

## Letter from the Executive Board (EB)

Greetings, Parliamentarians!

We feel privileged and honoured to welcome you to this simulation of the Rajya Sabha at the PremiaMUN 2024.

We hope that this simulation proves fruitful to you and you take something valuable back from it. We also hope that by the end of the conference, you will have a better understanding of different political views in the country, current affairs, and various other aspects of the agenda that has been selected for this conference and we hope that you will be willing to participate in more such conferences.

The Executive Board has collectively designed a Background Guide for you to start off your research process. The Background Guide will help you get familiar with the agenda and its background but for the committee to progress as someone who is going to enact a politician you must carry forward external research, and as the name suggests, will provide you with very basic and guiding insights. The Background Guide is a major resource for you but should not provide a hindrance in your external research.

For your external research and background research on your portfolio, you are advised to research like there's no tomorrow! This Background Guide will only scratch the surface of the agenda that we are currently dealing with. We urge all members of the committee to take the time to read the background guide and use it as a starting point for their preparation. You are to come to the conference with an open mind, ready to meet and work with new people, actively participate in the debate in the committee, debate and argue solutions and problems, and hopefully reach a consensus.

The Executive Board looks forward to your presence at PremiaMUN 2024.

Regards,

Sai Eshwar (Chairman)

Agenda: Reviewing the Effectiveness of Anti-Corruption Measures in India with a special emphasis on the Role of Investigation Agencies in their implementation.

Introduction

"Corruption is like a ball of snow, once it's set a rolling it must increase." - Charles Caleb Colton

Corruption in public life has been a major concern in India for decades, permeating various facets of society and governance. The pervasive nature of corruption impacts sectors ranging from land and property, health, education, commerce, and industry to agriculture, transport, police, armed forces, and even religious institutions. In 2019, India was ranked 80th out of 180 countries in Transparency International's Corruption Perceptions Index (CPI), and it fell to 85th in 2021, reflecting the ongoing struggle against this deep-rooted issue.

Corruption in India exists at all three levels: political, bureaucratic, and corporate. The entangled nexus between politicians, bureaucrats, and industrialists has significantly contributed to corrupt practices and governance challenges. This widespread corruption undermines political stability and the integrity of democratic institutions, casting a shadow over the world's largest democracy.

In recent years, high-profile scandals such as the Coal Allotment Scam, 2G Spectrum Scam, Commonwealth Games Scam, and many others have brought to light the extent of corruption within the Indian political and bureaucratic system. These scandals not only highlight the inefficacy of existing anti-corruption measures but also underscore the urgent need for robust and transparent mechanisms to combat corruption at all levels.

The decentralization of power, a hallmark of democracy, has also facilitated the proliferation of corruption. Local political bodies, such as Panchayats and Municipalities, often become arenas for corrupt practices, with political leaders and party workers exploiting their positions for personal gain. This participatory democracy, while intended to empower citizens, has at times been misused, leading to further institutional decay.

The fight against corruption was a key aspect of Prime Minister Narendra Modi's populist agenda that brought him to power in 2014. The anti-corruption movement that started in 2011, in response to a series of high-level scams, mobilized large sections of the population and heightened awareness about corporate loot of public resources. However, despite various initiatives and

reforms, including the establishment of the Lokpal (ombudsman authority) and the controversial 2016 demonetization, corruption remains endemic, prevailing at all levels of governance.

Investigation agencies play a critical role in the implementation of anti-corruption measures. Their effectiveness is crucial in ensuring that office-bearers engaging in corrupt activities are prosecuted and that corruption is curbed. However, these agencies often face challenges such as political interference, lack of resources, and procedural loopholes that allow corrupt officials to escape accountability. Ensuring the independence and efficiency of these agencies is paramount in the ongoing battle against corruption.

