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The Development of Anti-Corruption Measures in India, Malaysia and Singapore

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Abstrakt

Weltweit tritt Korruption in unterschiedlichem Ausmaß auf und wird durch eine Vielzahl von Faktoren beeinflusst, angefangen beim rechtlichen Rahmen bis hin zu historischen und sozialen Umständen. Unter den 180 Ländern, die im international anerkannten TI-Korruptionswahrnehmungsindex aufgeführt sind, befindet sich Singapur auf Platz 3, Malaysia auf Platz 57 und Indien auf Platz 96. Diese Arbeit untersucht drei grundlegende Fragen: Warum schneiden Indien, Malaysia und Singapur im TI-Korruptionswahrnehmungsindex so unterschiedlich ab? Wie sehen ihre Mechanismen zur Korruptionsbekämpfung aus? Wie hat sich die britische Kolonialherrschaft auf das heutige System zur Korruptionsbekämpfung ausgewirkt? Die drei Beispielstaaten werden analytisch und vergleichend untersucht. Anhand von nationalen Rechtsnormen und Gerichtsentscheidungen, ergänzt durch aufschlussreiche Statistiken und Daten nationaler Institutionen und internationaler Organisationen, Berichte, Fachliteratur und Artikel sowie historische Aufzeichnungen werden diese Fragen beantwortet. Die Arbeit kommt zu dem Schluss, dass es fünf Schlüsselelemente gibt, die für eine effiziente und wirksame Korruptionsbekämpfung unerlässlich sind.

Abstract

Corruption occurs in various magnitudes among the states around the world influenced by a complexity of factors, started by the legal framework, historical and social circumstances. The Asian countries Singapore ranks on the 3rd, Malaysia on the 57th and India on the 96th place among the 180 countries listed on the internationally acknowledged TI Corruption Perception Index. This thesis investigates the three fundamental questions: Why do India, Malaysia and Singapore score so differently in the TI Corruption Perception index? What are their anti-corruption mechanisms? And how did the British colonial rule impact todays anti-corruption system? The three example countries are examined in an analytical and comparative manner. Using primary legislation and judicial cases, complemented by key statistics and data from national institutions and international organization, reports, subject literature and articles, moreover historical records will serve to address these questions. The thesis concludes that there are five key elements that are essential in an efficient and impactful combat against corruption.

Abbreviation

1MDB	1Malaysia Development Berhad
AAP	Aam Adami Party
ACA	Anti-Corruption Agency
ACB	Anti-Corruption Branch
AML	Anti-Money Laundering
AMLATFA	Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001
ASEAN	Association of South Asian Nations
ASEANAPOL	Asian Nations Chiefs of Police
BNM	Bank Negara Malaysia
BNS	Bhartatiya Nyaya Sanhita
CAD	Commercial Affairs Department
CBI	Central Bureau of Investigation
CFT	Countering Financing of Terrorism
CID	Criminal Investigation Department
CrPC	Code of Criminal Procedure
CVC	Central Vigilance Commission
DSPE	Delhi Special Police Establishment
ED	Enforcement Directorate
EIC	East India Company
FATF	Financial Action Task Force
FIU-IND	Financial Intelligence Unit India
FIR	Zero First Information Report
JKKMAR	The Special Cabinet Committee on Anti-Corruption
MACC	Malaysian Anti-Corruption Commission
NACS	National Anti-Corruption Strategy
NGO	Non-Governmental Organisation
NGPD	National Governance Planning Division
PAP	People’s Action Party
PMLA	Prevention of Money Laundering Act
PCA	Prevention Corruption Act, 1988
POCA	Prevention Corruption Act, 1960
SPE	Special Police Establishment
TI	Transparency International
UMNO	United Malays National Organization
UNCAC	United Nations Convention on Corruption, 2005
UNDP	United Nations Development Program
UNODC	United Nations Office on Drugs and Crime

Content

A. Introduction

A prosperous and well-functioning State relies on a fair and equally organized society. One impediment to such a fair and equal system is corruption. Transparency International (TI) has formulated the following definition that is commonly sustained and recited among the States: Corruption is *the abuse of entrusted authority for private gain*.[1] According to the philosophy of law in theory the validity of moral values stands independent from any time and phase.[2] Subsequently, they should be considered as inalienable in any economy of exchange. Nevertheless, corruption shows that moral values have a certain price which makes corruption an immoral trade.[3] *Corruption erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and the environmental crisis*. TI concludes that it's only possible to uncover dishonest behaviour and holding corrupt accountable if the way corruption works and the systems that enable it, is comprehend.[4] Combating corruption additionally requires an understanding of the underlying motivations and causes, as both external circumstances and internal factors influence the decision to engage in corrupt behaviour. External circumstances can be financial difficulties, entrenched social and cultural norms and pressure, also groups and syndicates, family structures, the perception of morality, historical influences, or a weak political and governmental system. Inner factors are greed for enrichment, career, luxury life, power, social advancement but also simply out of necessity or due to a predicament.

Measuring the effect of corruption in numbers it costs the world roughly $2.6 trillion annually, according to the calculations of the UNDP. A source that could be invested in combat against hunger, providing healthcare, and ensuring all people access to quality education.[5]

In this Master Thesis *The Development of Anti-Corruption measures in India, Malaysia and Singapore*, the three named countries shall be drawn into comparison. At first glance, they are connected due to their geographical position in the Asian Pacific area, share similar cultures, social influences and common experiences with foreign powers under British colonial rule in addition have undergone significant state-building developments over the past century. However, according to the TI Corruption Perceptions Index the three countries perform quite differently: Worldwide Singapore ranks on the 3rd place, followed by Malaysia

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[1] https://www.transparency.org/en/what-is-corruption, accessed 21.03.2024.

[2] Immanuel Kant, Allen W. Wood, Groundwork for the Metaphysics of Morals: With an Updated Translation, Introduction, and Notes. New Haven: Yale University Press, 2018, 397f.

[3] Verena Rauen, Corruption: Uncovering the Price of Normative Morality and the Value of Ethics, German Law Journal, 2016, Vol. 17, 101–117, 101.

[4] https://www.transparency.org/en/what-is-corruption, accessed 21.03.2024.

[5] https://news.un.org/en/story/2023/08/1140282; accessed 08.03.2024.

on the 57th place and India on the 96th.[6] To obtain a greater understanding of today's given corruption circumstances this thesis is devoted to the questions below:

- What is the present political, economic and social status of India, Malaysia and Singapore? What are the factors that result to the different positions?
- What are the current anti-corruption mechanisms in each country?
- What are the similarities and differences in the organisation of their agencies and enactment of provisions?
- How did these measures evolve over time, and what role did the British colonial rule play in their development that led to the current status of the legal measures to combat corruption?

The main part will be divided in an engagement with the general perception of corruption and how it is measured, followed by an analysis and juxtaposition of each country that is structured in a social, cultural and political overview, the status quo of corruption in these states based on the vastly recognized TI Corruption Perception Index, the countries anti-corruption mechanism, legal sources, complemented by case studies and critical reflections and at last the examination of the historical background. Thereby, an outline of the relevant historical facts during and after the British colonial are given to investigate the impact on India, Malaysia and Singapore.

To study the questions outlined above, this thesis will primarily rely on legislation and judicial cases, along with key statistics and data from national institutions and international organization reports. Additionally, subject literature and historical records will serve as essential sources.

B. Main Part

I. Corruption and how to measure it

Corruption has numerous definitions and shapes. The first offences that typically come up in mind are fraud, treason, embezzlement, bribery, cronyism, nepotism or any act that presents a conflict of interest. For example:

- Abusing one's position to gain personal or organizational advantages, such as exploiting public resources for private use or making biased decisions
- Favouring friends, relatives and political allies, often leading to unfair advantages or misuse of power
- Misappropriating funds or assets that have been entrusted to one's care, such as a company's financial manager depriving from their employer

[6] https://www.transparency.org/en/cpi/2024, accessed 01.06.2025.

- Paying a public official to influence their decision-making, such as awarding a contract or turning a blind eye to regulation

There are even different categories of corruption such as political corruption, grand corruption, productive corruption or petty corruption. Its scope adapts according to the sector whether it is a conduct or an omission within the private or public sector.[7] Neverthelss, the question is in the room if a universal definition of corruption or respectively morality exists and if corruption can ever be ethically permissible? As many diverse cultures exist there are as many different notions of fundamental values but there is a common ground on one human trait that is universal and essential, the motivation of self-interest. From a critical point of view, it can be seen as greed. Viewed from an economic perspective it is utility maximization. Nevertheless, the ratio behind corruption is to achieve legitimate self-interest by unfair and immoral means. To what kind of dimension corruption can prosper depends on the weakness of a governmental system, disorder, measures of prevention in form of deterrence and incentives to condition a certain behaviour, combined with economic circumstances and cultural habits. It is up to the different societies how they define and approach self-interest by their moral measurements.[8] Following Kants approach before we can identify what is moral, we must clarify what is ethical. Simply answered every act that is deemed to be *righ*t. Ethics is the discipline that engages with determination of correct and improper behaviour, further, the study of morality. According to Kant's theory, any behaviour is moral when the intent is ethical. Hence, the motive is based on the duty towards society and him- or herself but excludes pure self-interest and gratification. Yet, the assessment of morality is independent of behaviour's outcome. In sum, everything that is moral is also ethical.[9] Corruption can also be described as the perversion of justice. Instead of punishing the unjust and immoral conduct the innocent is affected by the negative outcome. In *Leviathan* Thomas Hobbes denies that corruption can ever be ethically permissible when discussing the structure of judicial precedent:

> *[A]ll the sentences of precedent judges that have ever been, cannot altogether make a law contrary to natural equity [...] tis against the law of nature, to punish the innocent; and innocent is he that acquitteth himself judicially, and is acknowledged for innocent by the judge. Put the case now [i.e., consider the example], that a man is accused of a capital crime, and seeing the power and malice of some enemy, and the frequent corruption and partiality of judges, runneth away for fear of the event,*

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7 Jeff Everett, Dean Neu, Abu Shiraz Rahaman, The Global Fight against Corruption: a Foucaultian, Virtue-Ethics Framing, Journal of Business Ethics, April 2006, Vol. 65, 1-12, 3.

8 Susan Rose-Ackerman and Bonnie J. Palifka, Corruption and Government, Cambridge University Press, Cambridge, 2016, 6f.

9 Kant, Groundwork for the Metaphysics of Morals, 394, 423.

and afterwards is taken, and brought to a legal trial, and maketh it sufficiently appear, that he was not guilty of the crime, and being thereof acquitted, is nevertheless condemned to lose his goods; this is a manifest condemnation of the innocent.[10]

This thesis will be based on the general acknowledged perception of corruption under the TI definition as quoted above: Corruption is *the abuse of entrusted authority for private gain*. This broad definition leaves a vast room for interpretation and application hence in practice the question arises; how can the intensity of corruption be manifested and grasped? What are sound and profound indicators and resources to measure corrupt activities in a country? The TI works with two tools, the Corruption Perception Index and the Global Corruption Barometer. The Corruption Perception Index is a ranking of 180 nations and territories based on the perception of experts and business executives who evaluating how corrupt a country's public sector is. The index of 2024 combines 13 data sources[11]:

1. African Development Bank Country Policy and Institutional Assessment 2021
2. Bertelsmann Stiftung Sustainable Governance Indicators 2022
3. Bertelsmann Stiftung Transformation Index 2024
4. Economist Intelligence Unit Country Risk Service 2023
5. Freedom House Nations in Transit 2023
6. Global Insight Country Risk Ratings 2022
7. IMD World Competitiveness Center World Competitiveness Yearbook Executive Opinion Survey 2023
8. Political and Economic Risk Consultancy Asian Intelligence 2023
9. The PRS Group International Country Risk Guide 2023
10. The PRS Group International Country Risk Guide 2023
11. World Bank Country Policy and Institutional Assessment 2022
12. World Economic Forum Executive Opinion Survey 2023
13. World Justice Project Rule of Law Index Expert Survey 2023
14. Varieties of Democracy (V-Dem v. 13) 2023

These sources are complemented by assessments of reputable institutions that specialize in governance and business climate analysis.[12] The focus is laid on corrupt activities such as bribery, diversion of public funds, prevalence of officials using public offices for private gain without any sanctions or the ability of governments to restrain corruption and enforce anti-

[10] Thomas Hobbes of Malmesbury, Leviathan or the Matter, Forme & Power of a Common-wealth Ecclesiastical and Civil, Grapevine India, Delhi / Mumbai, 1651,170.
[11] Transparency International Corruption Perceptions Index 2023: Full Sources Description.
[12] Transparency International, Corruption Perceptions Index: Frequently Asked Questions.

corruption mechanisms in the public sector effectively. Not contained are tax fraud, money-laundering, or private sector corruption. As the world's largest public survey on corruption, the Global Corruption Barometer, collects first-hand data by asking citizens about they experience and observe corruption in their daily lives. The majority reported encountering demands for bribes when requesting services from the police, medical personnel, or government officials.[13]

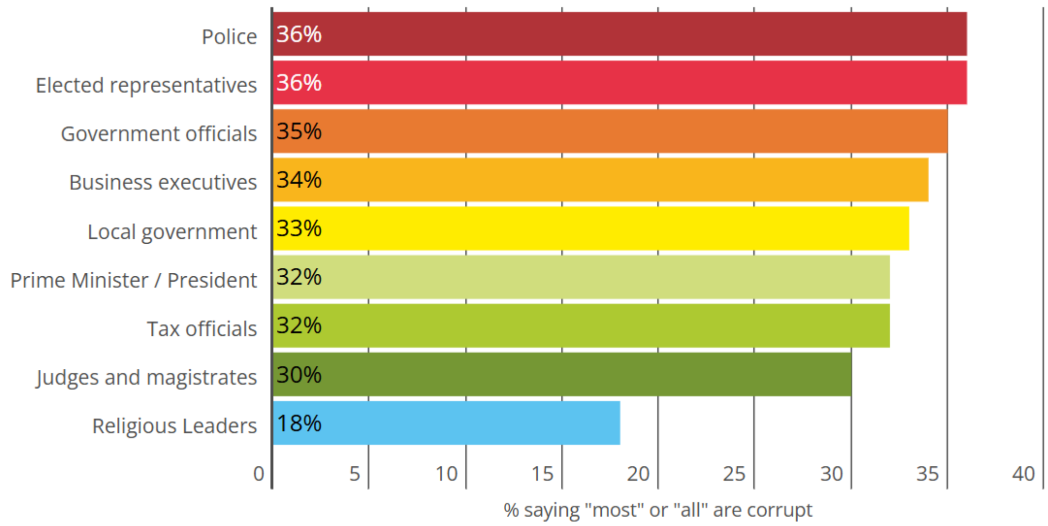

Figure 1: Corruption Barometer – Corruption in different institutions and groups within society[14]

In the latest findings of 2024, citizens were requested to identify which institutions they felt were most corrupt. In result, the police and elected officials placed on top with 36% as highly corrupt, followed by government officials and business executives. However, within every region the outcome varies: In Asia Pacific (39%) and Sub-Saharan Africa (47%) police were thought to be the most corrupt as in Europe and Central Asia (31%) elected representatives were seen as the worst. 46% of America's population experienced the police and the elected officials as the most prone to corruption. In the region of the Middle East and North Africa elected representatives, tax officials and government officials were perceived to be highly corrupt by 45% of the population.[15] Nevertheless, following the TI it should be noted that despite the great effort of the academia, civil society and the states there is no indicator which objectively measures national levels of corruption directly and exhaustively. Illegal activities of corruption are intentionally under disguise and often only become known through scandals, investigations or prosecution.[16]

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[13] https://www.transparency.org/en/what-is-corruption, accessed 30.03.2025
[14] https://www.transparency.org/en/gcb/global/global-corruption-barometer-2017, accessed 30.03.2025.
[15] Ibid.
[16] Transparency International, Corruption Perceptions Index: Frequently Asked Questions, 1.

With this understanding of how corruption is described and estimated by various parameters this thesis will use this as a starting point to engage further under the investigation of India.

II. India

II.1. Overview

As the fifth largest economy in the world and rising, India is currently known as one of the great international power houses. Its population has grown to more than 1,400 billion inhabitants, which means 17.5 % of the world's population lives in India. This society is formed as a sovereign socialist secular Democratic Republic with a federal structure and unitary features. The Lok Sabha is the Indian Parliament which elects the Prime Minister. The government consists of a Council of Ministers led by the Prime Minster, a President and the Vice-President as the constitutional head of the country. A similar structure is to be found on the state level. The Governor is advised by a Council of Ministers and a Chief Minister.[17] As a federal Union, India comprises 28 states and eight Union territories, these are 1. Delhi, 2. Jammu and Kashmir, 3. Puducherry, 4. Andaman and Nicobar Islands, 5. Chandigarh, 6. Dadra and Nagar Haveli and Daman and Diu, 7. Lakshadweep, and 8. Ladakh. The difference is that the states have their own state government systems as in contrast the Union territories are governed by the Central government. There are exceptions to the rule where some Union territories have a local legislature or Council of Ministers or both, like Delhi.[18]

[17] Knut A. Jacobsen: Contemporary India – Foundation, relations, diversity, religions and change, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, Second Edition, Routledge, London, 2023; Art. 52ff., 65, 74, 77f., 79, 329A Constitution of India, 1949

[18] Art.1, 239, First Schedule of the Constitution of India, 1949.

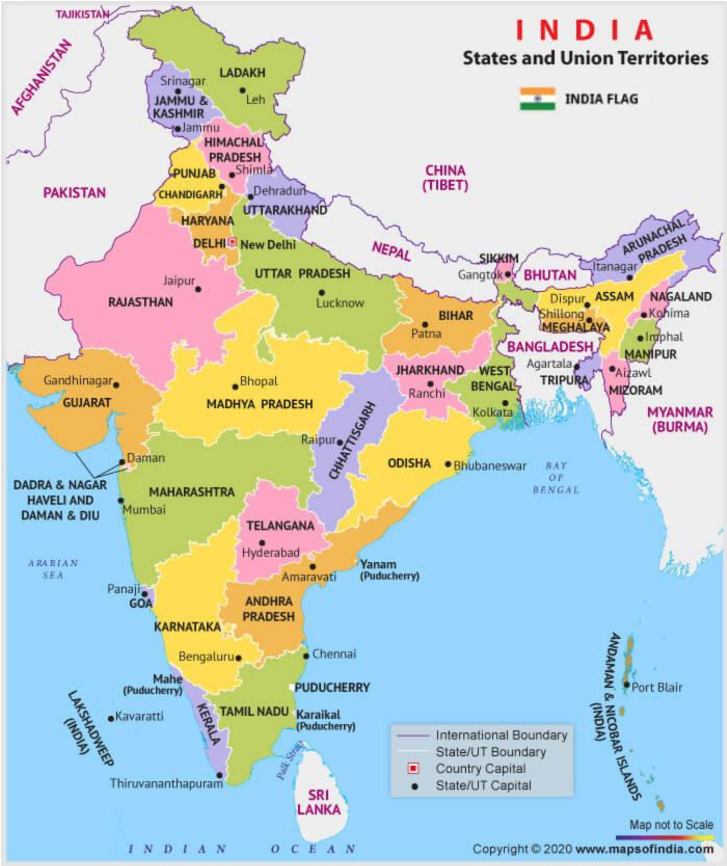

Figure 2: Map of India[19]

Just as legislation and execution are distributed between the federal and state levels, judicial power is as well. On top stands the Supreme Court of India as the guardian of the Constitution and the highest instance of appeal, complemented by 29 High Courts at the state level which are bound by the judgements and orders of the Supreme Court by precedence. Below operate civil, criminal, family and other District courts that appellate to the High Courts.[20]

Indian democracy can be described as the encounter between the Western political values such as equality and the rule of law and the social status of the caste system. A political system was created that conflated these modern values with traditional institutions by introducing all levels of the cast into legislature, administration and educational positions.[21] The current party in power is Bharatiya Janata Party under the incumbent Prime Minister Narendra Modi. Its party manifesto is the vision of a Hindu nation. However, this is contradicting to the Indian Constitution in 1950 that declared India as a secular state, without the favour towards any specific religion. This

[19] https://www.mapsofindia.com/, accessed 25.05.2025.

