THE PREVENTION OF CORRUPTION ACT, 1947: A HISTORICAL, DOCTRINAL AND CRITICAL STUDY OF INDIA'S FIRST DEDICATED ANTI-CORRUPTION STATUTE

M. Shavetha, LLM (Criminal Law and Criminal Justice Administration),
The Central Law College

ABSTRACT

The Prevention of Corruption Act, 1947 was independent India's first purpose-built statute addressing bribery and corruption among public servants. Enacted against the backdrop of wartime scarcity, administrative expansion and mounting concern over the integrity of public office, the Act supplemented the general provisions of the Indian Penal Code, 1860 with a compact, specialised framework of six sections that later grew, through amendment, into a more elaborate anti-corruption code. This article traces the origins of the 1947 Act, examines its structure and key provisions, analyses its amendment history and judicial interpretation, and situates it within the broader evolution of Indian anti-corruption law culminating in its repeal and replacement by the Prevention of Corruption Act, 1988. The article argues that although the 1947 Act was eventually superseded, its conceptual architecture the presumption of corruption, the requirement of sanction, and the treatment of disproportionate assets as evidence of criminal misconduct continues to shape anti-corruption jurisprudence in India to the present day.

Keywords: Prevention of Corruption Act 1947; bribery; criminal misconduct; public servant; Santhanam Committee; sanction for prosecution; Indian anti-corruption law.

I. Introduction

Corruption in public office is among the oldest problems of governance, and the Indian legal system's response to it has evolved considerably across the colonial, immediate post-independence, and contemporary periods. The starting point of any account of this evolution is the Prevention of Corruption Act, 1947, enacted less than five months before India attained independence.[1] The Act was the first Indian statute devoted exclusively to bribery and corruption by public servants, marking a deliberate legislative choice to move beyond the scattered and general provisions of Chapter IX of the Indian Penal Code, 1860, which had until then supplied the principal criminal-law response to official misconduct.[2]

This article undertakes a comprehensive examination of the 1947 Act. It begins by situating the Act within its historical and administrative context, before turning to a section-wise analysis of its operative provisions. It then traces the two significant amendments that reshaped the Act in 1952 and 1964, considers the body of judicial decisions that gave the statute practical content, and evaluates the institutional architecture within which the Act operated. The article closes by examining the Act's repeal in 1988 and assessing its enduring doctrinal legacy. Throughout, the object is not merely descriptive; the article offers a critical assessment of the Act's design choices, several of which the presumption of corruption, the treatment of disproportionate assets, and the sanction requirement proved controversial in their own time and remain contested features of Indian anti-corruption law today.

The choice to study a repealed statute is deliberate. Although the Prevention of Corruption Act, 1988 is now the operative law, its text and structure were not conceived afresh; they consolidate, refine and in places directly reproduce provisions first drafted in 1947.[3] An informed understanding of contemporary anti-corruption law in India therefore requires an appreciation of the 1947 Act as the foundational instrument from which later reform proceeded.

II. Historical Background and Legislative Genesis

A. The Pre-1947 Legal Position

Prior to 1947, allegations of bribery and corruption against public servants in British India were

---

[1]The Prevention of Corruption Act, 1947 (Act No. 2 of 1947), Preamble.
[2]Indian Penal Code, 1860, ss 161–165, Chapter IX ("Of Offences by or Relating to Public Servants"), as originally enacted.
[3]The Prevention of Corruption Act, 1988, Statement of Objects and Reasons, para 2, noting that the 1947 Act had been amended in 1964 pursuant to the Santhanam Committee recommendations.

prosecuted principally under sections 161 to 165 of the Indian Penal Code, 1860. These provisions criminalised the acceptance of illegal gratification by a public servant, the acceptance of gratification by a person to influence a public servant, and related conduct. While doctrinally sound, these provisions were designed as part of a general penal code intended to cover the full range of criminal wrongs, and they were not accompanied by specialised procedural tools suited to the particular evidentiary difficulties that corruption offences present difficulties arising from the private and consensual character of a bribery transaction, in which neither party ordinarily has an incentive to come forward.

