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EXTORTION V. COLLUSION: SAFE HARBOURS IN ANTI-CORRUPTION LAW

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ABSTRACT

As corruption grows rampant, the most acute consequences of it are felt by the public. The Prevention of Corruption Act, 1988, (revised in 2018), provides limited exemption for the act of giving bribes but fails to clearly demarcate extortionary payments and collusive bribery. Although this supposedly non-discriminatory policy may, in theory, make people more afraid to indulge in bribery, it actually creates a normative incongruity: those, who are forced to give extortionary bribes, to get what they are already legally entitled to, are often charged as main culprits, but not as victims or potential whistle-blowers due to the limited protection and restrictive conditions to seek such exemption. This makes them even more discouraged to report the bribe as they are also in the fear that they will also face penalisation.

This paper challenges the notion of the perceived exception and sets out an alternative approach to the liability of bribe-givers based on mens rea, transactional circumstances, and evidential requirements. Through a comparative examination of the United Kingdom, the United States of America, Singapore, South Korea, and the United Nations Convention Against Corruption, a three-fold typology of extortionary, facilitative, and collusive bribes is developed, and a conditional safe-harbour regime is recommended.

Keywords: Anti-Corruption Law, Collusive Bribes, Differentiated Liability Regime, Safe-Harbour Mechanism, Comparative Anti-Bribery Frameworks.

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Introduction

Corruption has been left as one of the most complicated and rotting issues even in the contemporary systems governing. The phenomenon continues to morph quickly even decades after legislative reforms and institutional restructuring took place. In places such as India, where the pace of socio-economic growth is colliding with the fog of bureaucracy, the tenacity of bribery more needs a more jurisprudential answer: Are not all givers of bribes morally and legally identical?

The Indian legal framework, through the provisions of its Prevention of Corruption Act, 1988 still deems the act of receiving and giving a bribe as being near symmetries. The 2018 amendment to the Prevention of Corruption Act marked a significant shift in India's anti-corruption regime by omitting section 24. This withdrew the statutory protection previously available to bribe-givers who testified against corrupt public officials.

Although it was intended to close perceived loopholes, this reform has had the unintended effect of further enhancing a regime of near symmetrical criminalisation which disregards the structural power imbalance between public officials and ordinary citizens.

While section 8 purports to grant limited immunity to bribe-givers who can prove compulsion and report the incident within seven days, this safeguard is largely illusory in practice. The absence of clear standards for „compulsion“, the unrealistic reporting window and the lack of anonymity and witness protection, together render the existing framework ineffective, if not counterproductive. Rather than strengthening deterrence, the existing framework undermines enforcement.

This paper recommends that there should be a doctrinal change in the approach of always treating all bribe-givers the same to adopting a context-based safe-harbour approach. This is not aimed at undermining the anti-corruption effort, but to make the distinction among the extortionary, facilitative and collusive bribes, which are not each other in intent, culpability and policy relevance. A three-part typology based on the principles of fairness and comparative practices would develop a more rational and consistent system in the context of solving this problem. Fundamentally, the paper challenges the idea that corruption can ever be fought when the blackmailed are penalized together with the corrupt? By solving this paradox, it suggests practical changes and a policy framework that would restore the legal framework to principles of justice and accountability. (SUKHTANKAR & VAISHNAV, 2015)

Identification of Statement of Research Problem

This indistinct position appears to be doctrinally unchallenged and practically difficult, and the consequences it has can be inconsistent with the original legislative objectives of the Act. The major inconvenience is that the criminalisation of extortion-like payments is done in those cases when the citizens take money not to get any unfair benefit but to receive what they have a right to according to the law. These are payments, usually given under duress, of a sort of survival response to the systemic inefficiencies or direct coercion by government officials.

The current anti-corruption systems like the United Kingdom, United States, Singapore, South Korea and even the United Nations Convention against Corruption, consider bribery as a range, and not a stone. They distinguish between coerced payments, facilitative grease payments and symbiotic collusive bribes. Certain jurisdictions even provide conditional safe-harbour models to the victims of such extortion who report such deals. Not only do such models help in capturing the moral nuance, but also improve the enforcement by fostering early reporting.