[20] Art 124ff., 141ff., 233ff. Constitution of India, 1949

[21] Subrata Kumar Mitra: Social Change, Transition to Democracy and its Consolidation in India - Symbiosis and resilience, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, 38f.

Hinduization is answered with rejection from the Indian Congress Party as well as Muslim community.[22] Principally, the constitution also stipulates Hindu in Devanagari script as the official language of the country. Additionally, the Eighth Schedule of the Constitution lists 22 languages which have been given recognition, status and official encouragement.[23]

The main problems and tasks India is facing are the repression of women, the inequality of living conditions and education, employment and the economic resources of the state. These inequalities can be traced back to the caste system. Although no longer in the position as a social system it is still a prevailing practice and belief. Moreover, a majority of the world's poorest people live in India. According to the World Bank Blogs 2023, counting even to the extreme poor. The gap between poor and rich is huge. On one hand, India has the largest number of hungry and malnourished people in the world, and on the other hand, its economy has grown tremendously over the past few decades. Some of the richest people in the world are Indian nationals. Forbes ranks India as the country with the third most billionaires.[24] Several high-profile events have signalled the rise of a distinct form of middle-class politics in modern India. This political phenomenon is closely linked to a growing sense of frustration among the middle class towards government institutions, which they view as unresponsive to their interests such as the fight against corruption, especially political corruption. Out of this dissatisfaction the Aam Adami Party (AAP) emerged in late 2012 to take on the problem of corruption.[25] Also in reaction, the Modi government has undertaken several initiatives. In 2016, it made the significant decision to demonetize high-denomination currency notes, aiming to combat corruption, curb terrorist financing, and eliminate counterfeit currency from circulation. Although the demonetization policy led to economic disruption and caused hardship for many, it was largely supported by the public. Most Indians viewed it as a commendable attempt by the Modi administration to address deep-rooted issues such as corruption and the spread of fake currency.[26]

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[22] Knut A. Jacobsen: Contemporary India – Foundation, relations, diversity, religions and change, 4.

[23] Art 343 Constitution of India.

[24] Knut A. Jacobsen: Contemporary India – Foundation, relations, diversity, religions and change, 3; https://www.forbes.com/sites/richardjchang/2022/04/05/the-countries-with-the-most-billionaires-2022-/, accessed 25.04.2025; https://blogs.worldbank.org/en/opendata/september-2023-global-poverty-update-world-bank-new-data-poverty-during-pandemic-asia#:~:text=India%20accounts%20for%20almost%2070,Source:%20Poverty%20and%20Inequality%20Platform, accessed 25.04.2025.

[25] Leela Fernandes, India's Middle Classes in Contemporary India, in Modern India, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, 282f.; William Gould, Corruption and Anti-Corruption, in Modern India, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, 314.

[26] Rajat Ganguly, Politics, Security and Foreign Policy, in Modern India, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, 143.

II.2. India's Anti-Corruption Mechanisms

India's' politics of anti-corruption has a long political tradition, which can be traced back to an early phase of anti-colonialism beginning in 1951/52, the years of India's very first elections.[27] The anti-corruption laws are regulated in Bharatiya Nyaya Sanhita (BNS), 2023 and the Prevention of Corruption Act, 1988, the Benami Transactions (Prohibition) Act 1988, the Prevention of Money Laundering Act, 2002 and since 2005 India is also a signatory to the UN Convention against Corruption.

Compared to the Malaysia and Singapore the Indian anti-corruption system is of a quite complex nature: The structure of the Indian Anti-Corruption mechanism can be broken down into the union and state governments. At each level there are specific agencies to deal with cases of corruption against officers and employees of the governments. As part of the union and state government the police carry out a limited function in combat against corruption. The fundamental role is played by specific agencies within the union level that are engaged with delicts of corruption under the Prevention of Corruption Act 1988 concerning officers and employees of the central government. Additionally, on the state level there are various anti-corruption units functioning under each state government to deal with state officers and employees. The agencies Central Bureau of Investigation (CBI) and the Central Vigilance Commission (CVC) and the Ombudsman Lokpal have jurisdiction over the union Level. These work together with the Enforcement Directorate (ED), the Income Tax department and units of the Finance Ministry. At the state level operate the Anti-Corruption Bureau (ACB), Economic Offences Wing (EOW), Criminal Investigation Department (CID), Lokayukta and the District Crime Branch against corruption.[28] For the Union territories Jammu, Ladakh and Kashmir special Anti-Corruption Bureaus are established to provide autonomy and respond to local needs.[29]

The three main actors who lead the inquiry, investigation and prosecution of corruption cases are the CVC, the CBI and the state ACB. The CVC has the responsibility to foster integrity, transparency and accountability in public administration. The Commission shall have the authority to inquire into, or direct an inquiry or investigation into, any complaint against officials falling under the Prevention of Corruption Act (PCA) or the Code of Criminal Procedure (CrPC).[30] It is led by a central Vigilance Commissioner and another two Commissioners. The selection of the Central Vigilance Commissioner shall

[27] William Gould, Corruption and Anti-Corruption, in Modern India, Ed.: Knut A. Jacobsen, Routledge Handbook of Contemporary India, 318.

[28] Arvind Verma, Ramesh Sharma, Combating Corruption in India, Cambridge University Press, Cambridge, 2018, 76.

[29] Section 17B Prevention of Corruption Act, 1988.

[30] Section 8 CVC Act, 2003.

be carried out by a Committee consisting of the Prime Minister, the Home Minister, and the Leader of the Opposition. The Committee will choose from a panel of distinguished civil servants and other individuals of impeccable integrity, as recommended by the Cabinet Secretary. The final appointment shall be made by the President, based on the Committee's recommendation.[31] While the government remains accountable to the CBI, the CVC holds supervisory authority over its operations to ensure greater objectivity. The CBI must regularly report to the CVC on the status of investigations, filing of charge sheets, and progress of cases. Under section 8 CVC Act, 2003 the competences of the CVC are regulated: The Commission can refer cases either to the Central Vigilance Officer or the CBI simultaneously monitors delays or refusals in granting prosecution sanctions for public servants. However, under the CVC Act, the Commission is not permitted to direct the CBI on how to investigate or handle specific cases. Also, the CBI Director is appointed based on recommendations made by a committee headed by the Central Vigilance Commissioner with the Home Secretary and Secretary (Personnel) as members. Prosecution can only be started by an investigating agency after it has the prior sanction of the central or state government. In the next step the appointed prosecutor proceeds with the court.[32] A special competence of the CVC is foreseen in the Whistle Blowers Protection Act as playing a central role in enforcing the law. The Act enables the CVC to receive complaints, assess public disclosure requests and provide protection for the complainants.

The CBI is operating under the Ministry of Personnel, Public Grievances and Pensions but it's neither a constitutional nor statutory body. Later the chapter *Criticism* will take a closer look at these points.[33] The Director of the CBI has a minimum term of two years and during this time he has complete authority over work distribution and the formation of investigation teams. Any changes to the head of an investigative team must be justified with valid reasons aimed at improving the investigation, and these reasons must be documented.[34] In the first place the CBI is endowed with dual competence to investigate corruption, economic offenses and serious crimes, especially with national or international impact and direction to the police forces across the country. The Prevention Corruption Act, 1988 and the BNS build the foundation for these cases. They involve bribery, misconduct of central government employees, public sector undertaking and employees of Union territories. Also, cases that are related to breaches of fiscal and economic regulations, customs, excise duties, income tax and

[31] Section 3f. CVC Act, 2003.
[32] Section 197 Code of Criminal Procedure 1973; Section 19 Prevention of Corruption Act 1988.
[33] https://vajiramandravi.com/upsc-exam/central-bureau-of-investigation/, accessed 01.05.2025
[34] Section 25 CVC Act, 2003; Section 2 Lokpal and Lokayukta Act, 2013; Section 2 Delhi Special Police Establishment Act, 1946.

foreign exchange law are all within the scope of competence. That means concerning the question of jurisdiction: The police have general jurisdiction to investigate crimes. With the introduction of the BNS section 153 (3) CrPC was superseded by section 175 BNS. Under the CrPC, a police officer's authority was limited to the jurisdiction of their assigned police station. In contrast, the BNS introduces the concept of a *Zero First Information Report (FIR*). This allows a victim or any individual to file an FIR at any police station, regardless of where the offence occurred. The police must register the FIR, even if the crime falls outside their jurisdiction and then forward it to the appropriate police station that has territorial jurisdiction over the matter.[35] For every other offence under Section 17 PCA is referring to only high ranked officers have the competence to investigate. There is another exception in which no police officer may start any inquiry or investigation into an alleged offence by a public servant, if it concerns decisions or recommendations made as part of their official duties, without first obtaining prior approval by the Union or State Government.[36] The SPE, the special division of the CBI complements the state police in investigation and prosecution under the DSPE Act. To avoid any collusion the following administrative guidelines are set up. The SPE oversees cases that are primarily related to corrupt conduct of the Union Government or its employees, even if some state government personnel are involved. Besides, the special division is also in charge of cases that comprise employees of public sector undertakings or statutory bodies controlled or funded by the Union government. On the other hand, the state police forces are engaged in the investigation and prosecution of corrupt indications concerning state government matters or employees, even if they include Union government officials.[37]

The authority not only works together in cooperation with state police forces but also with the CID and other anti-corruption agencies and acts as the National Central Bureau for INTERPOL in India. Furthermore, the Supreme Court, High Courts, Lokpal or the CVC entrust matters to the CBI. Under the idea of efficiency and efficacy the competences of the Bureau are distributed among eleven divisions. Most relevant to this thesis are the Anti-Corruption Division, which is responsible for collecting information regarding corruption, the Economic Offences Division that is devoted to financial crimes, bank frauds, money laundering, illegal money market operations, bribes in public sector and banks. Important to mention is also the Co-ordination Division, that co-ordinates the cooperation with the CID and the INTERPOL.[38]

[35] Crime Branch Circular No.02/2024, Standard Operating Procedure for Registration & Transfer of Zero FIR, Odisha Police Criminal Investigation Department Crime Branch.
[36] Section 17A PCA.
[37] https://vajiramandravi.com/upsc-exam/central-bureau-of-investigation/, accessed 06.05.2025
[38] Verma, Sharma, Combating Corruption in India, 91ff.

With the verdict of the Supreme Court in 2013 the premise of a prior approval of the Joint Secretary or above for enquiry and investigation by CBI was abolished as this was seen as a hurdle for the CBI to act independently.[39] In its judicial review about the case *CBI v. R.R. Kishore* on the 11.09.2023 the Supreme Court ruled a landmark judgement about the retrospective effect of declaring a law unconstitutional. This case was around the provision 6A DSPE Act which aimed to protect senior government officials like Joint Secretary level and others appointed by the Central Government from CBI investigations. These investigations needed a prior approval by a senior government official. In *Subramanian Swamy v. CBI* the Supreme Court declared that the law infringes the principle of equality as it creates an unfair distinction in application of anti-corruption law between public servants and civil citizens. Hence, the Supreme Court sustained its decision from 2014 as law that was declared unconstitutional would be considered as never non-existent and has no legal validity or binding ab initio. In result, 6A of the DSPE Act, 1946is void since the inception of 2003.[40]

The jurisdiction of the CBI concerns the central government and Union territories while the state ACBs are engaged with cases within the states. States can refer cases to the CBI.[41] Specific fiscal cases concerning money laundering by public servants under Foreign Exchange Management Act, 1999 and Prevention of Money Laundering Act (PMLA), 2002 are reserved to the Directorate of Enforcement and the Financial Intelligence Unit India (FIU-IND), which are directed by the Ministry of Finance. Proceeding on the state level, like the CBI the CID is leading investigations against corruption cases but in contrast the department is active as a special branch of the state police. The CID works in units in each Indian State which are headed by an officer. In some states a EOW is implemented within the CID, namely: Lucknow, Meerut, Varanasi and Kanpur. The authority's main functions comprise the undertaking of investigations regarding cases of cheating, fraud and embezzlement of government money. The Government can also entrust the EOW with cases that are related to private persons, or companies and cooperations that committed economic offences.[42]

Under the Lokpal and Lokayuktas Act 2013 the Lokpal was installed. The first independent institution in India that enables citizens to raise concerns of corruption against public functionaries, including the members of government and of parliament.

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[39] Supreme Court of India, Dr. Subramanian Swamy v Director, Central Bureau of Investigation & Anr, AIR 2014 Supreme Court 2140, 6 May 2014; Verma, Sharma, Combating Corruption in India, 83.

[40] https://www.metalegal.in/post/cbi-v-r-r-kishore-supreme-court-declares-provision-of-dspe-act-void-since-inception, accessed 03.05.2025.

[41] Section 6 DSPE Act, 1946.

[42] Verma, Sharma, Combating Corruption in India, 39; https://uppolice.gov.in/pages/en/topmenu/police-units/economic-offences-wing-(eow)/en-about-us-economic-offences-wing, accessed 29.04.2025.

The Lokpal acts on these allegations and makes further inquiries and investigations to serve public interest. On the state level the Lokayukta acts as a pendant to the Lokpal.[43]

II.3. Status Quo of Indian Anti-Corruption Law

The corruption law in India is a compilation of several acts:

II.3.a. Prevention of Corruption Act, 1988

II.3.b. BNS the new criminal code which replaces the IPC, 1860

II.3.c. Prevention of Money Laundering Act, 2002

II.3.d. Benami Transactions (Prohibition Act), 1988

II.3.e. Whistle Blowers Protection Act, 2014

II.3.f. UN Convention against Corruption, 2005

II.3.a. Prevention of Corruption Act, 1988

The Prevention of Corruption Act 1988 is the central source for corruption law in the public sector and entails provisions regarding offences committed by public servants or whoever pays a gratification to a public servant. Section 2 clearly lists who counts as a *public servant,* either any person in the service or pay of the Government, local authority or of a corporation established by or under a Central, Provincial or State Act or an authority at least aided by the Government. Judges, anyone who is authorized by a court, arbitrators, or a person that is involved in an electoral process are included in this Act. Besides, it applies on presidents and other office-bearers of a registered co-operative society engaged in agriculture, industry, banking or trade that received financial support by the Union Government and at last any member of a service commission or board, or a vice-chancellor or member of an educational or scientific institution or university. The Act has a quite short but broad definition for the word *gratification*. It says: *It is not limited to pecuniary gratifications or to gratifications estimable in money.* With this prior understanding Chapter III will be analysed, which entails all eight offences and penalties, starting with section 7, the bribery of a public servant.

[43] Transparency International India, Local Circles: India Corruption Survey 2019, Report, https://www.localcircles.com/a/press/page/india-corruption-survey-2019, accessed 07.04.2025.

Section 7. Offence relating to public servant being bribed

This offence comprises the following elements:

Any public servant who,

a) Obtains / accepts / attempts an undue advantage from any person and intents to perform or cause performance of public duty improperly or fraudulently or to forbear or cause forbearance by himself or by another public servant
b) Obtains / accepts / attempts an undue advantage from any person as a reward for an improper and dishonest practice of a public duty for omitting a duty by himself or by another public servant
c) Commits or induced another public servant to act improperly or dishonestly in the same way as described under a) and b)

The PTA's legal definition refers the wording *obtains* or *accepts* or *attempts to obtain* to the abuse of his / her position as a public servant or *by using his personal influence over another public servant, or by any other corrupt or illegal means*. Committing bribery is punished with imprisonment of three to seven years.

Section 7A. Taking undue advantage to influence public servant by corrupt or illegal means or by exercise of personal influence

This offence covers cases of any person who

- takes undue advantage accept / obtains / attempts from another person for himself or for any other person
- to influence public servant by corrupt or illegal means or by exercise of personal influence

Whoever is found liable will be punished also with imprisonment from three to seven years and has to pay a fine.

Section 8. Offence relating to bribing a public servant

Anybody who gives / promises to give a gratification to another person with the intent

- to influence a public servant to act dishonestly or
- to reward a public servant for the improper performance of public duty

shall be punished with either imprisonment up to seven years or / and with a fine.

Section 9. Offence relating to bribing a public servant by a commercial organization

The PCA punishes also commercial organizations under to the acts mentioned above, provided that any person that is associated with that commercial organization gives / promises to give any gratification to a public servant with the intention

- to receive / retain business or
- to obtain / retain a benefit in course of business for such commercial organization

Except for the occasion that the commercial organization can prove to have had installed an adequate procedure in compliance of a prevention guideline that hinders any associated person from setting such conduct.

According to the Act a commercial organization is a body that is incorporated in India or is incorporated outside of India but undertakes business in India. A partnership firm or any other association of persons in India or which is formed outside of the country but operates its business activities within India are included likewise.

Section 10. Person in charge of commercial organization to be guilty of offence

A *person in charge* refers to anyone that is in the position of control over the commercial organization, such as a manager, director, secretary. These office holders are liable for any offence under section 9 if a court can prove that the infringement is based on their consent or connivance. A punishment of three to seven years of imprisonment and a fine should deter from this fraudulent conduct.

Section 11. Public servant obtaining undue advantage, without consideration from person concerned in proceeding or business transacted by such public servant

Even in a scenario where a public servant obtains / tries to obtain gratification without undertaking any consideration or the consideration is inadequate from any person who knows that she / he

- has been / is / likely to be associated in any proceeding or business transaction connection by a public servant
- or having an association with the
    - official functions or
    - public duty of any public servant or

- from any person who has an interest or is related to the person that pays that undue advantage

is included by the Act. This offence is punished with at least six months and up to five years of imprisonment and added with a fine.

Section 12. Punishment for abetment of offences

Not only is the direct perpetrator liable for any offence committed but also anyone that supports these improper conducts. A person that is found liable for an abetment is to be punished with three to seven years of imprisonment accompanied by a fine.