The inadequacy of the general criminal law became especially apparent during the Second World War. Wartime conditions produced acute shortages of goods, extensive government contracting and rationing, and a corresponding expansion of the discretionary powers exercised by procurement and licensing officials. These conditions created fertile ground for bribery and profiteering, and the colonial administration responded in 1944 with the Criminal Law (Amendment) Ordinance, which empowered the attachment of property acquired through corrupt or illegal means, including property that had passed into the hands of third-party transferees.[4] The 1944 Ordinance was, however, a wartime emergency measure of limited scope; it addressed the disposal of ill-gotten property but did not itself create a comprehensive substantive and procedural code for the trial of corruption offences.

B. The Enactment of the 1947 Act

Building on the experience of the 1944 Ordinance and the perceived limitations of sections 161 to 165 of the Penal Code, the Central Legislature enacted the Prevention of Corruption Act, 1947 as Act No. 2 of that year. The Preamble describes it, simply, as "An Act for the more effective prevention of bribery and corruption," signalling that the statute was conceived as a supplement to, rather than a replacement of, the existing penal provisions. The Act extended to the whole of British India as it then existed, and, with appropriate territorial modification, was subsequently extended to independent India and to the States that acceded to the Union.[5]

It is notable that the Act was passed in the final months of colonial rule, at a moment of significant administrative transition. The legislators of 1947 were addressing corruption not as

[4]Criminal Law (Amendment) Ordinance, 1944 (Ordinance No. XXXVIII of 1944), which enabled the attachment of property procured by corrupt or illegal means pending trial.
[5]The Prevention of Corruption Act, 1947, s 1(1)–(2).

an abstract evil but as a concrete and pressing feature of an administration straining under wartime controls, rationing, and the bureaucratic demands of a rapidly changing political order.[6] This context explains several distinctive features of the Act most notably its reliance on evidentiary presumptions, discussed below which were designed to overcome the practical difficulty of proving a covert bribery transaction through direct evidence alone.

C. Structure at Inception

As originally enacted, the 1947 Act was a compact statute of six substantive sections, dealing respectively with short title and extent, interpretation, cognizability of certain Penal Code offences, presumption in cases of gratification, criminal misconduct in the discharge of official duty, and the requirement of previous sanction for prosecution.[7] This economy of drafting reflects the Act's original design as a targeted procedural and evidentiary supplement to the Penal Code rather than a freestanding criminal code. As later Parts of this article show, the Act's scope was substantially expanded by amendment in 1952 and 1964, well before its eventual repeal and re-enactment in 1988.

III. Objects, Reasons and Underlying Philosophy

The 1947 Act was animated by two related objectives. The first was definitional and procedural: to ensure that offences of bribery under the Penal Code were treated as cognizable, so that the police could investigate without waiting for a magisterial order, thereby enabling more rapid and effective action against corrupt officials.[8] The second, and more far-reaching, objective was evidentiary: to ease the prosecution's burden in cases where direct proof of a corrupt bargain was, by the very nature of the offence, difficult to obtain.

This second objective found expression in section 4 of the Act, which created a presumption that, once the prosecution proved that a public servant had accepted or obtained (or agreed to accept or attempted to obtain) any gratification other than legal remuneration, the court was to presume unless the contrary was proved that the gratification was accepted as a motive or reward of the kind referred to in the relevant sections of the Penal Code.[9] This reversal of the

---

[6]Legislative Assembly Debates, 1947, cited in Law Commission of India, background materials on social and economic offences; see also the discussion of legislative intent in commentaries on the Act.
[7]K.L. Vibhute, "Prevention of Corruption Act, 1947: An Appraisal," background note summarising the six-section structure of the original 1947 statute, later expanded through amendment.
[8]The Prevention of Corruption Act, 1947, s 3.
[9]Ibid, s 4(1)–(2).

ordinary evidentiary burden, from the prosecution to the accused, was a significant departure from general criminal-law principle and reflects a considered legislative judgment that the public interest in curbing official corruption justified an adjusted allocation of the burden of proof once a threshold fact receipt of gratification had been established.

The philosophy underlying the Act may thus be summarised as one of pragmatic necessity: general penal provisions, calibrated to ordinary standards of proof, were considered insufficient to reach a category of offence that is by its nature clandestine and consensual. The 1947 Act sought to correct this imbalance through targeted procedural and evidentiary innovation, while leaving the basic definitions of criminal wrongdoing largely anchored in the pre-existing provisions of the Penal Code.[10]

IV. Structural and Section-Wise Analysis of the Act

This Part examines the principal provisions of the Act as they stood following the amendments of 1952 and 1964, since it was in this expanded form that the statute operated for the greater part of its existence.

