

REPRESENTATION ON

# Prevention of Corruption (Amendment) Bill, 2013

(Bill No. LIII of 2013)

Submission to

Department Related Parliamentary Standing Committee  
on Personnel, Public Grievances, Law and Justice

By

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**Foundation for Democratic Reforms (FDR) & LOK SATTA’s  
Comparative Statement & Evaluation of proposed amendments to**

**The Prevention of Corruption Act, 1988 as introduced by The Prevention of Corruption (Amendment) Bill, 2013**

NOTE: Principal Act here refers to The Prevention of Corruption Act, 1988

<b>Item</b>	<b>Existing Provisions In Principal Act</b>	<b>Amendments as introduced by The Prevention of Corruption (Amendment) Bill, 2013</b>	<b>FDR &amp; LOK SATTA’s Recommendations</b>
<p><b>Sec 5</b> (of Principal Act)  Procedure and powers of Special Judge.</p>	<p><b>5. ....</b>  (6) A special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.</p>	<p><b>5. ....</b>  <b>(6).....stands deleted.....</b></p>	<p><i>a. A legal provision needs to be introduced fixing a time limit for various stages of trial. This could be done by amendments to the CrPC.</i></p> <p><i>b. Steps have to be taken to ensure that judges declared as Special Judges under the provisions of the Prevention of Corruption Act give primary attention to disposal of cases under the Act. Only if there is inadequate work under the Act, should the Special Judges be</i></p>

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			<p><i>entrusted with other responsibilities.</i></p> <p><i>c. It has to be ensured that the proceedings of courts trying cases under the Prevention of corruption Act are held on a day-to-day basis, and no deviation is permitted.</i></p> <p><i>d. The Supreme Court and the High Courts may lay down guidelines to preclude unwarranted adjournments and avoidable delays.</i></p>
<p><b>Sec. 7</b></p> <p>Public servant taking gratification</p>	<p>7. Whoever, 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 person,</p>	<p>Sec 7. (1) Any person, being, or expecting to be, a public servant who,—</p> <p>(a) requests any person for, or obtains or agrees to receive or accepts or attempts to obtain from any person, any</p>	<p><b>Corruption Offences should also include:</b></p> <ul style="list-style-type: none"> <li>• <i>Gross perversion of the constitution and democratic</i></li> </ul>

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<p>other than legal remuneration in respect of an official Act.</p>	<p>any gratification whatever, other than legal remuneration, as a motive or reward for doing or for bearing 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 Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may</p>	<p>financial or other advantage, intending that, in consequence, a relevant public function or activity would be performed improperly either by himself or by another public servant; or                      (b) requests for, or obtains or agrees to receive or accepts or attempts to obtain, a financial or other advantage from any person and the request, agreement, acceptance or attempt itself constitutes the improper performance of a relevant public function or activity; or                      (c) requests for, or obtains or agrees to receive or accepts or attempts to obtain, a financial or other advantage as a reward for the improper performance (whether by himself or by another public servant) of a relevant public function or activity; or                      (d) performs, or induces another public</p>	<p><i>institutions amounting to willful violation of oath of office.</i></p> <ul style="list-style-type: none"> <li>• <i>Abuse of authority unduly favouring or harming someone.</i></li> <li>• <i>Obstruction of justice.</i></li> <li>• <i>Squandering public money.</i></li> </ul> <p><b><i>Offence of Collusive Bribery:</i></b>  <i>Section 7 of the Prevention of Corruption Act needs to be amended to provide for a special offence of 'collusive bribery'. An offence could be classified as 'collusive bribery' if the outcome or intended outcome of the transaction leads to a loss to the state, public or public interest. The punishment for all such cases of collusive bribery should be double that of other cases of</i></p>

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	<p>extend to five years and shall also be liable to fine.</p> <p><i>Explanations.—(a)</i> "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.</p> <p><i>(b)</i> "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.</p> <p><i>(c)</i> "Legal remuneration". The words "legal remuneration" are not</p>	<p>servant to perform, improperly a relevant public function or activity in anticipation of or in consequence of requesting, agreeing to receive or accepting a financial or other advantage from any person, shall be punishable, with imprisonment which shall not be less than three years but which may extend to seven years and shall also be liable to fine.</p> <p><i>Explanation 1.—</i>It shall be immaterial whether—</p> <p><i>(a)</i> such person being, or expecting to be, a public servant requests or obtains or agrees to receive or accepts, or attempts to obtain (or is to request, agree to receive, or accept) the advantage directly or through a third party;</p>	<p><i>bribery.</i></p> <p><b><i>Burden of proof on the accused in such cases:</i></b></p> <p><i>In all such cases if it is established that the interest of the state or public has suffered because of an act of a public servant, then the court shall presume that the public servant and the beneficiary of the decision committed an offence of 'collusive bribery'.</i></p> <p><b><i>Stricter punishments:</i></b></p> <p><i>The punishment for all such cases of collusive bribery should be double that of other cases of bribery.</i></p>