Section 13. Criminal misconduct by a public servant

Criminal misconduct is given if a public servant dishonestly or fraudulently misappropriates or in other ways conveys a property for her/his own benefit that is entrusted to her/him or under her/his control in the function of a public servant or tolerates another person to do so. Additionally, cases are covered where she/he deliberatively enriches her- / himself unlawfully while being in office.

Section 14. Punishment for habitual offender

The Act foresees an enhancement of the penalty from five up to ten years if a convict commits an offence of the PCA another time.

Section 15. Punishment for attempt

An attempt of any offence under the PCA will be punished with imprisonment at a minimum of two to five years and with a fine.

II.3.b. Bharatiya Nyaya Sanhita, 2023

India’s new criminal code is named Bharatiya Nyaya Sanhita, which means Indian Justice Code, which covers all kinds of crimes from offences against the state, to the army, navy, air force, public health, etc. Ali and Mukhopadhyay conclude that as the former criminal code IPC was crafted to govern a colony, the BNS aims to address the colonial tendencies inherent in the IPC. This is done by shifting the aim to create a more victim-centric, and “Indian” criminal justice system that is adapted to the evolving social and technological landscape. Whereas the IPC was a product of colonial governance with outdated terminology and structure that resulted in the continuity of an arbitrary and despotic but powerful instrument of the British state machinery. This legacy contradicted a democratic political culture.[44]

The most relevant chapters in the context of corruption comprise chapter 9 – offences relating to elections, and chapter 12 – offences by or relating to public servants. Given the relevance and scope, a detailed analysis will be limited to selected offences of chapter 9, corruption related offences under chapter 12 will be briefly summarized.

Chapter 9 – Of Offences relating to elections

Section 170. Bribery

Likewise, section 7 of PCA section 170 penalizes bribery. The distinct difference lies in the applicable circumstances. As lex specialis section 170 concentrates on bribes committed in relation to elections. The provision says that any person who gives

- an undue advantage to another person
- with the intention to induce her / him to perform any electoral right or rewarding such performance or
- the acceptance of any reward for her- / himself or for any other person for practicing any such right or inducing / attempting to induce another person to exercise such right

is committing bribery. Every attempt and offer of gratification are punishable as well. Similar to section 11 PCA if the public servant accepts the undue benefit despite omitting consideration shall be deemed to have accepted the reward. Bribery under the BNS is punished with imprisonment of up to one year with or without a fine. In case the bribery was committed by "*treating*", such as offering food, drink, entertainment or provision, the punishment results in only paying a fine. The telos behind this paragraph is to prevent electoral corruption in the country, where candidates and political parties frequently obtain votes by offering money, food and liquor.[45]

[44] S. M. Aamir Ali, Pritha Mukhopadhyay, Bharatiya Nyaya Sanhita: Decolonizing Criminal Law or Colonial Continuities?, International Annals of Criminology, Cambridge University Press, 2024, 1–20, 6f.; https://www.zolvit.com/blog/difference-between-ipc-and-bns/#:~:text=IPC%20vs%20BNS-,Why%20was%20the%20IPC%20replaced%20with%20BNS?,evolving%20social%20and%20technological%20landscape., accessed 17.05.2025.

[45] Section 173 BNS.

Section 171. Undue influence at elections

The legislator not only considered public servants as legal subject but also any other person who commits bribery to interfere with the electoral procedure.[46]

A person who voluntarily interferes / attempts to interfere with the exercise of an electoral right causes an undue influence at elections. In addition,

- threatening a candidate, voter or person associated with or of interest to them with injury is prohibited or
- the influence / attempt to influence a candidate, voter or person associated with or of interest to them *will become or will be rendered an object of Divine displeasure or of spiritual censure*

is to be punished with imprisonment of up to one year, with or without a fine. In comparison, to the Malaysian and Singaporean regulations the religious context is peculiar to the Indian law. In the landmark case of *Ram Dial v. Sant Lal*, the Supreme Court refers to section 171C of the IPC, the former version of section 171 (2b) BNS. It held that a religious leader's directive to followers, paired with threats of divine punishment for not voting in a particular manner, constitutes undue influence. The Court highlighted that such actions violate the sanctity of the electoral process by coercing voters through spiritual intimidation.

Chapter 12 - Of Offences by or relating to public servants

Section 198. Public servant disobeying law, with intent to cause injury to any person

Section 201. Public servant framing an incorrect document with intent to cause injury

Section 202. Public servant unlawfully engaging in trade

Section 203. Public servant unlawfully buying or bidding for property

II.3.c. Prevention of Money Laundering Act, 2002

As a member of the Financial Action Task Force (FATF) India has implemented the PMLA to tie with international standards to explicitly prevent and penalize money laundering and terrorist financing in the private and the public sector. The Act has been in force since July 1, 2005. Section 3 stipulates that any person is guilty of money laundering who directly or indirectly attempts to commit acts involving the proceeds of crime, including the concealment, possession, acquisition or use of

[46] Chapter IX of the BNS – Of offences Relating to Elections.

the proceeds of crime, or who knowingly aids or abets or participates in such acts. The offence is punished with imprisonment between three and seven years and a fine. Next to the offence of money-laundering the PMLA obliges financial institutions to provide due diligence, keep records of all its customers and report suspicious transactions. The law addresses individuals, companies and cooperations, banks and financial institutions, real estate agents and builders, stock-brokers and investment firms, crypto exchanges and virtual asset service providers.[47] The key agencies in charge are the FIU-IND and the ED which are mandated by investigating money laundering cases. An important aspect of the PMLA is its authority to attach, seize, and confiscate assets obtained through money laundering, thereby preventing offenders from profiting from unlawful financial activities. The disputes and appeals are handled by special PMLA Adjudicating Authorities and Appellate.[48]

II.3.d. Benami Transactions Prohibition Act, 1988

The Act specializes in the prohibition of the *benami* transaction, that is according to section 2 (9A) Benami Act any transaction or arrangement:

- where a property is transferred to / is held by, a person, and
- consideration for this property has been provided by another person; and
- the property is maintained for the direct or indirect benefit of the person who has funded the consideration,

except when a person purchases property in his wife's, unmarried daughter's name or as a joint-owner with a sibling, the property is held for the benefit of a Hindu divided family, the acquisition was made in a fictitious name, the owner of the property is not aware of such ownership, or the purchases was done by a trustee, executor, partner, director of a company or an agent or a depository.

Whoever is deemed liable shall be penalized with imprisonment up to three years and/or a fine. In subsequence, all properties that are held to be *benami* can be obtained by a prescribed authority of the Union Government, free of all encumbrances and no compensation shall be paid for such acquisition.[49] A similar Act cannot be found in the other legal systems.

[47] Section 2 (s); 4, Chapter IV PMLA.

[48] https://enforcementdirectorate.gov.in/, accessed 17.05.2025; https://dor.gov.in/finance-intelligence-unit-fiu-ind#:~:text=FIU%2DIND%20is%20the%20central,relating%20to%20suspect%20financial%2-0transactions., accessed 30.05.2025; Chapter III PMLA.; Section 6ff. PMLA.

[49] Section 27 The Benami Transactions Prohibition Act, 1988

II.3.e. Whistle Blowers Protection Act, 2014

In 2014 the Whistleblowers' Protection Bill of 2011 was signed into law as a safeguard for everyone who exposes corrupt activities, wrongdoing or illicit practice within public authorities and institutions plus the private sector too. Against rising threats of victimization and harassment, the Act should encourage individuals to report and disclose reasonable information in public interest by following an anonymous and confidential reporting mechanism. Necessary steps are then taken by competent authorities, including the police, to protect the integrity and identity of the whistleblower. Nevertheless, certain matters are excluded from exposure such as information that is likely to ex-*ante affect the interest of the sovereignty and integrity if India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.*[50] Chapter VI contents all offences to provide proper safeguards:

- Section 15. Penalty for furnishing incomplete or incorrect or misleading comments or explanation or report.
- Section 16. Penalty for revealing identity of complainant
- Section 18. Punishment to Head of Department in certain cases
- Section 19. Offences by companies

It should be highlighted that also false complaints or disclosures are penalized to deter abuse of the reporting system under section 17. Punishment for false or frivolous disclosure, which can result in an imprisonment of up to two years and a fine. The burden of proof lies with the alleged public authority or private is to demonstrate that the alleged action was no victimization against the whistle blower.[51] As mentioned above, the competence to provide the expressed protection is exercised by the CVC.

Despite being enacted, the Whistle Blowers Protection Act remains not operational, casting significant doubt on its practicality and effectiveness. Key challenges include limited public awareness of whistleblower rights, fear of reprisal, and bureaucratic apathy.[52]

[50] Chapter V, Section 8 Whistle Blowers Protection Act 2014.
[51] Section 11 (2) Whistle Blowers Protection Act, 2014.
[52] Debleena Chakraborty, The Limited Efficacy of the Whistle-Blower Protection & Analysis of Whistle-blower Legislation in India, in International Journal for Multidisciplinary Research, March-April 2025, Volume 7, Issue 2, 1-13, 1.

II.3.f. UN Convention against Corruption, 2005

India signed the UNCAC in 2005 and ratified it in 2011. The convention is a legally binding international treaty aimed at preventing and curbing corruption. India's ratification displays its commitment to implement the convention's provisions, including criminalizing various corrupt acts, fostering international cooperation, and improving transparency and accountability.[53]

II.4. Cases and Criticism

The preceding chapters provided a comprehensive overview of India's anti-corruption frameworks, including its institutions, key cases, and the prevailing corruption laws. Despite the effort corruption in India has become *entrenched in the national ethos, politics, civil society,* following the observation of several experts. Almost all society levels have become prone to the offers of corruption.[54] Not only the public sector, also on the private level corruption has become routinized as it's not simply *a way of life* any longer but is *the only way to get work done*. For the third year in succession Transparency International India and LocalCircles presented a domestic Corruption Survey in 2019. More than 190,000 responses were evaluated from over 81.000 citizens, presenting 20 out of 28 states in India. The India Corruption Survey disclosed that about 51% Indians had to pay bribe in the last 12 months. Incidents in connection with property registration, police, municipality and transport top departments were very common. Only about 6% of the interviewed population expressed that effective steps have been taken by their state Government or local administration to reduce corruption. Besides, the integrity of the Lokpal was encountered with distrust as the selection process of its members was untransparent and merely based on party lines. The idea of the institution was undermined by complaints related to public criticism, service-related issues and pensions. Moreover, the development of the black money scenario in India is even more concerning. The preliminary black money report, which was presented to the Lok Sabha in June 20, revealed that the unaccounted money of Indians abroad ranges from 26 lakh crore rupees to 24 lakh crores rupees. Real estate, mining, pharmaceuticals, film and education industry etc. are the most affected sectors.[55]

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[53] https://www.unodc.org/southasia/frontpage/2011/may/indian-govt-ratifies-two-un-conventions.html#:-~:text=The%20United%20Nations%20Convention%20against%20Corruption%20(UNCAC)%2C%20which%20entered,UNODC%20acts%20as%20a%20Secretariat., accessed 18.05.2025.

[54] Mason C. Hoadley, Neelambar Hatti, Rational Choice and Morality, Social Science Spectrum, 2016, Vol. 2 (3), 164–70, 164.

[55] Local Circles: India Corruption Survey 2019.

According to Verma and Sharma the major limitations of the anti-corruption measurements in India lies within the roots of its establishment as the legal framework was constructed only on short sightedness. The CBI was founded by British Government to combat corruption amid the turmoil of the Second World War; more details will follow in the chapter *Historical Background – From East India Company to State of India.* After the independency India simply extended this executive action. Nevertheless, this limitation continued to be an issue until nowadays.[56] Due to the CBI's crucial role in law enforcement system, there has been a growing demand for the establishment of a *CBI Act* to clearly define its powers, jurisdiction, and operational framework. It is not a statutory body as it does not derive its authority or existence directly from the Constitution of India; 1949 rather, it operates under a legislative framework that is subject to amendment or reform by Parliament. The existing dependence on the DSPE Act is widely viewed as inadequate to meet the agency's contemporary challenges. A statutory CBI Act could guarantee:

- Similar to other constitutional bodies, the CBI could be granted greater independence
- Concrete regulations for appointments and a limited term of the Director to prevent political influence
- The Act could prescribe specific financial allocations for the agency's activities.
- The legislature could refine the agency's jurisdiction in matters related to corruption and serious crimes.[57]

In 2013 the Bureau complained about a lack of autonomy that triggers inefficient functioning in front of the Supreme Court. As a solution for this impediment the CBI demanded that the rank of its director should be raised to the level of a secretary and the power to appoint special counsels without the approval of the Ministry of Law and Justice. The Indian Government rejected all key proposals of the CBI by stating that in a position of a secretary the CBI director has the power to appoint public prosecutors for cases, but that would be undesirable. Additionally, the Department of Personnel and Training pointed out that the secretary status would *militate against democratic constitutional principles* as there can be only one executive body and the competences to sit in judgement and making policies by the same incumbent, would conflict with the

[56] Verma, Sharma, Combating Corruption in India, 115.
[57] Kadayam S. Subramanian, Central Bureau of Investigation Crisis of Legitimacy, Credibility and Accountability, Economic and Political Weekly, JSTOR, 2014, Vol. 49, no. 51, 13-15, 13f.

principle of separation of powers and the principle of impartiality.[58] Contrary, other voices in the expert field blame the lack of autonomy for the inefficacy of investigative agencies.[59]

Shortly after these controversial events, the Gauhati High Court declared in its resolution the CBI as unconstitutional:

> *We hereby [...] set aside and quash the impugned Resolution, dated 01.04.1963, whereby CBI has been constituted [...] We do hold that the CBI is neither an organ nor a part of the Delhi Special Police Establishment (DSPE) and the CBI cannot be treated as a 'police force' constituted under the DSPE Act, 1946.*

Furthermore, it argued that home ministry resolution was

> *not the decision of the Union Cabinet nor were these executive instructions assented to by the President. Therefore, the impugned Resolution [...] can, at best, be regarded as 'law',*

In the next step the Court quashed the charge sheet presented by the CBI against Kumar trial:

> *The actions of the CBI, in registering a case, arresting a person as an offender, conducting search and seizure, prosecuting an accused etc. offend Article 21 of the Constitution and are, therefore, liable to be struck down as unconstitutional*.[60]

The Supreme Court stayed the decision by raising the concern that High Court's order would had a direct impact on about 9,000 trials which were underway and about 1,000 investigations were undertaken by the CBI.[61]

Also, the CVC and CBI have lost the confidence of the public as they are perceived to be inefficient, ineffective and biased in executing investigations. Regardless of the supervision and authority of the CVC over the CBI, the Bureau has not always acted objectively. In a ruling of the Supreme Court in the year 2013 it designated the CBI as a *caged parrot* that *speaks in its master's voice*. *It's a sordid saga that there are many masters and one parrot*. This criticism concerned the previous reluctance of the CBI to

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[58] https://www.orfonline.org/expert-speak/transparency-and-accountability-as-important-as-institutional-autonomy-45392, accessed 01.05.2025.

[59] Verma, Sharma, Combating Corruption in India, 75,

[60] Paragraph 124f., 179f. Gauhati High Court, Navendra Kumar vs The Union Of India & Ors, (2014) 1 GAU LT 351, 6 November 2013.

[61] https://www.ndtv.com/cheat-sheet/supreme-court-stays-gauhati-high-courts-order-that-held-cbi-unconstitutional-540483, accessed 02.05.2025.

set investigations against Rao, Jayalalithaa, Yadav, Mayawati and Mulayam Singh. These prominent politicians were involved in the 2G Spectrum Scam case. The political opposition alleged that the government deliberately manipulated their acquittal or non-prosecution.[62] This case originated in 2008 when the Department of Telecommunications sold 122 2G licenses on the principle of *prior tempore potior iure* common to specific telecom operators but under outdated prices. In its chargesheet submitted in April 2011, the CBI claimed that irregularities in the allocation process led to a loss of ₹30,984 crore to the public exchequer. Later the Comptroller and Auditor General of India even reported a loss of ₹176,000 crore, which equals about US$25 billion. This undertaking encountered criticism of non-transparency and the allegation of favouring certain companies. The CBI raised charges against several executives, bureaucrats, former Telekom Minister Raja and Karunanidhi a representative of the Dravida Munnetra Kazhagam Party, plus the companies Unitech Wireless, Reliance Telecom and Swan Telecom.[63] The charges the CBI can be summarized with Section 120B Criminal Conspiracy with 409 Criminal Breach of Trust, 420 Cheating, 486 and 471 Forgery of the Indian Penal Code 1860[64] and Section 7 or in alternative Section 11

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[62] Verma, Sharma, Combating Corruption in India, 114; https://www.indiatoday.in/india/story/gauhati-high-court-cbi-gauhati-lalu-prasad-yadav-mayawati-mulayam-singh-yadav-216831-2013-11-07, accessed 01.05.2025.

[63] Paragraph 84ff. Delhi District Court, CBI vs A. Raja and Others, 2G Spectrum Cases, 21 December 2017, https://economictimes.indiatimes.com/news/politics-and-nation/swan-telecom-was-propped-up-by-reliance-telecom-cbi-to-court/articleshow/49662378.cms?from=mdr, accessed 26.05.2025.

[64] Paragraph 119 Delhi District Court, Delhi District Court, CBI vs A. Raja and Others, 2G Spectrum Cases, 21 December 2017;
120B. Punishment of criminal conspiracy.—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 1 [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]
409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any 5 [document or electronic record] which he knows or has reason to believe to be a forged 5 [document or electronic record], shall be punished in the same manner as if he had forged such 5 [document or electronic record].
486. Selling goods marked with a counterfeit property mark.—6 [Whoever sells, or exposes, or has has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained,

read with Section 12 and 13 (2) read with 13 (1b) of the PCA. In 2017, a special CBI court concluded to acquit all the accused due to a lack of coherent evidence to establish criminal intent.[65] The case was rolled up one more time with an appeal of the CBI in front of the Delhi High Court, which admitted that there were some contradictions in the trial court verdict that qualify to be revisited. These procedures are still going.[66] The 2G spectrum case remains a multifaceted issue, encompassing legal, economic, and ethical dimensions. Although judicial verdicts ultimately acquitted the accused, the case is still widely regarded as a symbol of governance failures and a catalyst for calls for systemic reform in the management of public resources. Whether it constitutes a *scam* may depend on one's distinction between legal culpability and governance accountability. What is certain, however, is that the 2G case has left a lasting impact on India's policy discourse and continues to shape conversations around transparency, regulatory oversight, and anti-corruption mechanisms.[67]

In autumn 2018, a scandal within the Bureau and the federal government divided the country. The CBI director Alok Verma and his deputy Rakesh Asthana accused each other of accepting a bribe by a businessman who was being investigated by the CBI. Despite the decision of the CVC and a verdict of the Supreme Court for exoneration of both parties the Indian Government relieved Verma and Asthana after their reinstalment.[68] This dismissal by Modi's government caused divided reactions within society. Opposition parties raised the allegation against the government for interfering in the CBI's internal matters, which interpreted this action as successive manipulation by the BJP, a threat of the CBI's independence and abuse of their power.[69] The discussion over the CBI's autonomy and its need for a statutory classification needs to be continued. The agency can only fully unfold its potential through a legal reform that shields its independence from political interference.[70] Additionally, the inefficacy of the

shall, unless he proves (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

[65] Paragraph 12, 137 Delhi District Court, Ed vs (1) A. Raja, 21 December 2017.