A. Short Title and Extent (Section 1)

Section 1 identifies the Act by its short title and defines its territorial extent, which, following the integration of the princely states and the reorganisation of Indian territory after independence, was progressively extended to cover the whole of the Union.

B. Interpretation: The Meaning of "Public Servant" (Section 2)

Section 2 adopted, for the purposes of the Act, the definition of "public servant" contained in section 21 of the Indian Penal Code.[11] This incorporation by reference proved to be one of the most consequential features of the Act, since the scope of anti-corruption liability came to depend directly on the courts' interpretation of section 21 IPC an interpretation that expanded considerably over time to capture a widening range of persons exercising public functions, including, controversially, superior court judges, a question addressed by the Supreme Court

[10]Law Commission of India, background materials on the inclusion of social and economic offences within the general criminal law, discussing the 1947 Act as an illustration of special legislation addressing a discrete category of public wrong.

[11]Ibid, s 2, read with the Indian Penal Code, 1860, s 21 (definition of "public servant").

decades later in K. Veeraswami v Union of India.[12]

C. Cognizability of Offences (Section 3)

Section 3 declared offences punishable under section 165A of the Indian Penal Code to be cognizable, notwithstanding anything to the contrary in the Code of Criminal Procedure. By removing the requirement of prior magisterial sanction for the police to register and investigate a case, this provision was intended to enable swifter action against corrupt officials and those who abetted them.

D. The Presumption of Corruption (Section 4)

Section 4 was, as noted above, the evidentiary centrepiece of the Act. Sub-section (1) provided that where it was proved that a public servant had accepted, obtained, or agreed to accept or attempted to obtain, any gratification other than legal remuneration, or any valuable thing without adequate consideration, the court was to presume, unless the contrary was proved, that the person accepted the gratification or thing as a motive or reward within the meaning of the relevant Penal Code provisions. Sub-section (3), however, tempered this presumption by allowing the court, in its discretion, to decline to draw the inference of corruption where the gratification or thing involved was so trivial that no fair inference of corrupt intent could be drawn.[13] This proviso reflects a legislative recognition that the presumption, if applied mechanically, risked criminalising minor social courtesies unconnected with genuine corrupt intent.

E. Criminal Misconduct in the Discharge of Official Duty (Section 5)

Section 5 defined the substantive offence of "criminal misconduct," the central offence-creating provision of the Act. A public servant was deemed to commit criminal misconduct if he habitually accepted or attempted to obtain illegal gratification; habitually accepted a valuable thing without or for inadequate consideration from a person with whom he had official dealings; dishonestly or fraudulently misappropriated property entrusted to him; obtained a valuable thing or pecuniary advantage by corrupt or illegal means or by otherwise abusing his position as a public servant; or was found, or any person on his behalf was found, in possession

[12]K. Veeraswami v Union of India, (1991) 3 SCC 655.
[13]The Prevention of Corruption Act, 1947, s 4(3).

of pecuniary resources or property disproportionate to his known sources of income, for which he could not satisfactorily account.[14] Conviction attracted a minimum sentence of one year's imprisonment, extendable to seven years, together with fine, subject to a proviso permitting a lesser sentence for special reasons recorded in writing.[15]

The fifth limb of section 5(1) disproportionate assets was of particular significance and was reinforced by the presumption introduced as section 5(3) by the Criminal Law Amendment Act, 1952.[16] This presumption meant that, once the prosecution demonstrated a marked disparity between a public servant's known lawful income and the assets held by him or on his behalf, the burden shifted to the accused to furnish a satisfactory explanation. The doctrinal lineage of this provision can be traced directly into the disproportionate-assets jurisprudence that continues to feature prominently in Indian anti-corruption trials today.[17]

F. Investigation into Offences (Section 5A)

Section 5A, inserted in 1952, restricted the investigation of specified offences to police officers of a rank not below that prescribed by the provision, absent the order of a Magistrate, and in certain circumstances required the previous permission of the relevant authority.[18] This provision was designed to ensure a degree of seniority, and therefore competence and accountability, in the conduct of corruption investigations, while also guarding against the misuse of investigative powers against public servants for extraneous or vexatious reasons.