This background guide aims to review the effectiveness of anti-corruption measures in India, with a special emphasis on the role of investigation agencies in their implementation. It seeks to provide a comprehensive overview of the current state of corruption in India, the challenges faced by anti-corruption efforts, and the potential pathways for reform to enhance the integrity and effectiveness of these measures.

## Understanding the Multifaceted Nature of Corruption in India

Corruption in India is a deeply entrenched issue, manifesting in various forms across different sectors and regions. From petty bribery to grand corruption schemes, the pervasive nature of corrupt practices undermines the rule of law and hinders equitable development. This section delves into the complexities of corruption in India, drawing on recent studies and reports to highlight the challenges and potential solutions.

### ● **Petty Corruption: A Cultural and Systemic Challenge**

Petty corruption is perhaps the most visible form of corruption in India. It affects everyday interactions with public services, as citizens often resort to bribery to expedite processes or obtain basic services such as police protection, school admissions, water supply, and government assistance.

The

roots of petty corruption lie in a complicated bureaucracy, excessive red tape, and ambiguous regulatory mechanisms, which create an environment where networks of familiarity and bribery become essential for navigating the system.

The digitization of public services, while intended to reduce corruption, has introduced new forms of fraud. With low banking literacy, many beneficiaries of government schemes have fallen prey to corrupt banking correspondents who exploit the system for personal gain. This underscores the need for robust safeguards and widespread digital literacy to ensure that technological advancements do not inadvertently perpetuate corruption.

### ● **Nepotism and Caste-Based Corruption**

Nepotism in India extends beyond family ties, infiltrating social structures such as caste. Reports indicate that the highest positions in both the government and private sectors are often monopolized by the upper echelons of the caste hierarchy, leaving marginalized groups underrepresented. This caste-based nepotism perpetuates social inequality and hinders the country's progress towards an inclusive society.

The media sector is not immune to these biases. An Oxfam India and Newslaundry study revealed a significant underrepresentation of Scheduled Tribes and Scheduled Castes among journalists, further highlighting the systemic barriers faced by these communities. Addressing caste-based corruption requires targeted policies that promote diversity and inclusion at all levels of society.

### ● **Political Corruption: Undermining Democratic Processes**

Political corruption in India is characterized by voter suppression, opaque political financing, and embezzlement involving influential political actors. The 2019 national elections saw allegations

of missing voters, predominantly from vulnerable groups such as Muslims, Dalits, and women. This deliberate disenfranchisement erodes public trust in democratic processes and highlights the need for electoral reforms to ensure fair and inclusive elections.

Political financing remains a contentious issue, with new rules allowing corporations, including foreign-owned entities, to fund elections anonymously. The introduction of electoral bonds has been criticized for further legitimizing

anonymity and opacity in political donations. Such practices create opportunities for crony capitalism, where businesses gain undue influence over political decisions in exchange for financial support.

### ● **Crony Capitalism: A Persistent Threat**

Crony capitalism continues to plague India's economic landscape, with high-profile corruption cases involving major deals such as the Rafale fighter aircraft purchase and the Punjab National Bank scam. These cases illustrate the collusion between business interests and political power, leading to inflated contracts and fraudulent transactions.

The privatization of key infrastructure, including ports, airports, and public sector enterprises, often favors a select few, exacerbating economic inequalities. The Adani group's acquisition of six airports despite lacking prior experience raises questions about the transparency and fairness of the privatization process. Such instances highlight the need for stringent regulatory frameworks to prevent the undue concentration of economic power.

Addressing corruption in India requires a multi-faceted approach that combines systemic reforms, robust regulatory frameworks, and active civil society participation. Ensuring transparency in political financing and strengthening electoral integrity are crucial steps towards curbing political corruption.

Ultimately, combating corruption in India necessitates a collective effort from all stakeholders, including the government, private sector, and civil society. By fostering a culture of transparency,

accountability, and inclusivity, India can pave the way for a more equitable and corruption-free future.