[66] https://economictimes.indiatimes.com/news/india/appeal-against-acquittal-of-a-raja-others-in-2g-case-ripe-for-hearing-cbi-to-delhi-hc/articleshow/118252689.cms?from=mdr, accessed 25.05.2025.

[67] https://www.thelawadvice.com/articles/was-2g-really-a-scam-a-comprehensive-analysis, accessed 25.05.2025.

[68] https://www.bbc.com/news/world-asia-india-45988193, accessed 01.05.2025; https://www.aljazeera.com/news/2019/1/10/indias-cbi-chief-fired-48-hours-after-being-reinstated-by-court, accessed 01.05.2025.

[69] https://www.bbc.com/news/world-asia-india-46791616, accessed 01.05.2025; https://www.bbc.com/news/world-asia-india-45988193, accessed 01.05.2025.

[70] https://lawbhoomi.com/is-cbi-a-constitutional-body/#:~:text=The%20debate%20over%20the%20CBI's,body%2C%20not%20a%20constitutional%20one, accessed 18.05.2025.

authorities presents an impediment. It stems from a range of internal factors, including insufficient resources, organizational challenges, management shortcomings, weak leadership, lack of competence, and low personnel motivation.[71]

In general, law enforcement authorities are perceived to be the most corrupt public institutions in India. Considering the competences of the police the circumstances are prone to be abused. Taking Section 165 CrPC as an example:

> *Whenever an investigating officer has reasonable grounds for believing that anything [...] may be found at any place [...] and that such thing cannot in his opinion be obtained without undue delay, [...] he may after recording the reasons [...] cause search to be made [...] even by a subordinate officer, duly authorized by him.*

Indian law permits police officers to conduct searches based on *reasonable grounds* and allows them to proceed without a warrant if, in their judgment, there is not enough time to obtain one. However, such broad discretionary powers are almost prone to abuse. Officers often exploit this authority to extort citizens, threatening arrest or unwarranted searches with little risk of accountability. A police officer may proceed with an arrest; however, if the offense is punishable with less than seven years of imprisonment, the officer is generally required to release the accused on bail. This provision, however, is limited by allowing the officer to deny bail if the detention is deemed necessary for investigative purposes. In such cases, the officer is merely required to provide written reasons for refusing bail to the suspect. Consequently, the Indian police are notorious for making arbitrary arrests and exploit money from the citizens. Especially, the officer-in-charge of a police station, commonly known as the Station House Officer (SHO), holds one of the most sought-after and financially advantageous positions within the police department. The SHO exercises considerable autonomy, serving as the primary authority for registering criminal cases, overseeing investigations, and making decisions regarding arrests. These powers are abused to obtain regular payments from shopkeepers, hawkers, businesses, and even criminal elements within the jurisdiction.[72]

Following the observations of the Corruption Survey it lacks political will on behalf of the government to curb corruption. It suggests that e-governance can be a decisive tool against corrupt activities as it strengthens the public by removing the middlemen and

[71] Verma, Sharma, Combating Corruption in India, 115.

[72] Verma, Sharma, Combating Corruption in India, 55ff.; Sections 154–158 Code of Criminal Procedure, 1973.

fostering citizen vigilance. In this context access, availability and the quality of technology have to be improved to achieve effective results.[73]

India's vast geographical size has led to a highly complex administrative structure at the state level, with numerous agencies involved which probably leads to a loss of oversight and coordination, especially in the rural areas. Moreover, jurisdictional boundaries are not always clearly defined, further complicating an efficient practice the anti-corruption measures. This complexity raises the question of whether a more simplified and streamlined system would be more effective. In India, a key point of tension lies in the conflict between the autonomy of institutions like the CBI and the principle of checks and balances meant to ensure accountability. When comparing this to the systems in smaller countries like Malaysia and Singapore, it will be interesting to examine if their systems benefit from their limited geographic and administrative scale. There also appears to be a persistent gap between theoretical governance models and their actual implementation, often due to a lack of political will. Many of these challenges are rooted in deeply entrenched institutional structures, some of which can be traced back to historical legacies, particularly the influence of British colonial rule and the administrative systems introduced by entities such as the East India Company. We will investigate this in the subsequent chapter.

II.5. Historical background – From East India Company to State of India

The East India Company (EIC) was established in 1600 in form of a trading joint-stock company and with political and economic influence. Under its charter, Queen Elisabeth granted monopoly over trade between India and England, which created an oligarchic order. 271 years later, the EIC was formally included into the British Empire as it transpired from a merchant trading company to a territorial power. It served as an agent of British Imperialism in India but also to strengthen its influence towards China. At first, the spice trade was the main focus, but then trading activities extended to the goods of chinaware, silver, indigo and saltpeter. Quite soon the EIC expanded its dominance to Southeast Asia and East Asia and the Persian Gulf. The EIC was not the only trade adventure in these areas as its competitors Portugal and Netherlands defended their presence and supremacy of their economic position too. Nevertheless, the EIC demonstrated its dominance and willingness for adaptation and innovation clearly against the Dutch East Indies and Portuguese.[74] The most valuable Chinese export for

[73] India Corruption Survey 2019, Report.

[74] Nicholas H. Wilson, Modernity's Corruption: Empire and Morality in the Making of British India. Columbia University Press, New York, 2023, 82-85; Emily Erikson, Between Monopoly and Free Trade:

Britain was tea. However, as British and European demand for tea grew, the availability of silver to pay for it became increasingly uncertain. Adding to the complexity was the ambiguous relationship between the British government and the East India Company—a private capitalist enterprise effectively acting as Britain's representative in India. A solution emerged in British India, where it was found that, although the Chinese had little interest in British manufactured goods, they were willing to accept certain Indian exports, particularly raw cotton and opium. Despite China producing its own cotton and outlawing opium, these commodities became the basis of trade. This shift ultimately led to the First Opium War.[75] With political and financial backing from the British government, the British East India Company transitioned from a profit-driven trading enterprise into a militarized force. Over time, it evolved from a commercial organization with a protective army into an imperial power actively expanding its territory and influence. Right from the beginning the British Rule had great impact on the structure of governance of India. Its ruling and practice were known to be corrupt. India's first Prime Minister Jawaharlal Nehru indicated that under the presence of the East India Company *corruption, venality, nepotism, violence, greed of money of the early generations of British Rule in India is something, which passes comprehension*.[76] He added that it is significant that one of the Hindustani word *lut* became part of the English language *loot* as a result of how the British colonialism has corrupted the Indian people.[77] Corruption as it occurred in the late 19th century in India was the outcome of a moral, social and cultural demise, coined by racial inferiority that focused on status the caste and the ethnicity.[78] Some British officials considered the Indian race as inherently corrupt, as their nature and saw themselves in the position to educate the locals moral behaviour.[79]

Thomas Babington Macaulay was appointed as the East India Company first chairman of the Law Commission in 1835. He was the impetus for forging the Draft Indian Penal Code 1837 and developed it further to the Indian Penal Code 1860. Both legal

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The English East India Company, 1600-1757, in Asian Studies Backlist, Princeton University Press, Princeton and Oxford, 2014, 1, 3f. 15, 51ff.

[75] Hans Derks, 6 Tea for Opium Vice Versa. In History of the Opium Problem The Assault on the East, ca. 1600-1950, 2012, Vol. 105, 49-86, 53ff.

[76] Sincheng Lu, From Trade to Control: The Role of The British East India Company in Shaping Colonial Development , Journal of Education, Humanities and Social Sciences, Vol. 42, 2024, 586-591, 586f.; Jawaharlal Nehru, The Discovery of India, The Signet Press, Calcutta, 1995, 297.

[77] Nehru, The Discovery of India, 297; https://madrascourier.com/insight/tracing-the-history-of-the-word-loot/, accessed 03.04.2025.

[78] Anubha Anushree, Corrupt Traditions and Traditions of Corruption: Caste, Colonialism, and Corruption in Late Nineteenth-Century India, 48, 152-168, 154.

[79] Anubha Anushree. Corrupt Traditions and Traditions of Corruption: Caste, Colonialism, and Corruption in Late Nineteenth-Century India, 2024, 48, 152-168, 152; Firoz Khan and Ramaswamy Sudarshan, Enactment and Enforcement of Anti-Corruption in India, Ed.: Mason C. Hoadley, Neelambar Hatti, Understanding Corruption – Traditional and Legal Rational Norms, Routledge, Abingdon, 2021, 166.

documents served as a great foundation for many other British colonial territories, also for British Malaysia. The Penal Code 1860 was the longest-serving criminal law code until it was recently superseded in 2024 by the BNS.[80] It comprised the earliest anti-corruption provisions in Indian law and focused on delicts in the public sector. Section 161 to 165 dealt with corrupt conduct committed by public servants who accepts, obtains or agrees to accept from any person for himself or for any other person any gratification other than the legal renumeration. Nevertheless, the Code also dealt with public servants that agree to obtain or attempt to obtain any valuable thing without any consideration or small consideration. It also penalized the person who accepts or obtains - or tries to do so – any renumeration by corrupt means to influence a public servant or abets I one of these offences. A public servant was prohibited to unlawfully buy or bid for property. Section 409 covered the criminal breach of trust by a public servant, a banker, merchant or an agent.

Despite the comprehensive structure and offences, the IPC provided the British occupation did not take a great chance in applying these rules by prosecuting its officials for breach of duty in office and embezzle public funds. During British rule, corruption became institutionalized, with the police department gaining a particularly notorious reputation. A Police Commission appointed by Lord Curzon in 1902-03 reported that *the police force is far from efficient; it is defective in training and organization; it is inadequately supervised, and it is generally regarded as corrupt and oppressive*.[81] Despite this, the British made little effort to reform the system, as a corrupt and brutal police force served their interests by subjugating the people while presenting themselves as the only authority capable of protecting the public from local threats.[82] Corruption became a significant threat to British interests during World War II, particularly when black marketing disrupted military supplies and drain off of public funds became widespread. In response, the colonial government, driven by self-interest, established a special unit in 1941 within the supply department to investigate corruption among its officials. An executive order led to the creation of the SPE within the Department of War, tasked with investigating bribery and corruption in materials and supplies procured for the war effort. Two years later, a dedicated police force was set up to handle war-related corruption cases among central government employees. This unit was deemed necessary even after the war's end, leading to the enactment of

[80] Khan, Sudarshan, Enactment and Enforcement of Anti-Corruption in India, 167; Douglas Peers, Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform, edited by Wing-Cheong Chan, Barry Wright, and Stanley Yeo. Victorian Studies, 749–751, 2013, 749.

[81] Anandswarup Gupta, The Police in British India: 1861-1947 New Delhi, Concept Publishing Ltd., Bali Nagar, 1979, 201.

[82] Verma, Sharma, Combating Corruption in India, 88.

the DSPE Act, 1946, which granted legal powers to investigate and prosecute corruption cases.[83] With the partition of British India in 1947 the two dominion states India and Pakistan gained independency from the British rule. As most of the personnel from the DSPE were stationed in Lahore the task team in India needed some adjustments. First, a six-member Committee was installed to assess the scope of success achieved by the DPSE in curbing corruption and to give advice concerning its continuance. The committee decided on the strengthening of the DSPE by enlarging its mandate to the investigation of new post-independence institutions and corruption in statutory corporations plus entities in- or directly under the administration of the Union Government.[84]

In 1953, as a support, the Enforcement Wing was established to focus on offences in connection with breaches of import and export regulations as given in the Import and Export Control Act, 1950. Within the next 10 years the territorial jurisdiction of the DSPE was expanded to Jammu, Kashmir, Goa, Daman, Diu, Dadra, Nagar Haveli and Pondicherry.[85] In 1963 based on the DSPE the CBI was established through a Home Ministry Resolution No. 4/31/61-T – 01.04.1963, which made SPE also an integral part of the agency.

A wind of change came with the Santhanam Committee in 1962 as reaction to Mundhra scandal, a high-profile corruption scandal that resulted in the change of the finance minister.[86] Among others it was convened to elaborate the structure and efficiency of the anti-corruption measures. In its report 1965-1966 the conclusion was made that the government is overloaded, the practice of discretion in administrative judgement, the administration struggles with delay, and slow procedure as the sources of corruption in India. Based on their recommendations of the Committee the CVC came into being to prevent corruption on the Union government level as a governmental apex body. It took two additional decades that the CVC evolved into a statutory body. The decisive factor for this was the landmark judgment of the *Vineet Narain* Case of the Supreme Court which enabled more autonomy and promoted a non-partisan anti-corruption mechanism by overturning the *Single Directive* of the central government. With that directive the CVC needed the prior approval or sanction of the government by the CBI to undertake even a preliminary enquiry or the registration of a standard case concerning decision-making level officers. The essence of this clause was to prevent threats of malicious investigations that could hinder the high ranked bureaucracy in

[83] Ibid.
[84] Khan, Sudarshan, Enactment and Enforcement of Anti-Corruption in India, 170f.
[85] Ibid. 171.
[86] Ibid. 172.

their function. According to the Supreme Court this directive violated the right of equal treatment and equal protection of the law under Art 14 of the Constitution. To guarantee greater independence, insulation and objectivity in their performance the Court delineated the structure, power and functions of the CVC and the CBI. The government followed the directions of the Court in the CVC Ordinance in 1998 by endowing the CVC with statutory status, the power to practice supervision over the DSPE and to review the investigations in concern of alleged offences under the PCA conducted by the DSPE. Furthermore, the Act of 2003 followed that empowered the CVC to investigate alleges that fall under the PC Act, 1988 und placed CVC over the CBI as a supervisor.[87]

The CBI was further strengthened by the establishment of the EOW within the CID to address economic offenses. In 1972, the government expanded the EOW's responsibilities to investigate economic crimes related to ten key departments, including Forest, Transport, Food and Civil Supplies, Local Bodies, Industries, Excise, Agriculture, Panchayati Raj, Minor Irrigation, and Sales Tax. By 1977, the EOW had become a separate and specialized investigation branch of the U.P. Police. In 2006, the scope of the EOW was broadened to include investigations into economic offenses involving all government departments. Finally, in 2018, the government notified the creation of police stations in four EOW sectors: Lucknow, Varanasi, Meerut, and Kanpur.[88]

Inspired by the Swedish model the idea of a constitutional ombudsperson was proposed in the early 1960s under the term *Lokpal*, meaning *caretaker of the people*. The concept included a Lokpal at the central level and Lokayuktas in the states. After several revisions, the Lokpal and Lokayuktas Act, 2013 was finally passed following significant public demand, partly fueled by the AAP's electoral success in Delhi that year. The rise of the AAP was deeply rooted in the Lokpal movement, characterized as a civil, apolitical protest against corruption and the demand for a Lokpal.[89]

In the context of the historical retrospective view, it should be shortly mentioned, that the contemporary judicial system in India has been shaped during the colonial era and continues its legacy of the English law.[90]

In summary, even though the British rule was the reason for corrupt behaviour at the same time it laid a significant foundation for India's anti-corruption framework. This is

[87] Verma, Sharma, Combating Corruption in India, 79, 215f.

[88] https://uppolice.gov.in/pages/en/topmenu/police-units/economic-offences-wing-(eow)/en-about-us-economic-offences-wing, accessed 04.05.2025.

[89] Verma, Sharma, Combating Corruption in India, 185f.

[90] https://www.lloydlawcollege.edu.in/blog/history-of-indian-judiciary.html#:~:text=Colonial%20Era%20-(17th%20to%2020th,Sadar%20Adalats%20in%20Presidency%20cities., accessed 25.05.2025.

evident in the establishment of a specialized anti-corruption agency and a comprehensive Penal Code. However, it also left behind gaps and opportunities for corrupt practices, particularly within the police force

III. Malaysia

II.1. Overview

Malaysia's geography can be divided between *West Malaysia*, the Peninsular and *East Malaysia* the Malaysian Borneo. Its capital Kuala Lumpur and administrative center Putrajaya is located in the western part. These two parts of the country are separated by the South China Sea. The country is made up of 13 states and three federal territories. Peninsular Malaysia comprises 11 of these states, Perlis, Kedah, Penang, Perak, Selangor, Negeri Sembilan, Malacca, Johor, Kelantan, Terengganu, and Pahang, along with two federal territories: Kuala Lumpur, the national capital, and Putrajaya, the administrative capital. East Malaysia, located on the island of Borneo, consists of two states, Sabah and Sarawak and one federal territory, Labuan, which is the only federal territory in that region.[91]

Figure 3: Map of Malaysia[92]

The majority, 80 %, of the 34 million Malaysians reside in Peninsular Malaysia, particularly through Kuala Lumpur and Klang, down to Johor Bahru in the south, near the causeway connecting Malaysia to Singapore. The density of the population and its distribution, along with economic inequalities, can be traced back to Malaysia's colonial

[91] Article 1 (2)-(4) Federal Constitution of Malaysia, https://www.kln.gov.my/web/gha_accra/history, accessed 24.05.2025; Victori T. King, Malaysia – Culture Smart! : The Essential Guide to Customs & Culture, Kuperard, London, 2021, 19.

[92] https://www.cia.gov/the-world-factbook/countries/malaysia/map/, accessed 25.05.2025.

past. Due to the British interest in tin mining and rubber cultivation the development of infrastructure and urban centres led to these resource-rich regions. The indigenous population comprises about 62 % of the total, 20,6 % are Chinese, Indians 6,2 %, and the remaining 11,2 % consist of Eurasians, Arabs, and other non-Malaysian communities from across Asia and beyond.[93]

Malaysia's economic growth in the past fifty years fostered the demand for the support by migrant workers mainly from Thailand, Philippines, Vietnam, Cambodia or India. This manpower was activated especially in the sector of plantation, construction, and services.[94] About 60% of the population are Muslims, that is reflected in society, economy and politics. This can be traced back to the history of the country, which was ruled in several sultanates, besides Muslim groups such as Hizbul Muslimin had a significant influence on anti-colonial movements in British Malaya after the Pacific War.[95] The sultanate structure also shaped todays state format as a constitutional *rotational* monarchy, with the Yang di-Pertuan Agong is the elected monarch who is serving primarily a ceremonial role as Head of State. Rotational as every five years the incumbent of the monarchy is passed among the hereditary rulers of nine Malay states. His Majesty Sultan Ibrahim King of Malaysia and Ruler of the State and Territory of Johor Darul Ta'zim Hm is currently in the special position to lead and represent the country.[96] The constitution outlines the framework for the country's three main branches of government: the parliament as a bicameral legislature, comprising the House of Representatives, *Dewan Rakyat* and the Senate *Dewan Negara*, an executive branch led by the Prime Minister and Cabinet and independent judiciary.[97]

As a federal system, Malaysia's government consists of both national and state-level institutions. The Constitution distributes legislative and executive power and responsibilities between federal and state governments.[98] The justice system, originally modelled on the British legal framework, operates alongside a parallel system of Sharia courts. There have been calls for judicial reform aimed at enhancing the judiciary's independence from the executive branch.[99] At the top of the judicial hierarchy is the Federal Court, which serves as the highest court of appeal and holds exclusive

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93 King, Malaysia – Culture Smart! : The Essential Guide to Customs & Culture, 19; https://www.dosm.gov.my/portal-main/release-content/current-population-estimates-2024, accessed 23.05.2025.