G. Declaration of Assets (Section 5B)

Section 5B, introduced by the Anti-Corruption Laws (Amendment) Act, 1964, empowered the appropriate Government, on receipt of information suggesting that a public servant was in possession of disproportionate pecuniary resources or property, to require that public servant to furnish a statement of assets and liabilities.[19] Furnishing a false statement in response to such a requisition was itself made a punishable offence, attracting imprisonment extending up to

[14]Ibid, s 5(1)(a)–(e).
[15]Ibid, s 5(2), proviso.
[16]Ibid, s 5(3), inserted by the Criminal Law Amendment Act, 1952, embodying a rebuttable presumption against a public servant found in possession of assets disproportionate to known income.
[17]State of Karnataka v Selvi J. Jayalalithaa, (2017) 6 SCC 263, illustrating the application of the disproportionate-assets principle that traces its lineage to s 5(3) of the 1947 Act.
[18]Ibid, s 5A, inserted by the Criminal Law Amendment Act, 1952, restricting investigation of specified offences to officers of designated rank without the order of a Magistrate or, in certain cases, without prior permission.
[19]Ibid, s 5B, inserted by the Anti-Corruption Laws (Amendment) Act, 1964.

three years together with fine.

H. Possession of Disproportionate Property (Section 5C)

Section 5C, also inserted in 1964, made explicit provision for the forfeiture of property found to be disproportionate to a public servant's known sources of income where the public servant failed to account for such possession to the satisfaction of the trial court.[20] Read together with sections 5(1)(e) and 5(3), this provision completed a coherent statutory scheme addressing unexplained wealth: criminalisation of possession, presumption of guilt on proof of disparity, and forfeiture upon conviction.

I. Previous Sanction for Prosecution (Section 6)

Section 6 required the previous sanction of the appropriate Government or authority competent to remove the public servant from office before a court could take cognizance of an offence under sections 161 to 165 of the Penal Code or section 5 of the 1947 Act, where the public servant was employed in connection with the affairs of the Union or a State and was not removable from office without such sanction.[21] This requirement, intended as a safeguard against harassment of honest officials through vexatious prosecutions, proved from the outset to be a double-edged feature of the Act: while it protected public servants from frivolous proceedings, it also created the risk of prosecutorial delay through administrative inertia, a concern the Santhanam Committee would later identify as a significant weakness in the anti-corruption framework.[22]

J. Accused as a Competent Witness and Related Procedural Provisions (Sections 7–9)

Section 7 made an accused person a competent witness for the defence in a prosecution under the Act, permitting him to give evidence on oath in disproof of the charges against him a departure from the position at general criminal law that required careful procedural handling.[23] Section 8 permitted the court, subject to safeguards, to draw an adverse inference from an accused's silence in specified circumstances.[24] Section 9 contained further procedural and

[20]Ibid, s 5C, inserted by the Anti-Corruption Laws (Amendment) Act, 1964.
[21]Ibid, s 6, requiring the previous sanction of the appropriate Government or authority before a court could take cognizance of offences under ss 161–165 IPC or s 5 of the 1947 Act.
[22]See the discussion of delays occasioned by the sanction requirement in s 6 of the 1947 Act as a recurring theme in the Santhanam Committee's diagnosis of institutional weaknesses in anti-corruption enforcement.
[23]Ibid, s 7.
[24]Ibid, s 8, permitting the court to draw an adverse inference from an accused's silence, subject to safeguards.

interpretive provisions rounding out the statutory scheme.[25]

V. The Amendments of 1952 and 1964 and the Santhanam Committee

A. The Criminal Law Amendment Act, 1952

The first major amendment to the 1947 Act came through the Criminal Law Amendment Act, 1952, which inserted the presumption of criminal misconduct on proof of disproportionate assets (section 5(3)) and the restriction on investigative authority (section 5A).[26] These insertions reflected accumulating experience in the years immediately following independence, during which it became apparent that proof of a specific corrupt transaction was often unattainable even where a public servant's wealth had visibly and inexplicably outstripped his lawful income. The 1952 amendment therefore extended the presumptive technique first used in section 4 to this distinct category of unexplained enrichment.