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	<p>restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organization, which he serves, to accept.</p> <p>(d) "A motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.</p> <p>(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person</p>	<p>(b) The financial or other advantage is, or is to be, for the benefit of such person being or expecting to be, a public servant or another person.</p> <p><i>Explanation 2.</i>—It shall be immaterial, whether such person being, or expecting to be, a public servant knows or believes that the performance of the public function or activity is improper or whether the public servant who is induced to perform improperly a relevant public function or activity knows or believes that the performance of the public function or activity is improper.</p> <p><i>Explanation 3.</i>—"Expecting to be a public servants" If a person not expecting to be in office agrees to receive or accepts or attempts to obtain from</p>	<p><b><i>Mandatory Sentencing:</i></b></p> <p><i>A definite, long-term prison sentence is required to address serious offence, particularly those committed by higher officials, whether elected or appointed. Hence, it is recommended that conviction should entail a mandatory prison sentence of 5 years. All over the world, stiff prison sentences and confiscation of assets are employed in such offences.</i></p> <p><i>In cases of (i) involving large financial sums for serious economic offences, particularly those involving higher officials,</i></p>

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	<p>and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.</p>	<p>any person, any other financial or other advantage by deceiving such other person into a belief that he is about to be in office, and that he will then serve him, he may be guilty of cheating, but he is not guilty of the offence defined in this section.</p> <p><i>Explanation 4.</i>—Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title or other benefit for that person and thus induces that person to give the public servant, any financial or other advantage as a reward for this service, the public servant has committed an offence under this section.</p> <p>(2) For the purposes of this Act,— (a) a function or activity is a public</p>	<p><i>(ii) collusive corruption, and (iii) breach of fiduciary responsibility and betrayal of public trust resulting in grave loss to the public exchequer, the minimum prison sentence should be 15 years. For instance, in the USA, former Illinois Governor Rod Blagojevich in federal corruption conviction was sentenced to 14 years. Dr Arun Sharma and Dr Kiran Sharma were sentenced to 15 years in a massive health care fraud, and their properties were confiscated.</i></p>

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		function or activity, if— (i) the function or activity is of a public nature; (ii) the function or activity is performed in the course of a person's employment as a public servant; (iii) the person performing the function or activity is expected to perform it impartially and in good faith; and (iv) the person performing the function or activity is in a position of trust by virtue of performing it; (b) a public function or activity is performed improperly, if— (i) it is performed in breach of a relevant expectation; and (ii) there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation; (c) "relevant expectation",—	



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		<p>(i) in relation to a public function or activity performed, means the performing of the public function or activity impartially or in good faith, as the case may be;</p> <p>(ii) in relation to a public function or activity performed in a position of trust (by virtue of performing such function or activity), means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of such trust;</p> <p>(d) anything that a public servant does, or omits to do, arising from or in connection with that person's past performance of a public function or activity shall be treated as being done, or omitted, by that person in the performance of that function or activity;</p>	

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		<p>(e) The test of what is expected is a test of what a reasonable person in India would expect in relation to the performance of the type of public function or activity concerned.</p>	
<p><b>Sec. 8</b>  Taking gratification, in order, by corrupt or illegal means, to influence Public servant.</p>	<p>Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any</p>	<p>Any person who:                      (a) offers, promises or gives a financial or other advantage to another person, and intends such financial or other advantage—                      (i) to induce a public servant to perform improperly a public function or activity; or                      (ii) to reward such public servant for the improper performance of such public function or activity; or                      (b) offers, promises or gives a financial or other advantage to a public servant and knows or believes that the acceptance of</p>	

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	<p>service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.</p>	<p>such financial or other advantage by the public servant would itself constitute the improper performance of a relevant public function or activity, shall be punishable with imprisonment which shall not be less than three years but which may extend to seven years and shall also be liable to fine:                      Provided that when the offence under this section has been committed by a commercial Organisation, such commercial organizations shall be punishable with fine.</p> <p><i>Explanation.</i>—It shall be immaterial whether the person to whom the financial or other advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the public function or activity concerned,</p>	