94 King, Malaysia – Culture Smart! : The Essential Guide to Customs & Culture, 20.

95 Art. 3 (1), 40 (1) Federal Constitution of Malaysia; Joseph Chinyong Liow, Afif Pasuni: Islam, the state and politics in Malaysia, in Ed. Merdith L. Weiss, Routledge Handbook of Contemporary Malaysia, London, Routledge, 2014, 50.

96 https://www.malaysia.gov.my/portal/content/148, accessed 18.06.2025.

97 Art. 38, 43f., Fifth Schedule of the Federal Constitution of Malaysia

98 Art. 74, 80, Ninth Schedule of the Federal Constitution of Malaysia.

99 Yvonne Tew, The Malaysian Legal System: A Tale of Two Courts, Georgetown University Law Center, 2011, 3.

jurisdiction over constitutional issues and disputes between states or between the federal and state governments.[100] Below it are the High Courts, one serving Peninsular Malaysia and the other serving Sabah and Sarawak. Appeals from these courts are heard by the Court of Appeal.[101] Sessions Courts and Magistrates' Courts are found in major cities and towns across the country. Sessions Courts, presided over by judges, handle both civil and criminal cases within specific limits. Magistrates' Courts deal with less serious civil and criminal matters and have more restricted jurisdiction.[102] Judges are appointed by the Head of State on the advice of the Prime Minister, while magistrates are appointed by the state authority based on recommendations from the Chief Judge.[103]

The incumbent Prime Minister Anwar Ibrahim presented in 2024 the revised National Anti-Corruption Strategy for 2024-2028 (NACS) a follow up to the National Integrity Plan, Economic Transformation Programme and the Government Transformation Programme. The goal is to improve Malaysia's rank of 57th to a place among the top 25 countries in TI's Corruption Perceptions Index within the next decade and as a party of the UNCAC to comply with its international principles. This should be reached through five key strategies to enhance integrity, transparency, and accountability across the private and public sector. Firstly, educating young citizens about corruption starting in schools, secondly, intensifying public accountability, thirdly, strengthen the "voice" against corruption by undertaking frequent national surveys, enhancing reporting systems and organise regular conferences, fourthly, sharpen the enforcement of measurements, and fifthly, offering tax incentives for companies participating in anti-corruption programmes or making it more attractive to whistle blow. The plan consists of five main strategies and 60 sub-strategies, to be implemented over a five-year period.[104] Ibrahim has made a name as a student activist before becoming a characteristic figure in the current ruling party, the United Malays National Organization (UMNO). As the founder of the *Reformasi* movement in 1998, he inspired a generation of Malaysians and eventually returned to power as Prime Minister following the 2022 General Election. However, according to the NGO Centre for Strategic and International Studies (CSIS) observations and other critical voices, he has fallen short of expectations regarding political reform. Instead, Anwar has been perceived as using

[100] Art. 121 (2), 128 (2) Federal Constitution of Malaysia.
[101] Art. 128 (1B) ibid,
[102] Art. 50 ibid.
[103] Art. 122 AA (1), 122B ibid.; Section 85 Subordinate Courts Act, 1948.
[104] Prime Minister's Department, National Anti-Corruption Strategy 2024-2028, i, ii, vi, 3, 32, 35.

the broad executive powers of his office to consolidate personal influence and strengthen his grip on the political landscape.[105]

III.2. Malaysia's Anti-corruption mechanisms

The lead in the combat against corruption is in the hands of the Malaysian Anti-Corruption Commission (MACC), an independent, transparent, and professional body dedicated to managing Malaysia's anti-corruption efforts. Executing organs are a Chief Commissioner and her / his deputy and other commissioners. The Chief Commissioner is appointed by the *Yang di-Pertuan Agong*, the King of Malaysia on the advice of the Prime Minister and can be removed by the head of state. Each officer of the commission has the powers and immunities of a police officer and a junior commissioner as a prison officer of the rank of sergeant under the Police Act 1967 and the Prison Act 1995. Part V and VII MACC Act endow the agency to investigate in coordination with the Royal Malaysian Police, acquire information, examine persons, search and seizure of im-/movable property. Besides, with the consent of the Public Prosecutor, respectively Attorney General, the commission has the power to prosecute offences under this Act and the Penal Code. Notably, the Attorney General is appointed by the Yang di-Pertuan Agong on the advice of the Prime Minister as well. To guarantee competence and expertise, the Malaysian Anti-Corruption Academy trains and educates the MACC staff and officers in the field of investigation prosecution, intelligence, management, prevention and consultancy. Principally, any charge will be presented in front of the Sessions Court or under exceptional premises the Attorney General issues a certificate to bring the case forward to the High Court of Kuala Lumpur.[106] To strengthen public confidence in the MACC's authenticity, a *Check and Balance Mechanism* was established through the formation of five independent oversight panels. These include the Anti-Corruption Advisory Board, Special Committee on Corruption, Complaints Committee, Operations Review Panel, and Consultation and Corruption Prevention Panel. These bodies are tasked with monitoring and advising the MACC to ensure it operates within its mandate. Their members represent a cross-section of society, including former senior government officials, politicians from both ruling and opposition

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[105] https://www.internationalaffairs.org.au/australianoutlook/malaysian-pm-anwar-ibrahims-dilemma-between-power-and-reform/, accessed 31.05.2025; https://www.csis.org/analysis/death-reformasi-anwar-ibrahim-umno-and-betrayal-movement, accessed 31.05.2025.

[106] Section 2, 4, 5f., 10, 58ff., 70 MACC Act, 2009; Article 145 (1) of the Federal Constitution of Malaysia, https://www.sprm.gov.my/index.php?page_id=75&articleid=521&language=en, accessed 02.06.2025.

parties, business professionals, academics, lawyers, and other respected public figures.[107]

Other institutions that are involved in preventing and countering corruption include: National Audit Department, Accountant General's Department, FIU, Bank Negara Malaysia (BNM), Companies Commission Malaysia, Securities Commission Malaysia, Labuan Financial Services Authority, Ministry of Finance, Public Service Commission, Public Service Department, Enforcement Agency Integrity Commission, Public Complaints Bureau in PMO, Special Cabinet Committee on Corruption (JKKMAR), as well as Institute of Integrity Malaysia (INTEGRITI). The Attorney General's Chambers hold a central role in facilitating international cooperation and asset recovery efforts. Additionally, a national coordination committee has been established to coordinate the tasks and competences between the operating agencies. Malaysian enforcement authorities also engage in cooperation through various mechanisms and networks, such as the FATF, the Asia-Pacific Group on Money Laundering, INTERPOL, the Association of Southeast Asian Nations Chiefs of Police (ASEANAPOL), and the Egmont Group of Financial Intelligence Units.[108]

The most important institutions will now be highlighted. Generally speaking, the BNM's role is to facilitate monetary and financial stability. The Bank also functions as independent FIU under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFA) and shares all information received from foreign FIUs with the appropriate domestic law enforcement agencies and plays a central role in obtaining reports about suspicious transactions and exceeding cash thresholds.[109]

In 2004 INTEGRITI the *Premier Think-Tank of Integrity* was founded to educate, advocate, train for the purpose of promoting integrity and governance in the public and private sector by taking on the position of an Advisory Body on policy, research and publication. It also service as a contact point for whistle blowers to safely entrust their delicate information.[110]

JKKMAR, chaired by the Prime Minister, is responsible for endorsing policies, executing initiatives, and monitoring their performance to ensure effective and systematic implementation of governance, integrity, and anti-corruption measures. JKKMAR meets

[107] Section Part III MACC Act, 2009.

[108] United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Review of implementation of the United Nations Convention against Corruption, 2017, 2; Section 5, 13f., 37 (1A) MACC Act, 2009.

[109] Part V, VI Central Bank of Malaysia Act 2009.

[110] https://www.iim.gov.my/en/latar-belakang/, accessed 02.06.2025; https://www.iim.gov.my/en/saluran-whistleblowing/, accessed 02.06.2025; https://www.iim.gov.my/en/visi-misi-nilai-teras/, accessed 02.06.2025.

quarterly and includes key government leaders. High-impact issues are identified and addressed by the JAR, a supporting body led by the Chief Secretary to the Government, which recommends solutions and improvements to JKKMAR.[111]

The Enforcement Agency Integrity Commission, a Federal Statutory Body, was established on 1 April 2011 under the Enforcement Agency Integrity Commission Act 2009. It is tasked with monitoring and investigating public complaints of misconduct involving enforcement officers or agencies listed in the Act. Through visiting enforcement agency premises, including police stations and lockups, in line with legal procedures, and offer necessary recommendations. Additionally, to support the government in drafting legislation or suggest administrative measures to promote integrity within enforcement agencies. The Commission's goal is promoting integrity within enforcement bodies and strengthening public trust in their accountability.[112]

The Public Complaints Bureau in Malaysia, operating under the Prime Minister's Department, is responsible for addressing complaints from citizens concerning government agencies and the civil service. Unlike a traditional ombudsman system, the Public Complaints Bureau specifically focuses on issues related to government operations and public sector conduct.[113]

Malaysia has also integrated an Ombudsman by constituting the Financial Markets Ombudsman Service was formed on 1 January 2025 through the merger of the Ombudsman for Financial Services and the Securities Industry Dispute Resolution Centre. It is jointly appointed by Bank Negara Malaysia and the Securities Commission Malaysia to offer dispute resolution services for financial consumers and investors. Financial Markets Ombudsman Service serves as an independent, impartial, and accessible platform for resolving disputes in the financial and capital markets that involve direct financial losses. The services of the centre are provided free of charge to financial consumers and investors.[114]

The federal government is mainly responsible to curb corruption. When it comes to educational programs and activities the MACC Community Education division, on the federal level works together with the State MACC Community Education Unit on the state level.[115]

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[111] UNDP, Anti-Corruption Policy Implementation, An Experience from the Republic of Korea, 2022, 5.

[112] Section 3, 4 (1) Enforcement Agency Integrity Commission Act 2009.

[113] https://mygwa.arkib.gov.my/warc-detail/121, accessed 02.06.2025; https://www.pcb.gov.my/, accessed 02.06.2025.

[114] https://www.fmos.org.my/en/who-we-are/, accessed 02.06.2025.

[115] https://www.sprm.gov.my/index.php?page_id=75&articleid=692&language=en#:~:text=Anti%2Dcor-ruption%20programs/activities%20involving%20non%2Dgovernmental%20organisations%20(,pro-grams%2C%20community%20programs%20and%20others.&text=Anti%2Dcorruption%20progra-ms/a-ct-ivities%20involving%20students%20of%20public%20and%20private,programs%2C%20c-

Malaysia’s anti-corruption system appears to be somewhat simpler and more clearly structured than India’s, primarily because the fight against corruption falls under federal jurisdiction. Additionally, Malaysia's smaller size makes enforcement more manageable and transparent, likely contributing to its higher ranking.

III.3. Status Quo of Malaysian Anti-Corruption Law

Malaysia’s legal system is founded on a combination of written and unwritten laws. Written laws include the Federal Constitution, the constitutions of the thirteen states, legislation passed by Parliament and State Assemblies, and various forms of subsidiary legislation. The unwritten laws consist of English common law principles adapted to the local context, judicial decisions and customary laws practiced in different communities. One of these decisive landmark decisions is the case of Public *Prosecutor v. Datuk Haji Harun Bin Haji Idris*. In which the High Court of Kuala Lumpur dares to define *corrupt* as *doing an act knowing that the act done is wrong, doing so with evil feelings and evil intentions*.[116] With that it sets a standard for all following interpretations of law.

Anti-corruption policies in Malaysia are embedded within penal, civil, and administrative laws, along with rules and regulations that uphold public order, integrity, transparency, and accountability across both government and the private sector. These policies are also reflected in a range of policy instruments, such as government circulars, guidelines, official letters, and development planning documents like the five-year plans. As previously discussed in the *Overview of Malaysia*, these legal frameworks align with national anti-corruption efforts and are supported by broader initiatives such as the NACS, the National Integrity Plan, the Economic Transformation Program and the Government Transformation Program.[117] The chapter will discuss the written and most relevant legal sources against corruption which are:

- III.3.a. Malaysian Anti-Corruption Commission Act, 2009
- III.3.b. Penal Code, 1976
- III.3.c. Criminal Procedure Code, 1935
- III.3.d. Election Offences Act, 1954
- III.3.e. Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001

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ommunity%-20programs%20and%20others.&text=Anti%2Dcorruption%20programs/activities%20involving-%20primary%20and%20secondary%20school%20students,Ministry%20of%20Education%20(MOE), accessed 03.06.2025.

[116] Public Prosecutor v. Datuk Haji Harun Bin Haji Idirs (No. 2), 1977, 1 MLJ (High Court), H.

[117] UNDOC, Country Review Report of Malaysia, Review by Timor-Leste and Swaziland of the implementation by Malaysia of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021, 3.

III.3.f. Witness Protection Act, 2009

III.3.g. UN Convention against Corruption, 2005

III.3.a. Malaysian Anti-Corruption Commission Act, 2009

With 2009 the latest Anti-Corruption Act 1997 was renewed by the MACC Act. The main difference is the constitution of the MACC as an independent anti-corruption agency to promote integrity and accountability. This Act and the Malaysian Penal Code are comparable to the Indian PCA due to its similar target groups and theme of offences. Also, their structure is quite ident by comprising legal definitions, offences, the investigation, procedure and the trial in one Act. Differently to the Indian law, the MACC Act includes the role of the MACC as the CVC und CBI are regulated in separate laws

The components of offences of the Indian PCA and Malaysian MACC Act circle mainly around the three shared basic elements: Firstly, an abusive corrupt conduct or omission, secondly, of primarily a public servant, or any private person and thirdly, who receives or attempts to receive a gratification. The term *agent* is designed much broader than in the PCA. It is determined in Section 3 MACC Act as anyone employed by or acting on behalf of another and entails *an officer of a public body or an officer serving in or under any public body, a trustee, an administrator or executor of the estate of a deceased person, a subcontractor, and any person employed by or acting for such trustee, administrator or executor, or subcontractor.* Apparently, the wording and scope of definition of *undue advantage*, respectively, *gratification* is different between the Malaysian and Indian Act. The Malaysian is far more detailed and underlined with examples. The legislator enumerates a long list of examples, just to name a few: money, donation, property, any office, payment, protection from any penalty of disciplinary, civil or criminal nature and any other service or favour, offer or valuable thing. Probably, both approaches are motivated with the intent to cover as many corrupt conducts as possible. That leads to the question whether a simple and short definition opens the possibility to a broad interpretation and application of this element or whether listing a variety of examples will result in the wished outcome.

Section 16. Offences of accepting gratification

Now attention will be drawn to the specific offences. Like the PCA, the MACC Act takes off with the offence of accepting gratification. Section 7 PCA only concerns public servants as Section 16 is tangent to *any person* who corruptly among others solicits, receives, promises, offers or agrees to obtain a gratification either by her-

/ himself, by or in collaboration with another person. This conduct must be based on either an act or promise of another person or an officer of a public body.

Section 17 – Offence of giving or accepting gratification by agent

The offence criminalizes:

- any agent, who corruptly accepts / tries to accept / agrees to receive any benefit from someone, either for themselves or for someone else, as a reward / incentive for doing or not doing something related to their principal's business, or for showing / not showing favouritism in matters concerning their principal's affairs.
- anybody, who corruptly gives / promises to give / offers a reward to an agent to influence them to do / forbearing to do something related to their job, or to treat someone unfairly / with favouritism in their business.

Section 17A. Offence by commercial organizations

Likewise to section 9 and 10 PCA, the Malaysian legislator implemented a special provision for commercial organization in the context of corrupt behaviour in 2018 and came into force with the year 2020.[118] Both legal systems penalize the commercial organization through the management, director or any person in charge for corrupt behaviour and any person associated with the commercial organization, who *corruptly gives, agrees to give, promises, or offers any form of gratification to another person* regardless for that person's benefit or for someone else but based on the intention to gain or retain business or a business advantage. Also, both cover foreign commercial organizations which operate inside the country and commercial organizations that have their seat in the country but also operate their business outside of the country's borders plus their partnerships.

Section 18. Offence of intending to deceive principal by agent

Any person who gives an agent or if, as an agent, they give their principal any receipt / bill / document or any material particular that they know is false, incorrect, or incomplete in an important way, and intends to mislead or deceive the principal perpetrates an offence.

[118] https://www.sprm.gov.my/index.php?page_id=103&contentid=669&cat=CN&language=en#:~:text=-If%20a%20commercial%20organisation%20is,to%2020%20years%2C%20or%20both., accessed 29.05.2025.

Section 19. Acceptor or giver of gratification to be guilty notwithstanding that purpose was not carried out or matter not in relation to principal's affairs or business

This offence prerequisites that section 17 (a) is proved, which means

- that an agent corruptly solicited, accepted, obtained or agreed to accept or attempted to obtain any gratification
- additionally, at least suspecting that the gratification was offered as an inducement or reward for showing a dis-/favour to any person in relation to the agent's principal or business. An offence is committed even though the agent
    - didn't have the power to do so
    - accepted the gratification without the intend to do so
    - didn't in fact do so
    - the act or omission wasn't in relation to the principal or her/his business

Paragraph (2) refers to the elements of section 17 (b) which punishes the gratification giver or the person who attempts to give an undue advantage according to the components mentioned above.

Section 20. Corruptly procuring withdrawal of tender

Anyone who intends to acquire a contract from a public institution for performing any work, providing service or any other performance and gratification to another person who has made an offer so that this person withdraws a tender. Also, the person who accepts this benefit makes her-/ himself liable.

Section 21. Bribery of officer of public body

This section penalises a person that bribes or tries to bribe an officer by hindering her / him from voting or abstaining from any meeting to manipulate a certain outcome. It also comprises the scenarios in which

- the officer is undertaking a certain performance to delay or prevent any official act,
- or that the officer aiding or preventing the passing of a vote or granting a favour for any person
- or any other favour in the power of the officer

except the officer didn't have the power to do so or the incentive wasn't in connection with the affairs of the public institution. There is nothing comparable to be found in the Indian legal systems.

Section 22. Bribery of foreign public officials

Compared to the other legal systems of India and Singapore this offence is outstanding. In summary, the legislator even covered the intervention of a person to corrupt a public official from another country.

Section 23. Offence of using or position for gratification

Any conduct that leads to the abuse of power associated with the office or position for an undue benefit shall be punished according to Section 24.