B. The Santhanam Committee and Its Diagnosis

The most significant catalyst for reform of the 1947 Act was the Committee on Prevention of Corruption, appointed by the Government of India in 1962 under the chairmanship of K. Santhanam and reporting in 1964.[27] The Committee offered an influential definition of corruption as the improper or selfish exercise of power and influence attached to public office or to a position of trust in public life.[28] Surveying the existing legal and institutional apparatus the 1947 Act, the Delhi Special Police Establishment, departmental disciplinary rules, and internal vigilance machinery the Committee identified a cluster of structural weaknesses: diffused institutional responsibility for vigilance, delay in the grant of sanction for prosecution under section 6 of the 1947 Act, inadequate coordination in investigation, and the absence of any central body charged with overseeing vigilance administration across the Union Government.[29] Among the procedural causes of corruption more broadly, the Committee pointed to bureaucratic red tape, the proliferation of unnecessary regulation, and the scope for

[25]Ibid, s 9.
[26]Criminal Law Amendment Act, 1952 (Act No. 46 of 1952); see Statement of Objects and Reasons appended thereto.
[27]Report of the Committee on Prevention of Corruption (Santhanam Committee), Government of India, 1964.
[28]Santhanam Committee Report, 1964, ch 1, describing corruption as the improper or selfish exercise of power and influence attached to a public office or to a position of trust.
[29]Santhanam Committee Report, 1964, identifying red tape, excessive discretion, opaque procedures and weak departmental vigilance as structural causes of corruption in public administration.

unchecked administrative discretion.

The Committee's most influential institutional recommendation was the creation of a Central Vigilance Commission, an independent body to advise and guide the vigilance work of central government agencies and to exercise superintendence over departmental vigilance functions.[30] This recommendation was implemented later in 1964 through executive resolution, establishing the Central Vigilance Commission as a permanent feature of the Indian anti-corruption apparatus; the Commission was placed on a statutory footing only decades later.[31]

C. The Anti-Corruption Laws (Amendment) Act, 1964

Acting substantially on the Santhanam Committee's recommendations, Parliament enacted the Anti-Corruption Laws (Amendment) Act, 1964, which inserted sections 5B and 5C into the 1947 Act, thereby formalising the machinery for the declaration of assets and the forfeiture of disproportionate property.[32] The 1964 amendment thus completed the transformation of the 1947 Act from a narrow, six-section evidentiary supplement into a considerably more elaborate anti-corruption code, albeit one that retained its original numbering and its reliance on definitions drawn from the Indian Penal Code.

VI. Judicial Interpretation of the 1947 Act

The relatively terse language of the 1947 Act left considerable interpretive work to the courts, and a substantial body of case law developed around its central provisions. This Part surveys the most significant of these decisions.

A. The Scope of "Public Servant" and Abuse of Official Position

In M. Narayanan Nambiar v State of Kerala, the Supreme Court considered a conviction under section 5(1)(d) of the Act, where the appellant, a public servant, had used his official position to secure the assignment of government land in the name of a relative without disclosing the relationship, while simultaneously undervaluing timber standing on the land.[33] The Court's

---

[30]Santhanam Committee Report, 1964, recommending the creation of a Central Vigilance Commission as an independent body to guide and supervise vigilance administration within the Union Government.
[31]Central Vigilance Commission, established by government resolution in 1964 pursuant to the Santhanam Committee recommendations, later placed on a statutory footing by the Central Vigilance Commission Act, 2003.
[32]Anti-Corruption Laws (Amendment) Act, 1964 (Act No. 40 of 1964).
[33]M. Narayanan Nambiar v State of Kerala, AIR 1963 SC 1116.

judgment is regarded as foundational for its broad construction of the scope of official abuse falling within the Act's reach, and it also addressed the procedural safeguards of natural justice that must attend the determination of factual questions such as the value of the timber that bear directly on a conviction.[34] [35]

A similarly expansive approach is evident in State of Ajmer v Shivji Lal, in which the Supreme Court considered the application of the Act to officials whose service originated in the administration of a former princely state subsequently absorbed into the Indian Union, confirming that the statutory definition of "public servant" was to be applied according to its substance rather than the historical origin of the office in question.[36]

B. Standard of Proof and the Presumption of Guilt

In C.S.D. Swami v State, the Supreme Court examined the scope of criminal misconduct under section 5 and clarified the standard of proof that the prosecution was required to meet before the statutory presumption could operate, underscoring that the presumption was not a substitute for proof of the foundational facts triggering it, but rather a tool for allocating the burden of explanation once those facts were established.[37] Read together, the decisions under section 4 and section 5(3) illustrate the courts' consistent insistence that presumptions under the Act, while reversing the burden of proof on specific issues, did not dispense with the prosecution's obligation to prove the threshold facts giving rise to the presumption in the first place.[38]

C. Judges as "Public Servants": K. Veeraswami v Union of India

Perhaps the most constitutionally significant case to arise under the 1947 Act, notwithstanding that it was decided after the Act's repeal, was K. Veeraswami v Union of India, in which the Supreme Court had to determine whether a sitting or former Judge of a High Court or of the

---

[34]Ibid. The appellant, a public servant, had been convicted under s 5(1)(d) of the 1947 Act for abusing his official position to secure the assignment of government land in the name of a relative while undervaluing standing timber on it.