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		and, it shall also be immaterial whether such financial or other advantage is offered, promised or given by the person directly or through a third party.	
<p><b>Sec. 9</b></p> <p>Offences Relating To Bribing A Public Servant By A Commercial Organisation</p>	<p>Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the</p>	<p>(1) A commercial Organisation shall be guilty of an offence and shall be punishable with fine, if any person associated with the commercial Organisation offers, promises or gives a financial or other advantage to a public servant intending—</p> <p>(a) to obtain or retain business for such commercial Organisation; and</p> <p>(b) to obtain or retain an advantage in the conduct of business for such commercial Organisation:</p> <p>Provided that it shall be a defence for the commercial Organisation to prove that it had in place adequate procedures</p>	<p><i>Non-Governmental agencies, which receive substantial funding, should be covered under the Prevention of Corruption Act. Norms should be laid down that any institution or body that has received more than 50% of its annual operating costs, or a sum equal to or greater than Rs. 1 crore during any of the preceding 3 years should be deemed to have obtained 'Substantial funding' for that period and purpose of such</i></p>

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	<p>Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.</p>	<p>designed to prevent persons associated with it from undertaking such conduct.</p> <p>(2) For the purposes of this section, a person offers, promises or gives a financial or other advantage to a public servant if, and only if, such person is, or would be, guilty of an offence under section 8, whether or not the person has been prosecuted for such an offence.</p> <p>(3) For the purposes of section 8 and this section,—</p> <p>(a) "commercial organization" means—</p> <p>(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;</p> <p>(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part</p>	<p><i>funding.</i></p>

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		<p>of India;</p> <p>(iii) a partnership firm or any association of persons formed in India and which carries on a business (whether in India or outside India); or</p> <p>(iv) any other partnership or association of persons which is formed (outside India and which carries on a business, or part of a business, in any part of India;</p> <p>(b) "business" includes a trade or profession or providing service including charitable service;</p> <p>(c) a person is said to be associated with the commercial organization if, disregarding any offer, promise or giving a financial or other advantage which constitutes offence under sub-section (1), such person is a person who performs services for or on behalf of the</p>	

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		<p>commercial organization.</p> <p><i>Explanation 1.</i>—The capacity in which the person performs services for or on behalf of the commercial organization shall not matter irrespective of whether such person is employee or agent or subsidiary of such commercial organization.</p> <p><i>Explanation 2.</i>—Whether or not the person is a person who performs services for or on behalf of the commercial organization is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between such person and the commercial organization.</p> <p><i>Explanation 3.</i>—If the person is an</p>	

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		<p>employee of the commercial organization, it shall be presumed unless the contrary is proved that such person is a person who performs services for or on behalf of the commercial organization.</p> <p>(4) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the offence under section 8 and this section shall be cognizable.</p>	
<p><b>Sec. 10</b></p> <p>Punishment for abetment by public servant of offences defined in Section 8 or 9.</p>	<p>Whoever, being a public servant, in respect of whom either of the offences defined in section 8 or section 9 is committed, abets the offence, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which</p>	<p>(1) Where a commercial organization has been guilty of an offence under section 9, every person who at the time the offence was committed was in charge of, and was responsible to, the commercial organization for the conduct of the business of the commercial organization shall be deemed to be guilty of the offence and shall be punishable</p>	



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	<p>shall be not less than six months but which may extend to five years and shall also be liable to fine.</p>	<p>with imprisonment which shall not be less than three years but which may extend to seven years and shall also be liable to fine</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where an offence under section 9 has been committed by a commercial organization and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the commercial organization,</p>	

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		<p>such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly under this section.</p> <p><i>Explanation.</i>—For the purposes of this section, "director", in relation to a firm, means a partner in the firm.'</p>	
<p><b>Sec. 12</b></p> <p>Punishment for abetment of offences defined in Section 7 or 11.</p>	<p>Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.</p>	<p>For section 12 of the principal Act, the following section shall be substituted, namely:—</p> <p>"12. 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 be not less than three years but which may</p>	<p><i>Pl. see above.</i></p>