### **The Legal Arsenal Against Corruption**

India's legal framework for combating corruption is anchored by the Indian Penal Code of 1860 and the Prevention of Corruption Act of 1988, the latter of

which has undergone significant amendments to adapt to contemporary challenges. The IPC laid the groundwork by criminalizing bribery and corruption among public officials, while POCA consolidated these provisions, focusing specifically on offenses by public servants.

The 2018 amendment to POCA marked a pivotal shift by expanding the scope of the law to include bribe givers alongside bribe takers, thereby addressing both demand and supply sides of corruption. This amendment introduced provisions for the prosecution of commercial organizations and their officials involved in corrupt practices, though it stopped short of covering private sector corruption entirely.

The Criminal Law (Amendment) Ordinance of 1944 was an early effort to prevent the disposal of property acquired through corrupt means. This ordinance, together with the Prevention of Corruption Act of 1947, laid the groundwork for modern anti-corruption legislation in post-independence India.

The Central Vigilance Commission (CVC) and Comptroller and Auditor General (CAG) play critical roles in India's anti-corruption framework. The CVC acts as an apex vigilance institution, overseeing government activities and investigating corruption allegations. The CAG, on the other hand, audits government expenditure and has been instrumental in uncovering large-scale corruption in public-private partnerships, as evidenced by the 2G spectrum and coal allocation scams.

### **Understanding India's Anti-Corruption Institutions Framework:**

The establishment of specialized agencies like the Central Vigilance Commission (CVC), the Anti-Corruption Bureau (ACB), and the Enforcement Directorate (ED) underscores the seriousness with which India approaches this issue. However, the effectiveness of these agencies hinges on their operational autonomy and the rigorous implementation of anti-corruption policies. This op-ed delves into the roles and challenges of these bodies, highlighting the need for comprehensive reforms to bolster India's anti-corruption crusade.

The Central Vigilance Commission (CVC) was established in 1964 based on the recommendations of the Santhanam Committee to serve as an apex body for preventing corruption in government departments. Empowered by the Central Vigilance Commission Act, 2003, the CVC functions autonomously,

free from administrative control, ensuring impartial oversight of corruption cases involving public servants and governmental bodies.

The CVC's primary duties include investigating complaints of corruption and misconduct, conducting departmental inquiries, and overseeing the functioning of the Delhi Special Police Establishment (DSPE). The Commission acts as an advisory body to the central government, guiding anti-corruption policies and ensuring compliance.

Despite its statutory powers, the CVC faces significant challenges. Its jurisdiction does not extend to high-ranking officials like IAS, IPS, and IFS officers involved in state affairs, limiting its effectiveness. Moreover, the lack of enforcement authority to independently prosecute offenders hampers its deterrence capability.

- **Central Bureau of Investigation**

The Central Bureau of Investigation (CBI) is often regarded as India's principal investigative agency for corruption and economic offenses. Established in 1946 as the Delhi Special Police Establishment and later reconstituted as the CBI, this agency has a broad mandate, encompassing traditional crimes, economic offenses, and cybercrimes.

The CBI investigates high-profile corruption cases, often referred by state governments or directed by the Supreme Court and High Courts. Its expertise in handling complex cases makes it a pivotal player in India's anti-corruption efforts.

The CBI's credibility is frequently questioned due to its perceived lack of autonomy. Political influence and administrative control by the central government undermine its impartiality and effectiveness. The agency's officials are susceptible to transfers, further compromising its independence. Calls for bringing the CBI under the control of an independent body like the Lokpal or the Chief Justice of India reflect the urgent need for reform.

- **Enforcement Directorate (ED): Combating Economic Crimes**

The Enforcement Directorate (ED) was established to enforce the Prevention

of Money Laundering Act (PMLA) of 2002 and the Foreign Exchange Management Act (FEMA) of 1999. As a specialized agency under the Ministry of Finance, the ED plays a crucial role in tackling economic crimes and ensuring financial integrity.