[35]Ibid, where the Supreme Court also considered the requirements of natural justice in proceedings culminating in conviction under the Act.

[36]State of Ajmer v Shivji Lal, AIR 1959 SC 847, on the interpretation of "public servant" and the application of the Act to officials of former princely-state administrations absorbed into the Indian Union.

[37]C.S.D. Swami v State, AIR 1960 SC 7, discussing the scope of criminal misconduct and the standard of proof required under s 5 of the 1947 Act.

[38]See generally the body of decisions construing s 4 of the 1947 Act on the presumption of corruption once acceptance of gratification is proved, and the narrow circumstances in which courts could decline to draw that presumption where the amount involved was trivial.

Supreme Court fell within the definition of "public servant" under section 2 of the 1947 Act (the statute in force at the time of the conduct in question). The Court held that a Judge was indeed a public servant for the purposes of the Act, but that, having regard to the constitutional scheme governing the appointment, tenure and removal of superior court judges, no criminal case could be registered against a Judge without the prior consultation and concurrence of the Chief Justice of India.[39] The decision remains a landmark illustration of the interpretive tension between the broad, functional language of anti-corruption legislation and the specific constitutional safeguards attaching to particular public offices.

D. Continuity of Liability Across Successive Statutes

Because the 1947 Act was repealed and replaced by the 1988 Act, courts were repeatedly called upon to determine how conduct spanning the transition between the two statutes should be treated. In State of Madhya Pradesh v Ram Singh, the Supreme Court considered questions of continuing and retrospective application arising from conduct and property acquisition that straddled the currency of the two enactments, confirming that the substantive continuity between the two statutes permitted courts to treat the 1988 Act as, in substance, a re-enactment and expansion of the principles first embodied in the 1947 Act rather than as an entirely new dispensation.[40]

E. Later Reaffirmations of Doctrine Rooted in the 1947 Act

Although decided under the successor 1988 Act, several later decisions of the Supreme Court reaffirm doctrinal principles that trace their origin to the 1947 Act. In L. Narayana Swamy v State of Karnataka, the Court confirmed that retirement from public service does not extinguish liability for corrupt acts committed during service, a principle consistent with the object of the misconduct provisions first framed in section 5 of the 1947 Act.[41] In State of Karnataka v Selvi J. Jayalalithaa, the Court applied the disproportionate-assets doctrine descended directly from sections 5(1)(e) and 5(3) of the 1947 Act to a high-profile prosecution, illustrating the continued practical vitality of a legal technique devised more than four decades earlier.

[39]Ibid, holding that while a Judge of a High Court or of the Supreme Court is a "public servant" within the meaning of s 2 of the 1947 Act, prosecution required the concurrence of the Chief Justice of India as a matter of constitutional propriety.

[40]State of Madhya Pradesh v Ram Singh, (2000) 5 SCC 88, on the retrospective and continuing application of anti-corruption provisions to conduct spanning the currency of both the 1947 and 1988 Acts.

[41]L. Narayana Swamy v State of Karnataka, (2016) 9 SCC 598, on the continued liability of a public servant to prosecution notwithstanding subsequent retirement from service.

Decisions concerning the sanction requirement, including Subramanian Swamy v Manmohan Singh on the constitutional duty to decide sanction applications without undue delay, and Subramanian Swamy v Director, CBI, striking down a rank-based immunity from investigation as inconsistent with Article 14 of the Constitution, likewise engage a structural feature of the law the sanction safeguard that originates in section 6 of the 1947 Act.[42] [43]

VII. Institutional and Procedural Framework

The 1947 Act did not operate in isolation. Its investigative machinery depended significantly on the Delhi Special Police Establishment, constituted under the Delhi Special Police Establishment Act, 1946, whose functions were later absorbed into what became the Central Bureau of Investigation.[44] The relationship between the Act's substantive and evidentiary provisions and this investigative apparatus was symbiotic: the presumptions created by sections 4 and 5(3) were of practical value only to the extent that investigators possessed the resources, seniority and independence to gather the foundational facts proof of gratification received, or of assets disproportionate to income necessary to trigger them.