The existing system in India, however, is still stuck to an absolutist variant of criminal liability, and it is unlikely to create much space in which the distinctions depending on duress, compulsion, or the lack of mens rea may take place. This strict regime can unwillingly undermine the anti-corruption machineries rather than empower them. An example is that when the citizens are afraid that by reporting the bribe, he will be considered an offender, the likelihood of voluntarily reporting it will decrease significantly. In this way, even those individuals who may be the key witnesses or whistle-blowers are not encouraged to speak. The system instead, ironically, safeguards the corrupt actors by criminalizing their own citizens, victims. This constitutes one of the main thematic issues that this paper is trying to answer and solve.

The Indian anti-corruption regime classifies all bribe-givers as equally culpable, without making any distinction between coerced, facilitative, and collusive bribery. This equal culpability makes it difficult to report, overlooks the issue of power imbalance, and makes enforcement difficult, leading to the question of how to balance deterrence with fairness.

Research Methodology

This research will employ a doctrinal and comparative legal approach. The research will examine the legal provisions, court judgments, and enforcement of the law as it stands in Indian law, and will also involve a comparative analysis of anti-bribery laws in the United Kingdom, United

States of America, Singapore, South Korea, and UNCAC. Secondary sources will be employed to evaluate reporting, culpability, and enforcement.

Analysis & Findings of the Research

The jurisprudential treatment of individuals engaging in bribery under Indian anti-corruption laws has received long academic deliberation. The Prevention of Corruption Act (PCA) conceptualizes corruption as a near symmetrical crime, thus making the giver and the receiver of an undue advantage almost equally guilty. However, the PCA is inadequate in distinguishing coercively forced bribery and voluntarily committed misconduct. The resulting doctrinal gap, in its turn, has been linked to the under-reporting of extortionist bribery, because the parties that are afraid of being prosecuted are less likely to report the coercive demands.

Indian Law Framework - Review

The primary issue at the core is that the 2018 amendment (by omitting Section 24), rationalized that if giver and taker both consensually participate, then no protection should naturally arise. But this overlooked the simple but crucial fact of power disparity. It gave no leeway for passive demands and passive coercion which cannot strictly be attributed to force but an inherent and implicit force which is often difficult to prove but exists nonetheless where one party hold a position of power. i.e, a government servant. While section 8 of the Act seems to grant limited immunity to bribe-givers who can prove such compulsion and report it within an unreasonably restrictive deadline, this safeguard is largely illusory in practice. The provision fails to consider power and resource disparity between the giver and taker. Albeit prescribing a nominal asymmetry, the section effectively, by cumulative design, reproduces such symmetrical treatment through enforcement outcomes.

Existing framework provides the defence of coercion or duress as under S 32 of BNS (S 94 of IPC) – which states that threats of serious harm would exclude the liability. But fails to account for the pervasive reality of implicit coercion, where bribes are extracted not through explicit threats but through the denial or delay of services to which citizens are legally entitled. Such coercion is particularly acute for middle- and low-income groups. Take for example, issuance of ration cards for a low-income group. They are already entitled to receive it, but under the risk of delay in issuance or complete non issuance, they would be coerced to pay the bribe. Not by force of threat but by implicit need. This effectively renders the defense unusable in most cases.

The significance of incentivising disclosure is also enhanced by international principles and conventions. The United Nations Convention Against Corruption (UNCAC) emphasizes collaboration and disclosure of individuals who engage in corrupt dealings especially in Articles 37 through to 39 which urge states to provide mitigation or immunity to those who cooperate with investigating authorities. In the Indian legal system, judicial interpretation of the PCA has been mostly focused on the action of the governmental officials. In *CBI v. Ramesh Gelli* (2016), the Supreme Court upheld the broad application of the Act as a means of protecting institutional integrity but did not mention the status of those who have been coercively induced to give bribes. This judicial silence allows the statutory framework to work in a way that practically annul and obliterate important differences in culpability.