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		extend to seven years and shall also be liable to fine.”	
<p><b>Sec. 13</b></p> <p>Criminal misconduct by a public Servant.</p>	<p>(1) A public servant is said to commit the offence of criminal misconduct,—</p> <p>(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or</p> <p>(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be</p>	<p>For sub-section (1) of section 13 of the principal Act, the following shall be substituted, namely:—</p> <p>'(1) A public servant is said to commit the offence of criminal misconduct,—</p> <p>(a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or</p> <p>(b) if he intentionally enriches himself illicitly during the period of his office and, he or any person on his behalf, is in possession or has, at any time</p>	<p><i>In addition to the penalty in criminal cases, the law should provide that public servants who cause loss to the state or citizens by their corrupt acts should be made liable to make good the loss caused and, in addition, be liable for damages. This could be done by inserting a chapter in the Prevention of Corruption Act.</i></p>

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	<p>inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or</p> <p>(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or</p>	<p>during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.</p> <p><i>Explanation.</i>—For the purpose of this section, "known sources of income" means income received from any lawful source.'</p>	

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	<p>(d) if he,—</p> <p>(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or</p> <p>(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or</p> <p>(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary</p>		

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	<p>resources or property disproportionate to his known sources of income.</p> <p><i>Explanation.</i>—For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.</p>		
<p><b>Insertion of chapter IV A</b></p>	<p>Not existing in principle act</p>	<p>18A. In this Chapter, unless the context otherwise requires,—</p> <p>(1) "date of termination of criminal proceedings" means—</p> <p>(a) where such proceedings are taken to</p>	<p><i>The Corrupt Public Servants (Forfeiture of Property) Bill as suggested by the 166<sup>th</sup> Law Commission should be enacted without further delay. In particular, the provisions for attachment, forfeiture and</i></p>

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		<p>the Supreme Court in appeal, whether on the certificate of a High Court or otherwise, the date on which the Supreme Court passes its final orders in such appeal; or</p> <p>(b) where such proceedings are taken to the High Court and orders disposing of the proceedings are passed thereon and—</p> <p>(i) no application for a certificate for leave to appeal to the Supreme Court is made to the High Court, the day immediately following the expiry of ninety days from the date on which the High Court passes its final orders;</p> <p>(ii) an application for a certificate for leave to appeal to the Supreme Court has been refused by the High Court, the day</p>	<p><i>confiscation of corrupt proceedings should ensure that:</i></p> <ul style="list-style-type: none"> <li>• <i>Wealth/assets of corrupt public servants, not just the proceeds transacted in the corruption offences are covered.</i></li> <li>• <i>The assets/wealth of persons related to or associated with the corrupt public servant and benefitting from his offences should be covered.</i></li> <li>• <i>Hurdles to seizure and confiscation of ill-gotten wealth in the form of ill-defined “prior approval” provisions from the Central and State Government are not placed.</i></li> </ul>

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Protection of action taken in good faith.		<p>immediately following the expiry of sixty days from the date of the refusal of the certificate</p> <p>....</p> <p>...</p> <p>.....(contd)</p> <p>18N. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Chapter.'</p>	<ul style="list-style-type: none"> <li>• Any income of public servants that is not declared / intimated as being from lawful sources should be considered as illegal.</li> </ul> <p>Immediate implementation of the Benami Transactions (Prohibition) Act, 1988 is necessary.</p>
<p><b>Sec. 19</b></p> <p>Previous sanction necessary for prosecution.</p>	<p><b>19.</b> (1) No court shall take cognizance of an offence punishable under sections 7, 10,11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,—</p>	<p>In section 19 of the principal Act, in sub-section (1),—</p> <p>(i) for the words and figures "sections 7, 10, 11, 13 and 15", the words and figures "sections 7, 13 and 15" shall be substituted;</p> <p>(ii) in clause (a), for the words "who is</p>	<p><b>Sanction for Prosecution:</b></p> <p>a. Prior sanction should not be necessary for prosecuting a public servant who has been trapped red-handed or in cases of possessing assets disproportionate to the known</p>