The ED investigates cases of money laundering, foreign exchange violations, and other economic offenses. Its authority to attach properties and prosecute offenders serves as a significant deterrent against financial crimes.

The ED's effectiveness is often hindered by bureaucratic red tape and inter-agency coordination issues. Strengthening its operational capabilities and ensuring timely prosecution are essential to enhance its impact.

### ● **Comptroller and Auditor General (CAG): Ensuring Financial Accountability**

The Comptroller and Auditor General (CAG) is a constitutional authority responsible for auditing government expenditures and ensuring transparency in public finances. Established under Article 148 of the Constitution, the CAG's mandate includes auditing all financial transactions of the central and state governments.

The CAG conducts internal and statutory audits of governmental departments and organizations, ensuring that public funds are used for their intended purposes. Its audit reports often uncover large-scale corruption and financial mismanagement, prompting corrective action.

While the CAG's audit reports are critical in highlighting financial irregularities, their impact is often diluted by delayed parliamentary scrutiny and lack of follow-up action. Enhancing the responsiveness of legislative bodies to CAG findings is crucial for effective governance.

### ● **Lokayuktas and Ombudsman**

Lokayuktas, or Ombudsmen, have been established in several states to investigate complaints against politicians and public servants. These bodies act as watchdogs, protecting citizens' interests against administrative abuses and ensuring accountability.

Lokayuktas investigate allegations of corruption and maladministration, taking suo-moto actions and conducting independent inquiries. They serve as accessible platforms for citizens to report grievances and seek redress.

The effectiveness of Lokayuktas varies across states, with some lacking adequate powers and resources. Strengthening their legal framework and ensuring uniformity in their functioning can enhance their role in combating corruption.

## Comparative Analysis of Anti-Corruption Frameworks – A Case Study of India and South Africa

India and South Africa, two prominent democracies with similar post-colonial trajectories, offer insightful case studies in their approaches to combating corruption. This section provides a comparative analysis of the anti-corruption frameworks in these two nations, focusing on their structure, independence, and effectiveness, with a particular emphasis on South Africa's mechanisms.

### South Africa's Anti-Corruption Framework

South Africa's anti-corruption efforts are centralized within fewer but more specialized agencies, each with distinct mandates and significant autonomy:

1. **Public Protector:** Established by the South African Constitution, the Public Protector is an independent institution tasked with investigating misconduct in state affairs and public administration. Its independence is constitutionally guaranteed, allowing it to hold government officials accountable without fear of reprisal.
2. **Special Investigating Unit (SIU):** The SIU focuses on serious malpractices within government and state institutions. It has the authority to recover lost or misappropriated funds, making it a critical player in the fight against corruption.
3. **Directorate for Priority Crime Investigation (Hawks):** The Hawks combat serious organized crime, economic crime, and corruption. Initially part of the

South African Police Service, they now operate with greater independence, enhancing their capacity to investigate high-profile cases without political interference.

4. National Prosecuting Authority (NPA): The NPA prosecutes criminal cases, including those related to corruption. Its effectiveness is tied to its ability to operate independently from political pressures, a point that has been contentious in recent years.

### Comparative Analysis: Independence and Effectiveness

#### Independence:

- South Africa: The Public Protector and SIU benefit from constitutional protections that ensure their independence. The Public Protector's ability to operate autonomously is crucial for its role in uncovering high-level corruption. The Hawks' relative independence allows them to investigate sensitive cases more effectively than some of their counterparts in other countries, such as India's CBI.

#### Effectiveness:

- South Africa: South Africa's streamlined approach, with fewer but more empowered agencies, allows for more focused and efficient anti-corruption measures. The SIU and Hawks, with their specialized mandates and independence, have pursued high-profile cases more aggressively, reflecting a more robust system compared to India's fragmented approach.

While India has a multiplicity of anti-corruption agencies, including the CVC, CBI, and ED, the effectiveness of these bodies is often hampered by political interference and lack of coordination. India's experience highlights several key areas for potential improvement. The opposition fires its shots at the ruling dispensation citing the 'misuse of agencies' whenever there is an investigation against a member of their respective parties.