The literature on the mechanisms of corruption reporting also supports the demand of reform. Empirical analyses of citizen-state relations in India indicate that petty administrative extortion is pervasive and it is supported by discretionary service provision. Further empirical studies have shown that those who yield to coercive demands feel a greater legal vulnerability, which discourages them to approach the enforcement authorities. This interaction reveals an abysmal gap between the legal framework and the actual practice of administrative force.

Basu (2011) introduces the concept of „harassment bribes“, defined as payments extracted to secure goods or services to which the payer is already legally entitled, distinguishing them from collusive bribes that seek unlawful advantage. The prevailing regime of near symmetrical criminalisation aligns the post-transaction interests of the bribe-giver and bribe-taker, converting both into „partners in crime“ and thereby suppressing reporting and detection. Granting immunity to victims of harassment bribery reverses this incentive structure by creating divergence of interests after payment, encouraging disclosure, restitution and cooperation with investigative authorities. Reallocation is preferable rather than dilution of punishment, whereby the bribe-taker bears the full penal burden, including mandatory repayment of the bribe amount to the giver.

Laboratory experiments simulating harassment bribery demonstrate that granting immunity to bribe-givers significantly increases reporting behaviour and reduces the incidence of bribe demands compared to regimes of near symmetric liability. The deterrent effect of asymmetric liability weakens when officials are able to retaliate against whistle-blowers, indicating that immunity schemes must be accompanied by robust protection mechanisms to be institutionally effective.

Reporting behaviour is shown to be driven not only by monetary incentives such as refund of bribes but also by intrinsic motivations related to fairness and moral outrage, suggesting that financial restitution is not a necessary condition for the success of leniency frameworks. However, the effectiveness of asymmetric punishment is institution-dependent: the model demonstrates that immunity-based regimes reduce bribery only when the cost of whistle-blowing is low and detection probabilities can be endogenously increased by complainants. Where reporting costs are high and investigative capacity is weak, asymmetric punishment may fail to eliminate bribery and may even generate welfare losses by encouraging disclosures that do not result in enforcement.

The framework predicts that asymmetric punishment is most successful in low-value, routine administrative transactions and least effective in high-stakes or rent-seeking environments, indicating the need for differentiated enforcement strategies rather than uniform immunity regimes. Legal theorists argue that an undifferentiated liability regime is in contradiction to the principles of criminal jurisprudence. To classify a bribe-giver who has been coerced into doing an act as a principal offender is to overlook the lack of corrupt intent and destroy the foundation on which criminal culpability is established. This doctrinal gap necessitates a conceptual re-classification of bribery practices, as undertaken in the next section. (VIRUMBI & VAISHALI, 2024)

Typology of Bribes

Bribery is often understood as a single act, but in reality, it is a wide spectrum of situations. Treating every bribe-giver as equally culpable overlooks the crucial differences in agency, intent and the structural conditions under which such payment occurs. A reform in the anti-corruption laws must therefore begin with a clear typology that reflects the realities of citizens and the institutional vulnerabilities exploited by corrupt officials. This paper adopts a threefold classification, i.e., coercive/extortionary bribes, collusive bribes and facilitation/grease payments, to build a foundation for a differentiated and reasoned liability.

1. **Coercive / Extortionary Bribes:** Coercive or extortionary bribes are bribes that are inappropriately requested by a public official and are usually done under threat of holding or impeding or denying a service to which the citizen has a legal claim.¹ In this case, the person giving the bribe lacks voluntariness and the money is a forced action against abuse of power. It is a common type of bribery that emerges in the high-contact administrative setting like the licencing office, welfare disbursement point, or the police interaction where citizens are under urgent need and the officials substantially have

discretionary power. What makes the payer of such cases morally blameworthy is fundamentally distinct to that of a willing corruption participant. The payer is a reciprocator of coercion, caught between illegal acquiescence and illegal denudation. However, by criminalising such individuals through legal system, it not only overlooks the imbalance of power but also it discourages the victims to report the demand. The fear of self-incrimination guarantees silence hence allowing extortion by corrupt officials as a habit. Separating this type is thus a crucial feature of any viable safe-harbour regime.