The requirement of previous sanction under section 6 added a further institutional layer, situating the ultimate decision to prosecute within the administrative hierarchy responsible for the public servant concerned. While defensible as a safeguard against vexatious proceedings, this arrangement inevitably introduced friction between the executive's disciplinary interests and the independent conduct of criminal investigation, a tension that the Santhanam Committee identified as a principal source of delay and one that later reform, including the introduction of statutory time limits for sanction decisions, attempted only partially to resolve.

The general procedural law of the Code of Criminal Procedure, 1898 (later replaced by the Code of Criminal Procedure, 1973) supplied the residual procedural framework within which prosecutions under the 1947 Act were conducted, save where the Act itself made special provision as it did, for example, in declaring specified offences cognizable notwithstanding

[42] Subramanian Swamy v Manmohan Singh, (2012) 3 SCC 64, on the constitutional duty to decide an application for sanction within a reasonable time.

[43] Subramanian Swamy v Director, CBI, (2014) 8 SCC 682, declaring s 6A of the Delhi Special Police Establishment Act, 1946 unconstitutional as violative of Article 14 of the Constitution of India.

[44] Delhi Special Police Establishment Act, 1946, which constituted the investigative agency that later evolved into the Central Bureau of Investigation and which worked in tandem with the 1947 Act.

the general procedure otherwise applicable.[45]

VIII. Critical Appraisal: Strengths and Limitations

A. Strengths

- Evidentiary innovation: the presumptions in sections 4 and 5(3) directly addressed the practical difficulty of proving a covert corrupt transaction, a difficulty that ordinary criminal-law principles of proof struggled to overcome.

- Targeted cognizability: by rendering specified offences cognizable, the Act enabled prompt police action without awaiting prior judicial authorisation, an important practical advance over the position under the unamended Penal Code.

- Incremental refinement: the amendments of 1952 and 1964 demonstrate a legislative willingness to revisit and strengthen the statute in light of accumulated experience and expert study, notably the Santhanam Committee's diagnosis.

- Doctrinal durability: many of the Act's central concepts disproportionate assets, presumption on proof of gratification, and sanction as a precondition to prosecution proved sufficiently robust to be carried forward, in refined form, into the 1988 Act and to remain central to anti-corruption adjudication in India today.[46] [47] [48]

B. Limitations

- The sanction requirement under section 6, while a legitimate safeguard in principle, was repeatedly identified as a source of administrative delay that could frustrate timely prosecution, a concern that persisted well beyond the life of the 1947 Act itself.

- The Act's reliance on the Penal Code's definition of "public servant," while providing interpretive continuity, also imported the uncertainties and gaps of that general

[45]Code of Criminal Procedure, 1898, as it then stood, which supplied the general procedural law within which the special provisions of the 1947 Act operated.
[46]Ibid, s 2(c), consolidating and widening the definition of "public servant" drawn from the 1947 Act, the Indian Penal Code and subsequent case law.
[47]Ibid, s 13, replacing s 5 of the 1947 Act with an expanded definition of criminal misconduct, including possession of disproportionate assets as a substantive offence rather than a mere evidentiary presumption.
[48]Ibid, s 19, re-enacting, with modification, the requirement of previous sanction found in s 6 of the 1947 Act.

definition into a specialised anti-corruption context, generating protracted litigation over categories of official including, most notably, superior court judges whose inclusion within the definition was not free from doubt.

- The proviso permitting courts to decline the presumption of corruption where the gratification was "trivial" introduced an element of judicial discretion whose application was not always predictable, creating scope for inconsistency across cases.
- As a piecemeal accretion of amendments onto an originally compact six-section statute, the Act's structure by the mid-1960s exhibited a degree of internal complexity sections 5, 5A, 5B and 5C addressing closely related but distinct aspects of misconduct and disproportionate assets that arguably called for the more thorough consolidation eventually undertaken in 1988.

