strengthening these institutions, such as the judiciary, law enforcement agencies, and regulatory bodies, is essential. Social norms and cultural factors play a significant role in the prevalence of corruption. In some societies, corrupt practices may be normalised or even expected. Changing these social norms requires comprehensive public awareness campaigns that highlight the negative consequences of corruption on society and the economy. By creating a more equitable and just society, the conditions that enable corruption can be reduced, leading to more effective and sustainable anti-corruption outcomes.

In conclusion, the fight against corruption requires a comprehensive and multi-faceted approach that addresses legal, institutional, and societal dimensions. Strengthening legal frameworks, enhancing the independence and capacity of anti-corruption agencies, promoting transparency and accountability, leveraging technology, fostering a culture of integrity, ensuring judicial integrity, encouraging public participation, implementing preventive measures, enhancing international cooperation, developing sector-specific strategies, monitoring and evaluating initiatives, and addressing the root causes of corruption are all critical components of an effective anti-corruption strategy. By adopting these recommendations and continuously adapting to emerging challenges, India can create a more transparent, accountable, and corruption-free society.

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APPENDIX

Plagiarism Report