2. **Collusive Bribes:** Collusive bribes involve a mutual and conscious agreement in which the person who is paying and the official are aware of an illegal transaction. The person giving the bribe desires to gain some benefits that they do not deserve like being given preferential treatment when it comes to regulation, being treated preferentially in a contract, evading prosecution or illegal access to state resources. The government official, on the other hand, breaks his/her duty as demanded by the law to get personal benefits. This type of bribery is the most pernicious to the systems of the people since it replaces merit and legality with personal bargaining. It warps the way the institutions work, it redistributes the public resources inequitably, and it makes it possible to have established networks of corruption. Collusive bribery should be subject to the most severe legal penalties because both sides evidently have a criminal intent. This type of category does not warrant or justify a safe-harbour model. (Mance & Mistree, 2022)
3. **Facilitation or “Grease” Payments:** Facilitation payments lie in between coercion and collusion. These are cheap payments that are made to hasten ordinary, legitimate services without a threat being clearly expressed by the official. Such payments can be made voluntarily by the citizens as a way of avoiding wait times or going through the inefficient bureaucracy. These payments may seem insignificant or acculturated, but their long-term effects are tremendous. They institutionalise corruption as a normal business deal, a reward to incompetence, and progressively turn time into a luxury offered by the authorities. Facilitation payments are not aimed at an illegal advantage as in collusive bribes, nor do they involve threatening force as in coercive bribes. They are so ambiguous that it complicates regulatory treatment, necessitating a combination of the administrative reform, behavioural interventions, and balanced legal disincentives. This typology forms the analytical basis for the differentiated liability framework proposed below.

Proposed Framework

A coherent reform of bribe-giver liability must rest upon a legally defensible, administratively workable and doctrinally principled architecture. This section articulates an integrated framework grounded in „mens rea“, voluntariness and proportionality, clarifying immunity for coerced bribe-givers, mitigation for facilitative payments and full liability for collusive bribery. The proposed safe-harbour regime is consistent with Article 14 of the Constitution of India, as it advances substantive equality by distinguishing between coerced and collusive conduct on the basis of rational classification and proportionality.

1. **Conditional Safe-Harbor for Coerced Bribe-Givers:** The central premise is comprised of a **statutory safe-harbour** based on conditionality that protects a person from any liability for having paid an unlawful payment as a result of coercion (i.e., being forced into doing so). This rationale is supported by foundations of criminal law, which hold that culpability requires intent (mens rea) and wilful participation (actus reus).

Elements of the Safe-Harbor

- a *Coercion-Based Participation:* Bribe payers must prove that the payment was made under express or implied coercion, and that there was no intent to gain an unlawful advantage through the payment. For example, Specific indicators of coercion may include threats of delay in response to a request or denial of lawful service; or evidence of the greater bargaining power.
- b *Time-Bound Reporting Requirement:* The report must be made within a written statutory timeframe, in addition to providing evidence, providing validity for an eventual claim or plea agreement (similar to existing whistleblower reporting requirements).
- c *Mandatory Cooperation with Authorities:* Claimants must provide any information in connection with the investigation, as well as cooperate with other information-gathering steps in the investigation, including providing information and assisting with controlled delivery or verification.
- d *Prima Facie Evidentiary Threshold:* The evidence requisite to obtain the regulatory protections will include moderate levels of proof, supported by: recordings, communications, witness statements, or circumstantial indicators.
- e *Whistleblower-Style Protection Guarantees:* Complainants will be guaranteed: confidentiality, protection against retaliation, and immunity for any disclosures made in good faith. The features of these protections will have been influenced by the Whistle Blowers Protection Act of 2014.