For both India and South Africa, fortifying the independence of anti-corruption agencies is crucial. Ensuring that these institutions can operate without political interference will enhance their ability to tackle corruption effectively. Additionally, providing adequate funding and resources is essential for maintaining their operational effectiveness.

## Way Forward:

Combating corruption in India requires a multi-faceted approach that combines systemic reforms, robust regulatory frameworks, and active civil society participation. Ensuring transparency in political financing and strengthening electoral integrity are crucial steps towards curbing political corruption. Strengthening the independence and operational capabilities of investigation agencies like the CBI, CVC, and ED is essential for enhancing their effectiveness.

Additionally, addressing petty corruption through the digitization of public services and widespread digital literacy can mitigate opportunities for bribery and fraud. However, technological advancements must be accompanied by robust safeguards to prevent new forms of corruption from emerging.

Addressing caste-based nepotism and ensuring diversity and inclusion at all levels of society are critical for promoting social equity and combating systemic corruption. Targeted policies that promote representation of marginalized groups in both the public and private sectors can help dismantle entrenched social hierarchies.

The role of civil society in combating corruption cannot be overstated. Grassroots movements, whistleblowers, and independent media play vital roles in exposing corrupt practices and holding powerful actors accountable. Fostering a culture of transparency, accountability, and inclusivity is paramount for creating a more equitable and corruption-free future.

The judiciary's proactive stance, as reflected in landmark judgments like *D.S. Nakara v. Union of India* and *Yogendra Kumar Jaiswal v. State of Bihar*, underscores the need for strict implementation of anti-corruption laws. Emulating international best practices, such as the Foreign Corrupt Practices Act (FCPA) of the USA and the UK's Bribery Act, can provide valuable insights for strengthening India's legal and institutional framework. Ultimately, the fight against corruption in India necessitates a collective effort from all stakeholders, including the government, private sector, and civil society. By implementing comprehensive reforms, strengthening institutional frameworks, and promoting a culture of integrity, India can make significant

strides towards eradicating corruption and fostering sustainable development.

While India's battle against corruption is far from over, a concerted effort that addresses the root causes and systemic challenges can pave the way for a more transparent and accountable governance system. Ensuring the independence and effectiveness of anti-corruption agencies, promoting inclusive policies, and harnessing the power of civil society are key to building a corruption-free India.

Questions the House May Consider:

1. What steps can be taken to ensure transparency and accountability in political financing?
2. What measures can be implemented to reduce political interference in investigative agencies?
3. What reforms are necessary to enhance the operational autonomy and effectiveness of the Central Bureau of Investigation (CBI) and the Central Vigilance Commission (CVC)?
4. How can we ensure the independence and resource adequacy of the Enforcement Directorate (ED) to tackle economic crimes more effectively?
5. What role can the judiciary play in strengthening the legal framework against corruption, and how can landmark judgments be effectively implemented?
6. What lessons can India learn from South Africa's anti-corruption framework, particularly regarding the independence and effectiveness of institutions like the Public Protector and the Special Investigating Unit?
7. How can international best practices, such as the Foreign Corrupt Practices Act (FCPA) of the USA and the UK's Bribery Act, be adapted to strengthen India's anti-corruption measures?
8. What steps can be taken to foster a culture of transparency, accountability, and inclusivity in combating corruption?
9. What have been the successes and limitations of recent anti-corruption

initiatives such as the establishment of the Lokpal and the 2016 demonetization?

10. How effective are the existing mechanisms for the prosecution of commercial organizations and officials involved in corrupt practices?

11. How can we enhance the responsiveness of legislative bodies to audit reports and findings by the Comptroller and Auditor General (CAG)?

12. How can the government, private sector, and civil society work together to create a more transparent and accountable governance system?

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