Section 24. Penalty for offences under sections 16, 17, 18, 20, 21, 22 and 23 & Section 17A (2)

Contrarily, to the structure of the PCA the punishment of the offences is collectively formulated for sections 15-18, 20-23 MACC Act in one section, namely section 24. In contrast, in the PCA after every offence follows the penalty directly. Section 24 MACC Act imposes that anyone who is convicted to at least one of the offences mentioned before, shall be punished with imprisonment for a term of maximum of twenty years plus *a fine of not less than five times the sum or value* of the undue advantage or in the case of section 18 in concern of the flawed material. Section 17 A. (2) diverts from this standard by setting a higher maximum fine of 1 million ringgit for commercial organization. Thus, the penalty for these offences have already a much higher limit than the regular seven years of imprisonment for most of the PCA offences. It is questionable whether this deterrence has a greater effect on the subjects or necessity to prevent them from violating the law.

Section 25. Duty to report bribery transactions

Outstanding for the MACC Act is this section. It even penalizes the person who is given or offered a gratification or better said proclaims a duty to report bribery transactions. Anyone who infringes this obligation shall be liable to a fine up to 100.000 ringgit or / and imprisonment of a maximum ten years. Besides, any person who has been asked or gave an undue benefit shall report these events and the name of the people involved as soon as possible. In case of failing this duty, this person is to be convicted to a maximum of 100.000 ringgit or / and imprisonment of up to ten years.

The Act also foresees further offences:

- Section 26. Dealing with, using, holding, receiving or concealing gratification or advantage in relation to any offence
- Section 27. Making of statement, which is false or intended to mislead, etc., to an officer of the Commission or the Public Prosecutor
- Section 28. Attempts preparations, abetments and criminal conspiracies punishable as offence

Section 50. Presumption in certain offences

In cases of sections 16, 17, 18-23 it is presumed that any person is liable if it is proved that she / he has received, agreed, or at least attempted to obtain gratification unless the contrary is proven. A similar presumption is to be found under section 7, 9, 11, 13 PCA.[119]

III.3.b. Penal Code, 1936

The Penal Code complements the MACC Act by containing rules governing the bribery of public bodies only, whether between public officials or between a public official and a private individual. As briefly noted there exists a historical bond to the Indian criminal law during the period of the British colony. The Penal Code 1860 and its Draft 1837 served as a great role model for the Malaysian and Singaporean Penal Code 1871. Section 161 of the Penal Code for example may be traced back to section 138 of the Draft Indian Penal Code 1837. While section 165 of the Penal Code appears to find its origins in section 141 of the Draft Indian Penal Code 1837.[120] This thesis will cover only the offences concerning corruption that are attributed to the competence of the MACC to demonstrate the vast, specific and exceptional multitude of provisions[121]:

- Section 161. Public servant taking a gratification, other than legal remuneration, in respect of an official act
- Section 162. Taking a gratification in order, by corrupt or illegal means, to influence a public servant
- Section 163. Taking a gratification, for the exercise of personal influence with a public servant

[119] Section 20 PCA.
[120] Paragraph 70 Hight Court of the Republic of Singapore. S. Iswaran v. Public Prosecutor, SGHC 123, 8 May 2024; Douglas Peers, Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform, edited by Wing-Cheong Chan, Barry Wright, and Stanley Yeo.Victorian Studies, 749–751, 2013, 749f.
[121] Schedule of the MACC Act

- Section 164. Punishment for abetment by public servant of the offences above defined
- Section 165. Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant
- Section 213. Taking gifts, etc., to screen an offender from punishment
- Section 214. Offering gift or restoration of property in consideration of screening offender
- Section 215. Taking gift to help to recover stolen property, etc.
- Section 384. Punishment for extortion
- Section 385. Putting person in fear of injury in order to commit extortion
- Section 386. Extortion by putting a person in fear of death or grievous hurt
- Section 387. Putting person in fear of death or of grievous hurt in order to commit extortion
- Section 388. Extortion by threat of accusation of an offence punishable with death, or imprisonment, etc
- Section 389. Putting person in fear of accusation of offence, in order to commit extortion
- Section 403. Dishonest misappropriation of property
- Section 404. Dishonest misappropriation of property possessed by a deceased person at time of his death
- Section 405. Criminal breach of trust
- Section 406. Criminal breach of trust
- Section 407. Criminal breach of trust by carrier, etc.
- Section 408. Criminal breach of trust by clerk or servant
- Section 409. Criminal breach of trust by public servant or agent
- Section 417. Punishment for cheating
- Section 418. Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect
- Section 419. Punishment for cheating by personation
- Section 420. Cheating and dishonestly inducing delivery of property
- Section 465. Punishment for forgery
- Section 466. Forgery of a record of a Court, or a public Register of Births, etc.
- Section 467. Forgery of a valuable security or will

- Section 471. Using as genuine a forged document
- Section 472. Making or possessing a counterfeit seal, plate, etc., with intent to commit a forgery punishable under section 467
- Section 473. Making or possessing a counterfeit seal, plate, etc., with intent to commit a forgery punishable otherwise
- Section 474. Having possession of a valuable security or will known to be forged, with intent to use it as genuine
- Section 475. Counterfeiting a device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material
- Section 476. Counterfeiting a device or mark used for authenticating documents other than those described in section 467 or possessing counterfeit marked material
- Section 477A. Falsification of accounts

Anyone who commits an infringement of one of these offences is liable to imprisonment that varies between a maximum of three, seven and up to twenty years, additionally to the payment of a fine.

III.3.c. Customs Act, 1967

Section 137. Penalty for offering or receiving bribes

Any customs officer or person tasked with preventing smuggling commits an offence if they:

Make a fake collusive seizure, agree not to seize, or hand over goods or vehicles that should be seized;

Accept, seek, or agree to accept a bribe or reward for neglecting their duty; or

Conspire with others to illegally import or export goods, particularly for personal gain through rewards or seizures.

Such offenders can face up to five years in prison, a fine up to 500.000 ringgit or both, and will be banned from public service. Additionally, anyone who offers bribes or makes secret deals with such officers to help them evade the law is considered an abettor and is subject to the same penalties. No comparable delict is to be found in the either in Indian or in the Singaporean legal system.

III.3.d. Election Offences Act, 1954

Comparable to section 170f. BNS the Malaysian law foresees two special norms devoted to the criminalization of bribery in context of an election through the sections 10f. Election Offence Act. Like in the BNS a person who offers or gives an undue advantage to someone with the intent to induce that person to vote or not vote or as a reward for acting according. The difference in this Act is just made through emphasizing the timeframe of *before, during or after an election* and listing a greater range of examples for any gratification such as any office, money, gifts, loans, etc. compared to the BNS. This offence is penalized with a maximum of two years imprisonment and a fine of not more than 2.000 ringgit.

III.3.e. Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001

The AMLATFA is the primary law in Malaysia addressing anti-money laundering and countering the financing of terrorism. Likewise to India, Malaysia is a member of the FATF and established this Act to align with their international standards.[122] The AMLATFA stipulates offenses related to money laundering and terrorism financing, prescribes measures for prevention, and provides investigative powers, including freezing and seizing assets. First of all, the Act works through a reporting system that obligates specific institutions listed in the first schedule, to name a few examples: Moneylenders and Pawnbroker, Trust Companies, Accountants, Capital Market Intermediaries or Non-Bank Issuers of Designated Payment Instruments and so forth. All these obligated institutions have to undertake risk assessments, perform CDD, report suspicious transactions and cash threshold, keep and retain transaction records and implement anti-money laundering and countering financing of compliance program in accordance with the reporting institution’s money laundering and terrorism financing risk potential and its size, nature and complexity. The AMLATFA even provides protection of the person who is reporting.[123] The BNM was appointed as the competent authority to execute this Act. Subsequently, the authority is empowered to make recommendations to the reporting institutions, to receive, analyse, and disclose the suspicious transaction reports and cash threshold Reports. In addition, BNM can issue instructions to reporting institutions based on any report or information received, and make recommendations to relevant supervisory authorities,

[122] UNODC, International Cooperation, Section 3 Thematic Compilation of Relevant Information Submitted by Malaysia, Article 14 UNCAC, Thematic Complication of Relevant Information submitted by Malaysia, Article 14 UNCAC, Prevention of Money-Laundering – Malaysia (Sixth Meeting).

[123] Part IV, AMLATFA.

enforcement agencies, and reporting institutions arising from such reports or information. The Bank also sets training requirements and provides training to reporting institutions to ensure compliance with obligations under Part IV of the AMLATFA. Furthermore, it compiles and maintains statistics and records related to its functions.[124]

III.3.f. Whistleblower Protection Act, 2010

Four years earlier than the Indian Whistleblowers Protection Act 2014, Malaysia published its Whistleblower Protection Act to provide a safeguard for individuals who report disclosing misconduct or corruption within both the public and private sectors. The Act promotes transparency by encouraging such disclosures through assurances of confidentiality, compared to the Indian law it explicitly declares immunity from civil or criminal liability arising from the report, and protection against any retaliatory actions taken as a result of their whistleblowing.[125] Nevertheless, the Indian Act criminalises additional actions to create a greater circle of protection as the Malaysian only penalises conducts that hinder the investigations:

- Section 21. Penalty for making false statement
- Section 22. Penalty for obstructing authorized officer
- Section 23. Penalty for destroying, falsifying, etc., document, etc.
- Section 24. Abetment and attempt

The primary enforcement agencies under the law are the MACC, Malaysia Police, the Immigration Department, BNM and the Road Transport Department. As a result, a whistleblower is not eligible for protection under the Whistleblower Protection Act 2010 if the disclosure is made to an entity outside the scope of these designated enforcement agencies. Section 6(1) of the WPA 2010, which restricts disclosures to enforcement agencies, is problematic given 2021 cases where officers from the MACC, police, and other agencies were implicated in corruption. These incidents may deter whistleblowers, as relying solely on potentially compromised agencies risks trust and limits effective oversight.[126] Moreover, according to the 2019 Whistleblower Protection Act Implementation Report, out of 5,053 complaints received, only 13 were officially recognized as whistleblowing

[124] P.U. (A) 19/2002; Section 8f. AMLATFA.

[125] Section 7 (1) (a) and 8, Section 7 (1) (b) and 9, Section 7 (1) (c) and 10 Whistleblower Protection Act 2010.

[126] https://www.bheuu.gov.my/en/soalan-lazim/akta-perlindungan, accessed 30.05.2025; https://www.thestar.com.my/news/nation/2021/03/16/macc-nabs-44-including-jpj-officers-over-alleged-corrupt-activities, accessed 30.05.2025; https://www.malaymail.com/news/malaysia/2021/04/27/johor-police-nab-12-law-enforcement-officers-linked-to-fugitive-leader-of-n/1969818, accessed 30.05.2025.

cases. This raises serious concerns about the effectiveness and application of the law.[127]

III.3.g. UN Convention against Corruption, 2005

Like India, Malaysia is a party of the UNCAC as well. The Convention was signed in 2003 ratified 2005 and signed three years later.[128]

III.4. Cases and Criticism

While numerous anti-corruption measures in Malaysia do exist, ineffective enforcement and a persistent culture of money politics have allowed corruption to thrive. Political interference, selective prosecution, and entrenched kleptocratic relationships between elites and businesses have continued to counteract these anti-corruption efforts. Available data points expose a worsening corruption landscape, particularly in last years. To explore this further, this section examines the role and effectiveness of the MACC, the country's most prominent and credible anti-corruption body, by analysing the political dynamics of corruption and the broader institutional context in which the MACC operates. Since its inception, the MACC has positioned itself as a proactive force in the fight against corruption. The question of its efficiency shall be answered via this graphic.

[127] Mohd Al Omar Che Abu Bakar1, Mazlina Mohamad Mangsor2: It's Not Enough to Speak, But to Speak True: Revisiting the Whistleblower Protection Law in Malaysia, in Malaysian Journal of Social Sciences and Humanities (MJSSH), 2022, Volume 7, Issue 11, 2.

[128] UNDOC, Country Review Report of Malaysia, Review by Timor-Leste and Swaziland of the implementation by Malaysia of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021, 2f.

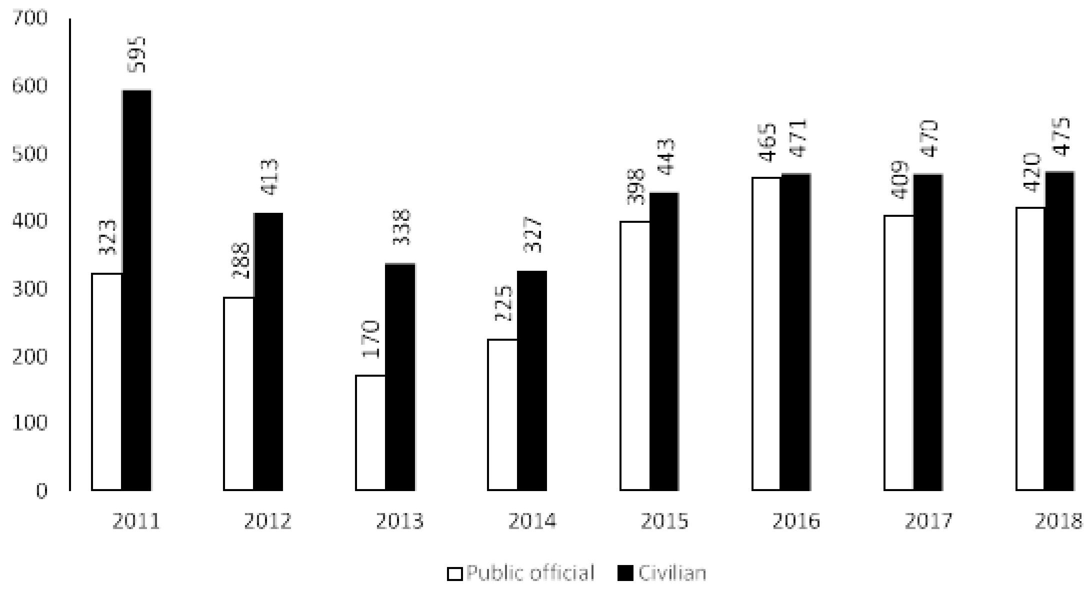

Figure 4: Statistics on arrest due to corruptive offences in the private and public sector[129]

According to published statistics, a total of 6,229 individuals, comprising both public officials and civilians were arrested for corruption-related offenses between 2011 and 2018. As illustrated in Figure 4, the trend in arrests over this period demonstrated a fluctuating pattern. The highest number of arrests occurred in 2016, with 936 individuals detained, followed closely by 918 arrests in 2011. While the number of arrests dropped after 2011, a gradual increase was observed beginning in 2014. However, following the peak in 2016, arrests decreased to 879 in 2017. Overall, about 44% of those arrested were public officials, while the other 56% were civilians. Among the public officials, the majority of 73% were support staff, followed by 25% from the professional and management group, and 2% from top management. Civilian arrests consisted primarily of members of the public at 64%, followed by private sector employees at 32% and local councillors and politicians at 4%. These figures indicate that support staff among public officials and members of the public among civilians constituted the largest proportion of arrests made by the MACC, whereas politicians and local councillors accounted for only a small fraction. The question is if the statistic pictures the reality that the private sector is more corrupt than the public or if it's a question of proportion and relativity or thirdly if the MACC is bias in its work by "avoiding" persecuting politicians and public servants and rather has its focus on the investigation of civilians. Although the AGC successfully prosecuted only a portion of these cases, the volume

[129] Shankar Durairaja, Geshina Ayu Mat Saat, Mohammad Rahim Kamaluddin, Nagentheraan Munesveran, Asilah Hassunna Azmi, Ler Lien Jia, Corruption in Malaysia: A Review, Indian Journal of Science and Technology, Vol 12(24), DOI: 10.17485/ijst/2019/v12i24/143798, 2019, 1-12, 2.

of investigations and arrests reflects an increased level of enforcement by the MACC. Public figures and critics alike have praised the MACC for actions such as freezing the accounts of 500 companies and individuals linked to illegal timber logging in Sarawak. Additionally, the Commission secured a conviction against a former "*Menteri Besar*" (Chief Minister) for corruption related to land and bungalow transactions.[130] Nevertheless, the MACC's achievements have often been overshadowed by its failures, inaction, and involvement in controversies across other areas. A common criticism is that the Commission has long focused on pursuing *small fish* while hesitating to confront cases of grand corruption involving high-ranking officials. Evidence suggests that corruption at the upper classes of power poses a more serious threat than petty corruption at lower levels, as it typically involves political and administrative elites whose actions impose significantly greater harm on society. Nowhere is the MACC's limitation more evident than in handling cases of political and grand corruption. The MACC did receive public recognition for its involvement in investigating the 1Malaysia Development Berhad (1MDB) scandal. The MDB was created as an investment fund which was established in 2009 under Najib Razak himself, who served as the 6th Prime Minister of Malaysia from 2009-2018. Additionally, the fund was owned and controlled by the Malaysian government. Proforma it should attract foreign investment and development in Malaysia to serve the Malaysian people. Instead, it turned out to be *one of the world's greatest financial scandals*, as the BBC was classifying it.[131] The case occurred as following: After the fund was created the 1MDB signed deal with PetroSaudi International to start a joint venture company and make an investment of $1 billion cash for a 40% stake. The other 60 % are secured by the PetroSaudi oil and gas assets worth about $1.5 billion. Three years later Najib launches a new financial hub for Kuala Lumpur developed by 1MDB. Meanwhile, Goldman Sachs helps 1MDB raise a total of $6.5 billion through two bond sales: $3.5 billion for acquiring power assets and $3 billion for strategic projects with Abu Dhabi. Later, *The Wall Street Journal* and *Sarawak Report* alleged that nearly $700 million intended for 1MDB was instead transferred to Najib's personal account ahead of the 2013 election to pay politicians. Furthermore, U.S. and Malaysian prosecutors allege that funds from 1MDB were misappropriated by a small group of influential individuals to finance luxury purchases, including real estate, a private jet, artwork by Van Gogh and Monet and even a Hollywood film *The Wolf of Wall Street*. The alleged misappropriation of 1MDB

[130] Noore Alam Siddiquee & Habib Zafarullah, Absolute Power, Absolute Venality: The Politics of Corruption and Anti-corruption in Malaysia, in Public Integrity, 2022, 24: 1–17, 10.