The provisions set forth above will create an opportunity for statutory immunity from liability regarding violations of the bribery statute.

2. **Partial Mitigation for Facilitation Payments:** Facilitating payments are a third category of corruption, which is found within a continuum between coercive and collusive acts. Due to the lack of clear coercive elements, facilitating payments may arise in the context of bureaucratic dysfunction; however, this will not excuse or legitimise the practice of facilitating payments. Instead, the mitigation framework identifies potential remedies for mitigating circumstances and establishes the framework within the context of the facilitation payment's structural context and does not provide immunity from prosecution.

Mitigation Structure

- **Reduced Penalties for First-Time Offenders-** This will provide an incentive for early reporting and will prevent excessive punishments for first-time offenders.
- **Mandatory Reporting Requirement-** As with the case of coercive payments, reporting is key for mitigation.
- **Contextual Assessment-** Various contextual factors (e.g., reliance, culpability, and vulnerability) must all be taken into account when assessing culpability.

This graded approach to mitigating facilitating payments supports the need to deter facilitating payments while recognizing the need to address the bureaucratic dysfunction associated with these payments.

3. **Full Liability for Collusive Bribe-Givers**

Collusive bribery is defined as the intentional act of colluding with another individual for the purpose of obtaining a benefit that is not otherwise available. This is the primary type of corruption that anti-corruption legislation was intended to address and should therefore be subject to **unimpaired liability**.

Liability Specification

Full liability applies where:

- the bribe-giver acted voluntarily;
- the intention was to secure illicit gain;

- The giver–taker interaction was mutually beneficial.
- Where the bribe cannot be classified as coercive or facilitation payments.

4. Independent Review Authority: Structure and Legitimacy

An Independent Review Authority (IRA) would serve as a means of providing an institutional framework for the assessment of coercion and the appropriateness of alternative methods of dispute resolution. The proposed IRA could either be created through an amendment of the existing PCA or by way of a delegated legislation made pursuant to the provisions of Subsection 29A. The proposed authority would have powers to determine coercion claims; summon records and evidence; issue reasoned orders, forward verified cases to enforcement bodies. To ensure that an IRA is capable of carrying out its responsibilities in a manner that will be transparent and accountable, strong procedural safeguards that prohibits interference, requires written explanation of the authority's determination and establishes an electronic audit trail should be developed.

5. Safeguards Against Misuse

In order to protect against the potential for abuse of the safe-harbor protection available under the proposals above, the proposed framework governing this area should include the following safeguards:

- Penalties for False/Malicious Claims – Misrepresentation of collusive bribes as coercive processes is a separate criminal offence.*
- Stringent Prima Facie Scrutiny- the IRA will reject claims that do not satisfy evidentiary requirements (Gogel, 1990).*
- Audit and Review Mechanisms- an independent audit of each claim will preserve the integrity of the reporting system and prevent the potential for institutional drift.*
- Mandatory Co-operation Clause- failure to cooperate with an investigation or fabrication of evidence will result in the cancellation of any immunity provided under the proposals above.*

The safeguards outlined above create deterrents for abuse of the safe-harbour process; maintain the integrity of the reporting system; and protect all parties involved through a level of safety that cannot be assured through the existing institutional framework. The operational effectiveness of this framework depends on reporting and verification mechanisms, as addressed in the following section.

Mechanisms for Reporting and Verification

The effectiveness of a differentiated liability regime depends on whether reporting and verification systems are provided which are procedurally sound, easily available to the citizenry, and not easily subject to institutional manipulation. These structures are based on the best practices that have been preserved to date in India, namely, the procedural frameworks enshrined in the Whistle Blowers Protection Act, 2014, and the digital filing architecture of the Central Information Commission, as well as the international standards promoting the timely disclosure and integrity of evidence. The overall adoption of such systems guarantees that those who have been victimized into bribery are enabled to blow the whistle without intimidation, and at the same time they maintain protection against victimization. (Kannabiran, Hollestein, & Hoffmann, 2021)