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	<p>(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;</p> <p>(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;</p> <p>(c) in the case of any other person, of the authority competent to remove him from his office.</p>	<p>employed", the words "who is employed, or as the case may be, was at the time of commission of the alleged offence employed" shall be substituted;</p> <p>(iii) in clause (b), for the words "who is employed", the words "who is employed, or as the case may be, was at the time of commission of the alleged offence employed" shall be substituted;</p> <p>(iv) after clause (c), the following provisos shall be inserted, namely:—                      Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in</p>	<p><i>sources of income.</i></p> <p><i>b. The Prevention of Corruption Act should be amended to ensure that sanctioning authorities are not summoned and instead the documents can be obtained and produced before the courts by the appropriate authority.</i></p> <p><i>c. The Presiding Officer of a House of Legislature should be designated as the sanctioning authority for MPs and MLAs respectively.</i></p> <p><i>d. The requirement of prior sanction for prosecution now applicable to serving public servants should also apply to</i></p>

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		<p>this sub-section, unless—</p> <p>(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and</p> <p>(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:</p> <p>Provided further that in the case of request from the person other than a police officer or an officer of an investigating agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public</p>	<p><i>retired public servants for acts performed while in service.</i></p> <p><i>e. In all cases where the Government of India is empowered to grant sanction for prosecution, this power should be delegated to an Empowered Committee comprising the Central Vigilance Commissioner and the Departmental Secretary to Government. In case of a difference of opinion between the two, the matter could be resolved by placing it before the full Central Vigilance Commission. In case, sanction is required against a Secretary to Government, then the Empowered Committee would</i></p>

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		<p>servant:                      Provided also that the appropriate Government or the competent authority, as the case may be, shall convey its decision under this sub-section within a period of three months, which may, for reasons to be recorded in writing by the appropriate Government or the competent authority, that the consultation with the Attorney General or the Advocate General, as the case may be, is required, be extended by a further period of one month.”</p>	<p><i>comprise of Cabinet Secretary and the Central Vigilance Commissioner. Similar arrangements may also be made at the State level. In all cases the order granting sanction for prosecution or otherwise shall be issued within two months. In case of refusal ,the reasons for refusal should be placed before the respective legislature annually.</i></p>
<p><b>Sec. 20</b>                       Presumption where public servant accepts</p>	<p><b>20.</b> (1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of sub-section (1) of section 13 it is proved that an accused person</p>	<p>For section 20 of the principal Act, the following section shall be substituted, namely:—                       "20. Where, in any trial of an offence punishable under section 7, it is proved</p>	

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gratification other than legal remuneration.	has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.  (2) Where in any trial of an offence punishable under section 12 or	that an accused person has accepted or obtained or has agreed to receive or attempted to obtain for himself, or for any other person, any financial or other advantage from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that financial or other advantage, as the case may be, intending that, in consequence, a relevant public function or activity would be performed improperly either by himself or by another public servant."	

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	<p>under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.</p> <p>(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw</p>		

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	<p>the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no interference of corruption may fairly be drawn.</p>		
<p><b>Sec. 24</b>  Statement by bribe-giver not to subject him to prosecution.</p>	<p>Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution</p>	<p>Section 24 is omitted.</p>	<p><i>When corruption is rampant, we need reliable evidence to act decisively against public servants. Most corruption in India is extortionary where a citizen or corporate is fleeced by an unscrupulous official simply to do what was originally due to them or what they are entitled to. In such a scenario, it is important to give immunity to bribe givers who are victims of extortion in order to be able to prosecute corrupt</i></p>

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	under section 12.		<i>officials. Even in countries like the US, plea bargaining is a very common occurrence where by a culprit gets immunity by cooperating with the officials.</i>
<p><b>Sec. 6A of DSPE Act 1946</b></p> <p>Approval of Central Government to conduct inquiry or investigation.</p>	<p>6A. (1) 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 except with the previous approval of the Central Government where such allegation relates to—</p> <p>(a) the employees of the Central Government of the level of Joint</p>	<p>In the Delhi Special Police Establishment Act, 1946, in section 6A, in sub-section (1), after the words "where such allegation relates to", the words "the persons who are or have been" shall be inserted.</p>	<p><i>Permission to take up investigations under the present statutory arrangement should be given by the Central Vigilance Commissioner in consultation with the concerned Secretary. In case of investigation against a Secretary to Government, the permission should be given by a Committee comprising the Cabinet Secretary and the Central Vigilance Commissioner. This would require an amendment to the Delhi Special Police</i></p>

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	<p>Secretary and above; and</p> <p>(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.</p>		<p><i>Establishment Act. In the interim the powers of the Union Government may be delegated to the Central Vigilance Commissioner, to be exercised in the manner stated above. A time limit of 30 days may be prescribed for processing this permission.</i></p> <p><i>Appropriate provision must be made in the case of states</i></p>

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