[131] Public Prosecutor v Mohd Najib Bin Hj Abd Razak,7 November 2018; httpgus://www.bbc.-com/news/world-asia-46341603, accessed 01.06.2025; https://www.perdana.org.-my/pms-of-malay-sia/dato-seri-najib-razak/, accessed 03.06.2025.

funds between 2009 and 2012 remained unexposed until 2015, when British journalist Clare Rewcastle-Brown, founder of the *Sarawak Report*, received 227,000 leaked documents revealing the extent of the fraud. *The Wall Street Journal* also obtained similar documents, bringing the scandal to light. These documents revealed that the fraud was planned right from the beginning, with billions raised through government bonds allocated into accounts in Switzerland, the U.S. and Singapore. Najib denied all wrongdoing by claiming the funds were a donation from a Saudi prince.[132] Despite facing substantial political pressure and institutional limitations, the MACC showed a degree of determination by recommending criminal charges for embezzlement. However, this effort was ultimately frustrated when the sitting Attorney General's was replaced by an individual widely perceived as a proxy of Najib, who subsequently cleared him of wrongdoing and closed the case. This highlights the MACC's reluctance to take action when the interests of those in power are at stake. It also pointed out the limited independence and weak authority of key institutions, including the MACC itself. Despite undergoing institutional reforms, the MACC remains vulnerable to actual or perceived executive influence and is not truly autonomous. As a result, it continues to face criticism for its lack of independence and real power, particularly in pursuing prosecutions against high-level offenders. Even though, Malaysia is formally a democracy, it falls short in basic areas of good governance, such as civil liberties, access to information, judicial independence and a free media. Najib moved to consolidate his power by suppressing dissent and silencing opposition voices and whistleblowers. Key documents, including the Attorney General's report on 1MDB, were classified under the Official Secrets Act, effectively preventing public scrutiny. In July 2015, five executives from *The Edge*, which had published detailed reports on the scandal, were arrested for sedition, and the publication was banned. Independent news platforms such as *Sarawak Report*, and *The Malaysian Insider* were either blocked or shut down. Additionally, three lawyers who criticized the newly appointed Attorney General for not prosecuting Najib were charged with sedition. Notably, an opposition MP, ultimately the only individual charged in relation to 1MDB, was jailed for releasing a single page of the AG's report that the government had refused to make public.[133] The Malaysian government's enactment of the National Security Council (NSC) Act in

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132 https://www.theguardian.com/world/2018/oct/25/1mdb-scandal-explained-a-tale-of-malaysias-missing-billions, accessed 01.06.2025; https://www.aljazeera.com/news/2020/7/28/timeline-how-malaysias-1mdb-financial-scandal-unfolded, accessed 01.06.2025.

133 https://www.theguardian.com/world/2016/mar/15/independent-malaysian-insider-news-site-closes-government-media-clampdown, accessed 01.06.2025; https://www.malaymail.com/news/malaysia/-2016/03/31/undeterred-by-sedition-probe-lawyers-vow-to-fight-on/1090807?, accessed 01.06.2025; Noore Alam Siddiquee & Habib Zafarullah, Absolute Power, Absolute Venality: The Politics of Corruption and Anti-corruption in Malaysia, in Public Integrity, 2022, 24: 1–17, 10-12.

2016 has been widely criticized as a measure to suppress dissent and silence critics, particularly in the context of the 1MDB scandal. The NSC Act grants the Prime Minister the powers to declare *security areas* where military forces can be deployed, and individuals, vehicles, and premises can be searched without a warrant. Critics argue that these provisions pose significant threats to human rights and democracy and could be used to target political opponents and suppress public protests related to the 1MDB scandal.[134] However, the power of the Malaysian anti-corruption mechanisms were demonstrated with the ruling of the High Court of Kuala Lumpur. In 2018 the High Court found Najib guilty of all charges relating 1MBD and its former subsidiary SRC International Sdn Bhd and sustained its decision again in 2021 as an appellate court:

1. Section 23(1) of the MACC Act – Offence of using office or position for gratification

   Any officer or public body who uses his office or position for any gratification, whether for himself, his relative or associate, commits and offence.

3. Section 409 Penal Code- Criminal breach of trust by public servant or agent

   Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or an agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which shall not be less than two years and not more than twenty years and with whipping, and shall also be liable to fine.

2. Section 4(1) (a) AMLATFA:

   Any person who, engages, directly or indirectly, in a transaction that involves proceeds of an unlawful activity or instrumentalities of an offence.

The court concluded that the appellant has been sentenced to a total of 12 years in prison, to be served concurrently, along with a fine of RM210 million, with an additional five years' imprisonment in case the fine is not paid. The Court of Appeal upheld both the conviction on all seven charges and the sentence. In the current three appeals before this court, the appellant is contesting both the conviction and the sentence.[135] Nevertheless, with this judgement there is not an end in sight. In November 2024 a new

[134] https://www.theguardian.com/world/2016/jul/27/malaysia-pm-najib-razak-gets-new-powers-amid-protests-over-1mdb-fund-scandal, accessed 01.06.2025.

[135] Federal Court of Malaysia, Dato' Sri Mohd Najib bin Hj Abd Razak v. Pendakwa Raya, The Federal court of Malaysia 05(L)-(289-291)-12/2021, 23 August 2022.

case was opened by the High Court with additional 25 charges against Najib. The outcome of this trial will be eagerly awaited.[136]

Malaysia's political economy is deeply shaped by close ties between government and business, marked by nepotism, cronyism, and expansive patronage networks. The long-dominant UMNO party has historically functioned as a patronage-driven organization, using state resources to secure loyalty and enrich party elites and their allies. Ruling politicians offered government contracts, capital access, and regulatory favours to major business figures, who in return provided campaign funding, bribes, and jobs for relatives. This mutual exchange created a system of moral hazard, where the government often ignored corruption and misconduct to protect politically valuable relationships. As a result, enforcement and accountability were frequently compromised in favour of preserving the political status quo. Often the opposite happened, the anti-corruption campaigns where instrumentalised and politicised against their opponents.[137] 1MBD as a high-peak scandal has demonstrated that despite existing anti-corruption measures power can be abused to such a drastic extent, that practice can deviate from theory and small gaps in the system can undermine the whole corruption deterrence. It's not only about the power de iure but also about the political will to exercise and stand behind the rules. However, in most of the corruption cases in Malaysia it's not all about the satisfaction of mere personal greed, it functions as a means of political survival. Those in power exploit state resources to entrench their authority, reward loyal supporters, and suppress dissenting voices. This system of patronage ensures that political influence, rather than merit or public service, determines who retains power. This phenomenon is not unique to Malaysia. Globally, corruption flourishes where institutional safeguards are weak. In Malaysia, investigations have uncovered large-scale bribery involving politicians from multiple parties. Yet, even after high-profile convictions, the underlying networks of corruption have endured, simply adapting to new circumstances. While scandals occasionally result in investigations and prosecutions, the broader system remains largely untouched. The political elite continue to dominate the justice system, turning corruption trials into strategic power struggles rather than genuine efforts at accountability.

What makes corruption particularly dangerous in Malaysia is its deep entanglement with political objectives. Anti-corruption efforts often appear selective — opposition figures are frequently targeted, while those aligned with the ruling establishment seem

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[136] https://www.reuters.com/world/asia-pacific/malaysian-ex-pm-najib-enter-defence-1mdb-linked-case-court-rules-2024-10-30/, accessed 01.06.2025.

[137] Noore Alam Siddiquee & Habib Zafarullah, Absolute Power, Absolute Venality: The Politics of Corruption and Anti-corruption in Malaysia, in Public Integrity, 2022, 24: 1–17, 13.

to benefit from impunity. This has fostered a widespread belief that corruption in Malaysia is not only a symptom of weak governance but also a political tool — used not to enforce justice, but to eliminate opponents.[138]

The UNCAC Country Review Report of Malaysia made several recommendations that Malaysia could consider adopting. The most relevant will be highlighted[139]:

- Taking into consideration to enhance the coordination of national and departmental anticorruption policies
- Considering a greater systematisation of the periodic assessment and a frequent revision of anti-corruption legal instruments
- Sustain ongoing efforts to establish a constitutional tenure for the Chief Commissioner of the MACC, while promoting continued focus and appropriate measures to advance this initiative
- Maintain progress toward the adoption of rules on political party financing and consider implementing requirements for political candidates, prior or upon entry to elected office, to file asset declarations and prove compliance with tax obligations, past and present. Additionally, the duty of public officials to reveal potential conflicts of interest
- Encouragement to approach the remaining issues of the FATF evaluation

In his research paper Andrew Young manifests similar or complementary institutional key issues that concern the independence, accountability of the MACC and its constitutional safeguards: In order to protect the independence of the MACC from political influence, the candidates of the commission should be nominated by the Commission itself, and the King appoints the Commissioners based on the advice of the Prime Minister. An amendment to Article 40 of the Federal Constitution should be considered to permit Parliament to mandate that the Prime Minister's advice, or that of the Cabinet, on specific appointments be submitted for confirmation by a parliamentary committee, thereby enhancing institutional accountability. Furthermore, the authority to terminate public officers in the public interest from the Government should be transferred to the relevant service commission. Additionally, Article 135 should also be amended to ensure that if a public servant is terminated, dismissed, demoted, or subjected to any other form of disciplinary action by any authority other than the

[138] https://asianews.network/malaysias-leadership-on-trial-why-corruption-keeps-winning/, accessed 05.06.2025.

[139] UNDOC, Country Review Report of Malaysia, Review by Timor-Leste and Swaziland of the implementation by Malaysia of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021, 9f.

relevant service commission, they shall have the right to appeal to the service commission.[140]

Additionally, a lesson from the 1MDB scandal is the need to strengthen fundamental rights, as their violation often becomes a tool for established corruption by those in power. There is growing anticipation that the NACS campaigned by Prime Minister Anwar will confront these serious issues headed-on. If effectively implemented, it could lead to meaningful reforms, stronger enforcement measures, and tangible improvements in governance and public trust.

III.5. History Malaysia – From British Malaya to Malaysia

The Malay Peninsula, especially along the Straits of Malacca, has long been a key centre of maritime trade, attracting Indian, Chinese, and Middle Eastern merchants. Early trading states adopted Indian religions and court culture. In the 16th century, the Portuguese seized Malacca to control the spice trade and counter Muslim influence. By 1786, the British East India Company established a base in Penang to protect its India–China trade, shifting regional power. British ports like Penang, Malacca, and Singapore became diverse, thriving trade hubs. British Malaya (1824–1957) or also Malaya refers to what is now known as West or Peninsular Malaysia. It consisted of Malay states that, until 1957, were governed under various treaty arrangements with Great Britain. The term "*British Malaya*" was commonly used between the 1910s and 1940s. Among others also parts of Singapore, Melaka, the Federated Malay States, the Unfederated Malay States and the Straits Settlements were under the British control. Singapore, Malacca, and Penang made up the Straits Settlements, a colony that had been constitutionally distinct from the Malay States since its establishment in 1826 as a presidency under British India, and later in 1867 as a separate colony governed by its own governor. This area was established as an administrative arrangement to connect the EIC's ports of call along the eastern coast of the Straits of Melaka. British Malaya was never a unified colony, nor did it officially exist as a single political entity. Instead, a fragmented political structure emerged due to Britain's reluctance to govern directly, favouring indirect rule through local elites. Hence in theory, each Malay state remained an independent British protectorate and sovereign Malay-Muslim sultanate. Practically, however, the state administration was largely controlled by the resident-adviser, with overall authority held by the British resident-general based in Kuala Lumpur. During the

[140] Andrew Yong, Strengthening the Independence and Accountability of the Malaysian Anti-Corruption Commission: Problems, Case Studies, and Reform Strategies, Bersih & Adil Network Sdn Bhd, Petaling Jaya, 2024, v, vi, 28.

interwar period just 230 British officers governed a population of about 4.3 million, made up of Malays, Chinese, Indians, and other Asian communities. After the Pacific War (1941–1945) and the Japanese Occupation, Britain attempted to replace the fragmented structure of British Malaya with the Malayan Union in 1946, which excluded Singapore but unified the remaining territories. However, strong and unprecedented Malay resistance led to the rejection of the Malayan Union and the formation of a new compromise, the Federation of Malaya in 1948.[141] The swift Japanese invasion and conquest of Southeast Asia from December 1941 to February 1942 opened the door for local nationalist movements and leaders to assert or pursue political autonomy. After the British took over the region for one more time Malaysia promulgated its independence on the 31 August 1957.[142]

Efforts to address corruption in Malaysia can be traced back to the British colonial period, when legal frameworks were first introduced to tackle the issue and declare corruption as illegal. This was firstly done by the Penal Code of 1871 which as we discovered in previous chapters is still in force until today. Then followed by the Straits Settlements Ordinance No. 41 of 1937, the Federated Malay States Enactment No. 23 of 1938, and the Johore Enactment No. 14 of 1940.[143]

Corruption had been a concern since the time of the colonial administration. In 1940, Mr. Shearn, a member of the Federal Government's Colonial Administration Council, conducted a study on corruption within the government bureaucracy. In his report, he stated that *bribery and corruption flow to an appalling extent in government departments*. A decade later, in 1950, the colonial government established a commission led by Judge E. N. Tylor to evaluate the integrity of public servants. The commission was tasked with investigating the prevalence of corruption among civil servants and recommending measures to address the issue.[144] The Prevention of Corruption Ordinance (POCO) in 1950 was the first law enactment dedicated to the combat corruption with only twelve pages but was emended two years later as it was considered to be inadequate to meet the corruption challenges of that time.[145] Next to the legal legislations as a primary tool additional strategies were implemented. Hence,

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[141] Ooi Keat Gin, Historical Dictionary of Malaysia, Rowman & Littlefield, London, 2018, 93f; Kevin Blackburn, ZongLun Wu, Decolonizing the History Curriculum in Malaysia and Singapore, in Routledge Studies in Educational History and Development in Asia, Routledge, Abingdon, 2019, 12.

[142] King, Malaysia – Culture Smart! : The Essential Guide to Customs & Culture, 33; Proclamation of Independence, 31 August 1957.

[143] Nur Shafiqa Kapeli, Nafsiah Mohamed, Insight of Anti-Corruption Initiatives in Malaysia, International accounting and Business Conference 2015, IABC, 2015, 526-534, 527.

[144] MACC, On the Road to a Corruption-Free Nation, Anti-Corruption Initiatives in Malasia, 2012, 5

[145] https://www.cpib.gov.sg/who-we-are/our-heritage/#:~:text=The%20Prevention%20of%20Corrup-tio-n%20Ordinance%20(POCO)%20was%20revised%20in%201946,and%20investigation%20to%20-co-mbat%20corruption, accessed 04.08.2024; Federation of Malaya, The Prevention of Corruption (Amendment) Ordinance, 1952.

the first initiatives for a publicity and education campaign in 1952, should had aimed to raise public awareness and emphasized the role of citizens in preventing corrupt practices but were never realized. Despite the legal framework set by the POCO it was not until 1957 that a specialized department or agency was created. Prior to that, investigating corruption was one of the many responsibilities assigned to the Criminal Investigation Department (CID) of the Police Force. Following recommendations of the then Inspector-General of Pakistan's Special Police the government formed a *Special Crime Branch* (SCB) within the CID and established an Anti-Corruption Unit under the Prime Minister's Department. These entities were responsible for investigating major corruption cases, as well as handling complaints and reports from the public. The prosecution and investigation of the SCB were hampered by flaws in the existing anti-corruption laws. Although the Taylor Commission Report in 1955 had pointed out several of these legal shortcomings, they were only addressed with the enactment of the Prevention of Corruption Act in 1961. In addition to legal limitations, the SCB struggled with a lack of adequately trained personnel to handle the large number of corruption complaints. It also faced coordination issues with the Legal Department and Civil Service, which were responsible for prosecution, research, and prevention efforts. These difficulties, combined with mounting public pressure for more effective anti-corruption measures, ultimately led the government to restructure its anti-corruption system.[146] After independence of the British rule in 1957 more refinement of the POCO was done in the years of 1961 by expanding the definition of *gratification*, increasing the maximum imprisonment term from three to five years, and most important including members of legislative and public bodies within its jurisdiction. In formulating this Act, Parliament drew upon anti-corruption laws such as Singapore's Prevention of Corruption Ordinance, 1960 and the Ceylon Bribery Act. Additional adaptations were implemented in 1967 with strengthening the competence of the Public Prosecutor in leading investigations and established a legal obligation for legislators and members of public bodies to comply with anti-corruption measures.[147] On October 1, the government consolidated all elements of its anti-corruption efforts such as investigation, prosecuting offenses under the Prevention of Corruption Act, 1961 (as amended in 1967 and revised in 1971) and prevention into a one unified body, the Anti-Corruption Agency (ACA). The preventive measures comprised the reduction of corruption within government departments and statutory bodies and investigation of

[146] Federation of Malaya, Proceedings of the Federal Legislative Council, 5th session (February 1952 to February 1953), 231; Mansoor Marican, Y.M., Combating corruption: the Malaysian experience, Asian Survey, Vol. 19 No. 6, 1979, 597-610, 601.

[147] Malaysia, Parliamentary Debates, 3rd session, vol. 3 (October 1961 to January 1962), col. 1892; Marican, Combating corruption: the Malaysian experience, 599.

civil servants who violated the Public Officers (Conduct and Discipline) Regulations. The ACA was created through an administrative decision rather than by an Act of Parliament. Similar to its predecessor, the SCB, it operated under the Ministry of Home Affairs. However, unlike SCB, the ACA initially did not have regional offices. In 1968, the regional structure was dissolved, and instead, branches were set up in each state allowing direct communication with the ACA headquarters in Kuala Lumpur. While the ACA shared certain similarities with the SCB, it also faced several limitations, including the lack of authority to appoint its own personnel, a shortage of trained staff, and other operational deficiencies. These weaknesses, combined with mounting pressure from various quarters, prompted the government to reassess the ACA's effectiveness. As a result, in 1973, the ACA was replaced by a new body, the National Bureau of Investigation (NBI). The formation of the NBI marked a departure from the ACA model, as it was created under legislation passed by Parliament. Unlike the ACA, the NBI had the authority to appoint its own staff and was empowered to restrict the jurisdiction of police officers in corruption cases, powers that the ACA lacked.[148] However, the NBI also faced significant criticism. While it was effective in arresting individuals involved in minor bribery cases, it was widely accused of ignoring reports involving prominent business figures and influential politicians linked to large-scale corruption. The agency also struggled with issues such as lack of independence and insufficient personnel. These challenges led to growing public scepticism about the NBI's ability to carry out its anti-corruption mandate effectively. Consequently, in 1982, the government decided to dissolve the NBI and reinstate the ACA.[149] Additional initiatives were set by establishing the PCB and the creation of the New Economic Policy (NEP) in the 70s. The NEP aimed to reduce poverty and address economic disparities. However, it soon became associated with widespread patronage, nepotism, and cronyism. The policy created significant opportunities for Malay political and administrative elites to pursue personal and group interests through corrupt practices and the distribution of patronage. As the policy unfolded, corruption became deeply rooted in the system. The period saw numerous high-profile scandals, raising public awareness and prompting the establishment of anti-corruption institutions.[150]

After 26 years of effort, the Malaysian Government eventually enacted the Anti-Corruption Act in 1997, which was in force until 2009 when the MACC Act was

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[148] Marican, Combating corruption: the Malaysian experience, 601, 603ff.

[149] Mansoor Marican, Y.M. (1979), Combating corruption: the Malaysian experience, Asian Survey, Vol. 19 No. 6, 1979, 597-610, 605; Nur Shafiqa Kapeli, Nafsiah Mohamed, Battling corruption in Malaysia: What can be learned?, Journal of financial crime, Vol.26 (2), 2019, 544-555, 551.