- **Time-Bound Reporting and Statutory Timelines:** The main condition of the suggested safe-harbor regime is the requirement of disclosure within a period of time mentioned in the statute. These time limitations are consistent with the prompt-reporting features of the whistleblower protection regimes, departmental vigilance manuals requiring immediate reporting of misconduct, and empirical studies that indicate that a short reporting window can lead to a high level of evidentiary reliability. Exceptions can only be granted in cases where the complainant can prove viable hindrances like persistent threats, incapacitation or recorded unavailability of reporting channels.
- **Confidentiality and Whistleblower-Style Protections:** The ban of retaliation is crucial to the development of the desire of the coerced people to reveal the corrupt practices. In this regard, the mechanism must include the protection provisions expressed in the Whistle Blowers Protection Act, 2014 or analogous best practices, such as uncompromising anonymity (except where legally required), disallowance of retaliatory administrative measures, such as transfers, harassment, or disadvantage of service, and secure and encrypted reporting procedures.
- **Evidentiary Standards and Acceptable Proof:** The suggested regime uses a prima facie standard of proof, which is neither too high nor too easy to reach, but is strong enough to create credibility. This criterion resembles the criteria used by the CVC and other quasi-judicial bodies in approving preliminary investigations. The acceptable evidence includes audio or video recordings of the demand; written or electronic

communications; official documents reflecting unexplained delays or the refusal of legitimate services; circumstantial evidence of coercion (e.g., repeated demands); sworn affidavits; and statements of corroborating witnesses. The IRA might also look at contextual clues in the absence of direct evidence, which is in line with the principles in administrative inquiries.

- **Verification Protocols and Procedural Stages:** The verification process must balance procedural fairness with investigative rigor. A **five-stage protocol** is proposed as follows:
 - a **Preliminary Screening-** Determination of timeliness and jurisdiction and a minimum sufficiency of evidences.
 - b **Corroborative Evaluation-** Cross-check against departmental records, service logs, CCTV footage and where available, digital metadata.
 - c **Notice and Response from the Implicated Official-** As per the principles of natural justice, the accused official will be given a chance to respond, under non-interference protection.
 - d **Reasoned Determination-** The IRA will give a written order approving or rejecting safe-harbor protection.
 - e **Forwarding for Prosecution-** Cases that are confirmed to be of an extortionary bribery will be forwarded to the anti-corruption agencies and the immunity of such complainant will be turned on.

The verification structure is indicative of adjudicatory practices adopted by the like bodies like the CCI and CIC where the reasoned orders, staged inquiries, and procedural fairness are the main features of operations. (SUKHTANKAR & VAISHNAV, 2015)

Comparative Analysis

This section of the paper looks at the case of the United States, the United Kingdom, South Korea, and Singapore control bribe-giving, especially, those that pertain to facilitation payments, coercion, or self-reporting. A direct comparison with that of the country of India comes as the last point of comparison. Corruption Prevention Act, 1988 (with amendments of 2018).

United States – Foreign Corrupt Practices Act (FCPA)

The United States’ **Foreign Corrupt Practices Act of 1977, 15 U.S.C** is an intent-based and substantively different approach on bribe-giving. Under **15 U.S.C. §§ 78dd-1(b), 78dd-2(b)**,

and 78dd-3(b), the FCPA recognizes a limited exception for “facilitating payments” made solely to expedite routine, non-discretionary governmental action, such as visa processing, mail delivery, or scheduling inspections. The payments are permissible when the official performs a ministerial function with no decision-making discretion, this preserves the centrality of corrupt intent within the offence. The U.S. courts have clarified the narrow boundaries of the exception: in **United States v Kay**, 359 F.3d 738 (5th Cir. 2004), the Court has held that the payments intended to influence substantive governmental decisions such as reducing customs duties are not “facilitating payments,” as they confer an improper advantage. Similarly, **United States v Esquenazi**, 752 F.3d 912 (11th Cir. 2014) the courts reaffirmed in this case, that any payment yielding business’s advantage falls within the statute’s prohibitive scope.