IX. Repeal and Succession: The Prevention of Corruption Act, 1988

By the mid-1980s, the accumulated amendments to the 1947 Act, together with decades of judicial interpretation and a body of allied provisions scattered across the Penal Code and the Criminal Law Amendment Act, 1952, had produced a fragmented legal landscape. Parliament addressed this fragmentation through the Prevention of Corruption Act, 1988, an Act described in its own long title as one "to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith."[49] The 1988 Act expressly repealed the 1947 Act.[50]

The 1988 Act incorporated, with modification, the substance of the 1947 Act together with the Criminal Law Amendment Act, 1952 and sections 161 to 165A of the Indian Penal Code, bringing the entire body of anti-corruption law relating to public servants within a single, more comprehensively drafted statute. Several features of the 1947 Act were carried forward and elaborated: the definition of "public servant" was widened and clarified; the concept of criminal misconduct, previously found in section 5 of the 1947 Act, was restated and expanded, with disproportionate assets treated as a distinct head of substantive offence rather than merely a presumption operating upon an existing charge; and the requirement of previous sanction, previously found in section 6, was re-enacted as section 19, with adjustments addressing some

[49]The Prevention of Corruption Act, 1988 (Act No. 49 of 1988), Long Title.
[50]Ibid, s 31 and the Schedule, repealing the Prevention of Corruption Act, 1947.

of the procedural concerns identified by the Santhanam Committee and subsequent commentary.

The 1988 Act has itself since been amended on several occasions, including by the Prevention of Corruption (Amendment) Act, 2018, which introduced section 17A, requiring prior approval before investigating a public servant in respect of a recommendation or decision taken in the discharge of official duty a provision whose underlying rationale, balancing protection for honest decision-making against the imperative of effective prosecution, echoes the same policy tension that animated the sanction requirement in section 6 of the original 1947 Act.[51]

X. Legacy and Contemporary Relevance

Although formally repealed for more than three decades, the Prevention of Corruption Act, 1947 continues to exert a discernible influence over Indian anti-corruption law and practice. Three aspects of that legacy merit particular emphasis.

First, the doctrinal architecture of disproportionate assets as a marker of criminal misconduct, first codified in the 1947 Act and reinforced by the 1952 and 1964 amendments, remains a central prosecutorial tool under the 1988 Act, and continues to feature in high-profile prosecutions of public officials. Second, the institutional innovation catalysed by the Santhanam Committee's review of the 1947 Act most notably the Central Vigilance Commission remains a permanent fixture of India's anti-corruption architecture, illustrating how deficiencies identified in the operation of a specific statute can generate durable institutional reform extending well beyond the text of that statute itself. Third, the recurring tension between safeguarding honest public servants from vexatious prosecution and ensuring the prompt investigation of genuine corruption a tension first embedded in section 6 of the 1947 Act persists in essentially the same form in the sanction and prior-approval provisions of the current law, and continues to generate significant constitutional litigation.[52]

For scholars and practitioners of Indian criminal law, the 1947 Act therefore repays close study not as a historical curiosity but as the conceptual wellspring of doctrines that remain operative

[51]Prevention of Corruption (Amendment) Act, 2018 (Act No. 16 of 2018), which introduced s 17A requiring prior approval before investigating a public servant for a recommendation or decision taken in the discharge of official functions.
[52]Central Bureau of Investigation v R.R. Kishore, 2023 SCC OnLine SC 1146, holding the declaration in Subramanian Swamy v Director, CBI to operate retrospectively.

today. Understanding the debates that shaped the 1947 Act over the propriety of evidentiary presumptions, the proper scope of "public servant," and the correct balance between administrative safeguard and prosecutorial efficiency sheds direct light on the continuing controversies surrounding the 1988 Act and its amendments.

XI. Conclusion

The Prevention of Corruption Act, 1947 occupies a foundational place in the history of Indian anti-corruption law. Conceived in the specific administrative conditions of the final years of colonial rule, and shaped decisively by the practical experience gathered in the first two decades of Indian independence, the Act pioneered an approach to the regulation of public integrity that combined targeted procedural innovation cognizability and evidentiary presumption with a steadily expanding substantive definition of criminal misconduct. Its amendment in 1952 and, more comprehensively, in 1964 following the Santhanam Committee's influential diagnosis of institutional weaknesses, transformed a compact six-section statute into a considerably more elaborate anti-corruption code, laying the groundwork for the consolidated Prevention of Corruption Act, 1988.

Even after its formal repeal, the 1947 Act's conceptual contributions the presumption of corruption, the treatment of disproportionate assets as evidence, and the requirement of sanction as a safeguard against vexatious prosecution remain embedded in the current law and continue to shape both prosecutorial practice and constitutional adjudication in India. A proper appreciation of contemporary Indian anti-corruption jurisprudence is, in this sense, incomplete without an understanding of the statute from which it descends.