The U.S. enforcement practices are further distinguished between the coerced or extortion-induced payments from corrupt transactions. The **DOJ–SEC FCPA Resource Guide (2020)** recognizes the payments made under threats or compulsion lack the requisite corrupt intent and therefore they do not attract liability, the coerced individuals are typically treated as victims and are often eligible for declination when timely reported. **These features highlight the gaps in Indian law**, which includes the absence of statutory differentiation for routine facilitating payments, lack of a coercion-based exemption, and no structured reporting-based relief mechanism. (Agbor, 2024)

United Kingdom – Bribery Act 2010

The **Bribery Act 2010** is one of the most conscientious anti-corruption frameworks globally, marked through its **absolute statutory prohibition of facilitation payments**. The *Sections 1 and 2* of the Act criminalise offering, promising, giving, requesting, or accepting any financial or other advantage, intended to induce improper performance. The *Section 7* of the act creates a strict liability offence for commercial organizations that fail to prevent bribery carried out by associated persons, subject to the statutory defence of having implemented “adequate procedures,” as given in the **Ministry of Justice Guidance (2011)**. The Guidance unequivocally states that, the facilitation payments made regardless of their value, frequency, or local practice constitute bribery under UK law, this leaves no statutory room for administrative or “speed money” exceptions. The clarity gives a deliberate legislative choice to remove ambiguity and eliminate tolerance for any category of unofficial payments.

The enforcement agencies apply for a **structured, public-interest-based discretion** whilst determining whether the prosecution is appropriate. The **Crown Prosecution Service (CPS) Guidance** and the **Serious Fraud Office (SFO) Facilitation Payments Policy** acknowledges

that isolated or low-value payments which are made under pressure or in circumstances where refusal may result in adverse and dire consequences may not justify prosecution, particularly where prompt self-reporting and cooperation occur. Factors focusing on the repetition, failure to comply with policies in an organization, systemic corruption risk, and the state of mind of the payer are stressed in the policies. The UK's enforcement philosophy can be seen in the case of *SFO v Standard Bank Plc [2015]*, the UK practice with regard to corporate bribery controls has been underscored on the basis of transparency, timely self-reporting, and effective compliance controls as the Court has noted in the judgment. This hybrid of rigid structure and a carefully designed implementation has a point of comparison with systems where bribes are still criminalized, and the motive, coercion or corporate protection are not yet particularly distinguished. The two laws criminalize facilitation payments, but in the UK, this is moderate with elaborate prosecutorial principles and a moderation time frame. In India, there is no such checking system and the execution of the same on citizens is more severe.

South Korea – Improper Solicitation and Graft Act (Kim Young-ran Act) 2016

The South Korea's *Improper Solicitation and Graft Act 2016* sets allowable strict prohibitions of the giving or receiving of benefits by a public officer and sets clear limits as to what kind of hospitality can be given. The Act offers an essential distinction in the criminal law between intentionally induced bribery aimed at affecting official action and bribes made covertly, by pressure, or under some necessity, which can be subject to the administration mechanism. In the Act and its *Enforcement Decree*, individuals receiving coercive or extortionary demands from public officials can receive **administrative exemption or immunity** if they report it promptly to the *Anti-Corruption and Civil Rights Commission (ACRC)* or relevant authorities. This relief mechanism drawing on reporting is a clear legislative purpose to safeguard those who do not harbor corruption.

The enforcement practice is given in the *ACRC's official interpretive guidelines*, outlining the factors that mitigate or eliminate the liability for the payer. Such instructions consider the coercion, threats, institutional pressures and non-discretionary government demands as the signs, that the payer did not intend to grant an inappropriate advantage. There is uniformity in the application of this principle to administrative determinations made by the ACRC (especially where the compelled gift or other contribution involved), and the conduct of the payer was handled by exemption and not prosecution. The administrative and the statutory framework therefore provides that enforcement approach is mostly about intentional graft as well as offering systematic relief to those who have been forced by an official to act. South Korea

exempts coercion and reporting behaviour; India considers all bribery by citizens to be punishable except in the fulfilling of Section 24.

Singapore – Prevention of Corruption Act (PCA)

The Singapore's *Prevention of Corruption Act (Cap. 241)* offers a general statutory law that makes giving and receiving of corrupt gratification illegal with a constituent definition of corruption that does so in the functional terms and that such benefit is offered with an intention to influence improper performance. The PCA does not expressly distinguish between coerced and voluntary payments, the Singapore's enforcement practice is led by the *Corrupt Practices Investigation Bureau (CPIB)* which incorporates a healthy reporting-based safeguarding model. The CPIB openly declares that those who report corruption efforts on their own initiative could be given immunity, acted as witnesses, or otherwise provided with some leniency, which is one of the long-held operation principles, as integrity and collaboration come first. This method of administration will allow enforcement bodies to segment between the persons who commit evils and those that fell to the pressure of the situation or even blackmail.

This distinction is further refined at the level of the judicial decisions which lay emphasis on voluntariness, coercion, and context. In *Public Prosecutor v Teo Chu Ha [2014] SGCA 45*, the Court of Appeal highlighted that the decision to maintain corrupt intent does not rest on the fact of payment; the voluntariness through which the payer makes the payment and the circumstances under which the agreement takes place are still the key elements in establishing a case of liability. Similarly, in *Public Prosecutor v Syed Mostaq Ahmad [2012] SGDC 331*, the District Court was prepared to acknowledge that some situational pressures can lower the culpability where the payer did not have a deliberate intention of gaining improper favour. When these judgments are combined with the operational policies of CPIB we find that Singapore anti-corruption system considers coercion and context to be the part, which mitigates penalties and hence, enforcement is done with consideration to intentional corruption as opposed to forced enforcement. Singapore has strong reporting-based relief, whereas India only has a restricted trap exception and general liability.

Conclusion

The present analysis explains a fundamental contradiction entrenched in the current Indian anti-corruption system the Prevention of Corruption Act, 1988. Which, despite formally recognising compulsion, continues to criminalise givers and receivers in near-equal measure in its operational

effect, erasing any substantial distinction between coercion and collusion and thus annihilates fundamental moral culpability, intent, and structural disadvantage. As a result, the statutory regime, despite its supposedly deterrent orientation, ends up condoning the very players, which are most susceptible to administrative extortion.

The classification of forced bribe-givers as key offenders under this legislation discourages whistle-blowing, undermines detection systems, and impunity of corrupt officials, thus undermining the integrity of the law as well as the constitutional obligation to fairness.

It is thus the suggestion of this paper to introduce a graded, three-part typology of bribes that can be coercive, facilitative, and collusive, supplemented by a safe-harbor system. The suggested architecture maintains the deterrence effectiveness of the Indian law against corruption against the collusive players, and has the ability to afford conditional immunity to the coerced bribe-givers, and proportionate compensation of the facilitation payments. The core of the institutional nucleus is the creation of an Independent Review Authority, which is a quasi-judicial institution based on the already existing Indian precedents including the CIC, CCI and Lokpal benches.

All these reforms attempt to advance a model of resilient leadership and sustainability. One that is enables citizen empowerment and mandates institutional ethical responsibility. The model is quintessential to restore confidence in public administration. The core ideas of transparency, citizen participation and accountability facilitate a sustainable governance practice that not only punishes the guilty wrong doer but also strengthens integrity and durability of the democratic institution. It is better that 10 guilty persons escape than that one innocent person suffer. The proposed framework appropriately treats the parties involved in light of the circumstances and the facts. Adoption of differentiated liability is not, then, a policy improvement, as such, but an indispensable correction, which brings the anti-corruption system in India into line with constitutional principles, best practices in other nations, and the practical realities of life in India. (Kannabiran, Hollestein, & Hoffmann, 2021)

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