[150] Noore Alam Siddiquee & Habib Zafarullah, Absolute Power, Absolute Venality: The Politics of Corruption and Anti-corruption in Malaysia, in Public Integrity, 2022, 24: 1–17, 5.

introduced. This Act is modelled after Hong Kong's Independent Commission Against Corruption. Although the establishment of the MACC was largely seen as a positive step, it also sparked concerns regarding the fast tempo of the reform process and the presence of policy and procedural shortcomings.[151] In accordance with the Government's decision, the functions of the National Centre for Governance, Integrity and Anti-Corruption (GIACC) were officially integrated into the MACC as of 18th April 2023, and are now carried out under the newly established National Governance Planning Division. The six core functions of the GIACC were, advising the Government, coordinating initiative implementation, evaluating effectiveness, planning strategies, monitoring progress, and reporting findings on matters of governance, integrity, and anti-corruption, will continue under the MACC to maintain momentum in implementing related Government policies. The responsibility for monitoring the implementation of the National Anti-Corruption Plan 2019–2023, previously held by GIACC, was assigned to National Governance Planning Division under supervision of the MACC.[152]

Alongside the Government Transformation Plan, the National Integrity Plan introduced a new component to Malaysia's anti-corruption efforts — integrity. This five-year plan was designed to support the aspiration of Vision 2020, aiming to build a moral and ethical society grounded in strong religious and spiritual values, with citizens upholding the highest ethical standards. Unlike previous top-down strategies, the plan adopted a more inclusive approach, involving both the public and the private sector, an approach that had not been emphasized before.[153]

After this historical discourse it can be summarized that on the one hand the systematic practice of corruption was amplified by colonialism. On the other hand, the British laid lasting system in the combat against this misconduct, like the Common law court system and the Penal Code 1871.

VI. Singapore

VI.1. Overview

Singapore can be characterised as a role model in many aspects of integrity and prosperity. Since several years the country places among the top 3 of the TI Corruption Perception Index. Being one of the smallest States in the world measured by size and

[151] Noore Alam Siddiquee, Combating Corruption and Managing Integrity in Malaysia: A Critical Overview of Recent Strategies and Initiatives, Public organization review, Vol.10 (2), 2010, 153-171, 161.

[152] Press Statement Malaysian Anti-Corruption Commission, Progress of the National Anti-Corruption Plan 2019-2023.

[153] National Integrity Plan, 2004, Introduction.

number of population (6.04 million) is keeping up with the big countries of the world.[154] The city-state is a multi-ethnic society, which can be categorized into four main racial groups: Chinese, Malay, Indian, and Others. As of June 2024, of the 4.18 million there were around 3.09 million ethnic Chinese residents in Singapore, followed by 0.57 million Malays, 0.38 million Indians and 0.14 million others.[155] Nevertheless, according to the latest report of CENSUS in 2020 English was the prevalent language spoken at home for 48.3 % of residents. Next most frequently spoken language is Mandarin, then Chinese dialects, Malay, Tamil and others.[156] Its diversity is also reflected in the practice of various religions, headed by Buddhism, Christianity, Islam, Taoism and Hinduism. Successfully, Singapore manages to unify this multiracial, multilingual, and multireligious society. The People's Action Party (PAP) government has actively promoted racial harmony and worked to minimize discrimination against minority groups by ensuring that both public and private institutions uphold fairness and impartiality in their treatment of all citizens, regardless of ethnicity, language, or religion. Consequently, in multiracial Singapore, individuals found guilty of corruption are subject to the law and held accountable, irrespective of their ethnic background, language, or religious affiliation.[157] Globalization has played a major role in shaping Singapore's development throughout its history. Strategically located at the southern tip of the Malay Peninsula in Southeast Asia, Singapore naturally became a key hub for trade, initially within the region and eventually on a global scale. Nearly every aspect of the nation, including its population, languages, cuisine, economy, and political evolution, has been deeply intertwined with the forces of globalization.[158]

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[154] Population in Brief 2024, p. 4; https://www.population.gov.sg/, accessed 05.01.2025; https://www.transparency.org/en/cpi/2024, accessed 01.06.2025.

[155] https://www.singstat.gov.sg/find-data/search-by-theme/population/population-and-population-structure/visualising-data/resident-population-by-ethnic-group-age-group-and-sex-dashboard, accessed 29.12.2024.

[156] CENSUS 2020, Statistical Release 1: Demographic, Characteristics, Education, Language and Religion, https://www.singstat.gov.sg/-/media/files/publications/cop2020/sr1/cop2020sr1.ashx, accessed 29.12.2024, p.vii, x.

[157] CENSUS 2020, Statistical Release 1: Demographic, Characteristics, Education, Language and Religion, https://www.singstat.gov.sg/-/media/files/publications/cop2020/sr1/cop2020sr1.ashx, accessed 29.12.2024, p.vii; Jon S.T. Quah, Curbing corruption in Asian countries: An impossible dream?, 2013, 204.

[158] Jean E. Abshire, The History of Singapore, in: The Greenwood Histories of the Modern Nations, ed. Frank W. Thackeray and John E. Findling, Greenwood, Denver, 2011, 2.

Figure 5: Map of Singapore[159]

With the Independence of Singapore Agreement 1965 Singapore became a fully independent and sovereign unitary democratic republic from Malaysia and after a long period of British colonization. The British influence is still greatly manifested in the inheritance of the English legal system, by the English Law Act 1993. Adapted to the needs of the City State the Act clarifies the application of English law and statutes. The Constitution stipulates the basic principles and framework for the three organs of state which are modelled after the Westminster system, namely, the Executive, consisting of the President, the Prime Minister and the cabinet, the Legislative, which is performed by the Parliament and the Judiciary, an independent Court system. Currently, Lawrence Wong is the incumbent Prime Minister, since 2025 and two years earlier Tharman Shanmugaratnam was elected as the President. Both are candidates of the PAP.[160] Singapore has built a reputation of one of the most efficient and effective governments worldwide. Despite the Constitutional structure, it is questionable if this system is based on a disguise of democratic institutions, as de facto the political system is characterised by an authoritarian order. Since the year of Independency 1965 the country has been ruled by a single party, the PAP introduce by Lee Kuang Yew. While the party's continuous and firm control has often been credited with producing positive outcomes,

[159] https://www.cia.gov/the-world-factbook/countries/singapore/map/, accessed 25.05.2025.

[160] Art 3,24, 38f. 93 Constitution of Singapore, 1965; https://www.parliament.gov.sg/about-us/structure-/system-of-government, accessed 09.06.2025; https://www.pmo.gov.sg/The-Cabinet, accessed 18.06.2025; https://www.istana.gov.sg/The-President/President-In-Office#:~:text=The%20current%20-President%20is%20Mr,Singapore%20on%2014%20September%202023, accessed 18.06.2025.

critics have described the system as a *benevolent autocracy*, arguing that such dominance may suppress individual agency and moral accountability.[161]

The Constitution also structures the court system which is derived from the common law. Hence, the litigation process is therefore adversarial. The judiciary is separated in the Supreme Court, the State Courts and the Family Justice Court. Most relevant for this thesis are the first two courts: The Supreme Court serves as the Court of Appeal and the High Court. Within the State Courts Act 1970 the State Courts are established and regulated. They comprise the District, Magistrate, Coroners Courts, Small Claims Tribunals and Employment Claims Tribunals.[162]

From an economical point of view Singapore ranks as one of the eight strongest in the world in human capital development. Its economy is predominantly driven by the services sector, which accounts for 72.45% of its GDP, while industry makes up just 22.4% and agriculture only 0.03%. Despite its significant national wealth and being ranked as having the second-highest standard of living in Asia income is unevenly distributed. In fact, Singapore ranks as under one of the worst countries globally in terms of income inequality as most of the rise in wealth has benefited the upper income brackets, where inequality has increased by nearly 23% between 2008-2023.[163] Singapore's geographic location has had a profound impact on the growth of its financial sector. As a British colony, its strategic position led to its development as a trading hub, which in turn encouraged the emergence of financial services like currency exchange, maritime finance, and shipping insurance. Due to these factors, the country is considered a leading international financial and commercial centre as is serves as a major hub for various financial activities, including banking, asset and wealth management, capital markets and fintech. The city's focus on factors like cultural diversity, livability, and strong city branding has played an essential role in attracting skilled professionals from overseas. Contributing to this appeal are its advanced transport and Information and Communication Technology infrastructure, relatively low office rental costs, and the nation's environmentally conscious approach, evident in initiatives such as the Monetary Authority of Singapore's green finance programs. [164]

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[161] Dayley, R, Southeast Asia in the New International Era, 2024, 279; https://www.nytimes.com-/2023/04/12/opinion/international-world/singapore-autocracy-democracy.html, accessed 24.07.2024.

[162] JDRN, International Judicial Dispute Resolution Network, Introduction to Singapore and its Legal Framework, 1; Art 93, 94 Constitution of Singapore, Section 3 State Courts Act 1970.

[163] The Human Capital Index 2020 Update, Human Capital in the Time of COVID-19, 41; https://www.statista.com/statistics/378575/singapore-gdp-distribution-across-economic-sectors/#-:~:te-xt=This%20statistic%20shows%20the%20distribution,percent%20from%20the%20services%-20sector, accessed 09.06.2025; UBS, Global Wealth Report 2024, Crafted wealth intelligence, 18, 21.

[164] The Global Financial Centres Index 37, Financial Centre Futures, March 2025, 11; https://www.mas.gov.sg/development/why-singapore, accessed 15.06.2025; Lee Kuan Yew School

Nevertheless, in concern of fighting corruption Singapore does a remarkable work. In 2024 the number of corruption cases fell to a record low. At the CPIB, Corrupt Practices Investigation Bureau 177 corruption related reports were filed in, an 18% decrease from the 215 corruption-related reports received in 2023, so the annual statistics on the 28th of 2025.[165] Since several years in a row the Corruption Perception Index has listed Singapore under the five least corrupt nations on the globe.[166] How this phenomenon is reached will be analysed the next chapters.

VI.2. Singapore's Anti-corruption mechanisms

The Singaporean Anti-Corruption Agency *Corrupt Practice Investigation Bureau* (CPIB) proudly demonstrates its long-standing anti-corruption legacy on its website, beginning with the declaration of illegality of corrupt behaviour in 1871.[167] The CPIB is tracing its success back on its *zero tolerance* control framework based on four key pillars of laws, adjudication, enforcement and public administration, carried by political will and leadership.[168] The central instrument of today's Republic of Singapore is The Prevention of Corruption Act 1960 (POCA) as the primary anti-corruption legislation, that established and empowers the CPIB to investigate impartially in both public and private sector. Furthermore, CPIB officers are authorized to arrest, issue a house search or seize evidence without warrant based on a reasonable and credible information that a corruption offence has been committed. After the CPIB concludes its investigations, all alleged corruption cases are referred to the Attorney General's Chambers, the prosecutorial authority within Singapore's Criminal Justice System, to seek the Public Prosecutor's consent for initiating court proceedings.[169] With functional independence the Bureau works under the Prime Minister's Office who frequently reports to the Prime Minister. Like in Malaysia, the CPIB officers are led by a director and a deputy that is appointment by the head of State, the President of Singapore grounded in the recommendation of the Cabinet. To ensure full independency Article 22G of the Singapore Constitution empowers the CPIB to seek the concurrence of the

of Public Policy at the National University of Singapore, Singapore's Transformation into a Global Financial Hub, 2017, 1.

165 https://www.cpib.gov.sg/firm-enforcement-strong-partnerships-key-to-securing-a-corruption-free-singapore/, accessed 17.06.2025.

166 https://www.transparency.org/en/cpi/2023, accessed 14.03.2024.

167 https://www.cpib.gov.sg/who-we-are/our-heritage/, accessed 20.03.2024.

168 https://www.cpib.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/, accessed 15.06.2025.

169 Section 3, 15, 17, 22, 33 POCA.

elected President to proceed with investigations in the event that the government attempts to interfere with or obstruct its investigative efforts.[170]

On the level of the private sector further agencies are complementing the CPIB as the main operating agency. The Singapore Police Force has special department dedicated to white-collar crimes investigation, the Commercial Affairs Department (CAD). It functions as a safeguard of Singapore's financial and commercial centre by focusing on investment, security, private and public institutional fraud. In cases of money laundering under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA) the CAD cooperates with the Monetary Authority of Singapore, Central Narcotics Bureau and the CPIB to safeguard Singapore as a clean and trusted financial centre. Also part of the Singapore Police Force and the anti-money laundering group the FIU analysis Suspicious Transaction Reports and other financial information such as Cash Movement Reports and Cash Transaction Reports to disclose money laundering, terrorism financing and other crimes as a law enforcement and regulatory agency.[171]

The government has laid great store on the education of integrity and training of expertise for ever public servant. All agencies of the Singapore public service adhere to a Code of Conduct, implemented in the Public Sector (Governance) Act 2018. The Act outlines the high standards of behaviour expected of public officers, grounded in the principles of integrity, incorruptibility, and transparency. A strong emphasis on meritocracy, along with ongoing reviews of administrative rules and processes to enhance efficiency. Public officers must adhere strictly to rules regarding confidentiality, including the proper handling and non-disclosure of sensitive information. They are also required to comply with any directives issued by the government or the relevant Minister. Importantly, any conflict of interest must be declared, particularly in matters that affect the functions or decisions of a public body, such as legal obligations or contractual agreements. A conflict arises when a public body member, or their associate, may receive a direct or indirect financial benefit, hold a financial interest in a related party, or otherwise have a vested interest in the matter.[172]

A special focus is directed towards the police officers and the CPIB officers to uphold their ethical behaviour. For example, since the beginning of 2014 requires public

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[170] Section 3 POCA, https://www.cpib.gov.sg/who-we-are/our-work/roles-functions/#:~:text=The%20C-PIB%20is%20a%20government,reports%20to%20the%20Prime%20Minister, accessed 15.06.2025.

[171] Section 2 (1), Part 4 Terrorism (Suppression of Financing) Act, 2002; Section 2, Part 5, 77 (2) CDSA; Section 5 CDSA; https://www.mas.gov.sg/regulation/anti-money-laundering#:~:text=What's%20Ne-w-,Overview,keep%20our%20financial%20centre%20clean, accessed 15.06.2025.

[172] Section 4, 5, 7, 10, 23 Public Sector (Governance) Act, 2018.

officers in high-risk roles to rotate out of their positions after a maximum of five years.[173] In the beginning of the 2000 the CPIB has invested in comprehensive training initiatives, offering officers access to both internal courses and external programs conducted locally and internationally as part of its efforts to build a highly skilled enforcement team. To promote regional knowledge sharing, the Bureau hosted three Anti-Corruption Expertise workshops in Singapore between 2006 and 2008. The first workshop in August 2006 focused on *Excellence in Investigation*. The second, held in September 2007, covered *Excellence in Computer Forensics* and brought together 50 participants from various Southeast Asian anti-corruption agencies. The third, in October 2008, addressed *Excellence in ACA Management*, drawing attendees from across the Asia-Pacific region. Beyond training, the CPIB has also strengthened collaboration with domestic agencies such as the Commercial Affairs Department and the Immigration and Checkpoints Authority through joint operations.[174] Additionally, the Bureau offers various programs, such as public education talks for government agencies and private sector organisations, as well as learning journeys for students to raise awareness about corruption and its consequences.[175]

VI.3. Status Quo of Singaporean Anti-Corruption Law

Singapore's corruption law is based on these key legislations:

- VI.3.a. Prevention of Corruption Act, 1960
- VI.3.b. Penal Code, 1871
- VI.3.c. Parliamentary Elections Act, 1954
- VI.3.d. Political Donation Act, 2000
- VI.3.e. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 & Anti-Money Laundering and Other Matters Act, 2024
- VI.3.f. UN Convention against Corruption, 2005

In the case of Yong Pung How CJ in Chan Wing Seng v PP the judiciary drew on the explanation in the dictionary of the word *corruption* as a *perversion of a person's integrity in the performance, the perversion of a person's integrity in the performance of their duties—particularly official or public—through bribery or similar means.* Since

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173 https://www.psd.gov.sg/newsroom/media-releases/measures-to-strengthen-integrity-in-the-public-s-ervice/, accessed 17.06.2024.

174 Jon S.T. Quah, Why Singapore works: Five Secrets of Singapore's Success, Public Administration and Policy, 2018, Vol.21(1), 5–21, 11.

175 CPIB's Prevention & Outreach Strategies, https://www.asean-pac.org/wp-content/uploads/2016-/04/11_Singapore_CPIB's_Prevention_and_Outreach_Strategies.pdf.

dishonesty is a fundamental element of the offence of corruption, it is insufficient that the gratification merely aims to induce the recipient to act favourably toward the giver. The objective element of corruption requires that dishonesty be present. In light of this interpretation, the ensuing legal provisions are to be read according.

VI.3.a. The Prevention of Corruption Act, 1960

The fundamental corruption law is provided in the POCA, which is divided into six parts:

Part 1 - Preliminary
Part 2 - Appointments of Staff and Personnel Matters
Part 3 - Offences and Penalties
Part 4 - Powers of Arrest and Investigation
Part 5 - Evidence
Part 6 - Miscellaneous.

At the outset, the PCA closely resembles the Malaysian MACC Act, as both constitute their main corruption agencies and chose very similar, even almost an identical formulation of specific terms. G*ratification* is defined by a comprehensive enumeration of examples that can be summarized either in form of a monetary advantage, by doing a favour or providing any office or employment. What is also evident is the nearly identical definition of the term "agent" in both acts by including any person serving the Government or any corporation or public body or a person acting for another and comprising subcontractors.[176]

The offences begins with Section 5 concerning the punishment for corruption and ends with Section 12 bribery of member of public body. This thesis will analyse the provisions chronological.

Section 5. Punishment for corruption & Section 6. Punishment for corrupt transactions with agents

Like Section 16 and 17 MACC Act, these offences have a great similarity even almost identical in structure and formulation. Section 5 addresses any person, its only difference to Malaysian law lies in the term of imprisonment of “solely” five years rather than twenty. The fine is limited with S$100,000, which equals about 330.000 ringgit.[177] Section 6 targets the agent who obtains an undue advantage

[176] See above 48; Section 2 POCA.
[177] See above 50; https://www.xe.com/currencyconverter/convert/?Amount=100000&From=SGD&To=-MYR, accessed 11.06.2025.

and the person who gives this corrupt gratification concerned. In contrast to the MACC Act and the Indian law, the POCA provides another paragraph to highlight following the case in which:

- any person gives knowingly to an agent any receipt or other document
- or the agent uses this document to knowingly deceive his principal,

of which principal is interested but contains false information that could mislead the principal. Any perpetrator is also to be punished with S$100.000 and / or penalized with five years of imprisonment.

Section 7. Increase of maximum penalty in certain cases

The legislator had following certain cases in mind in which the corrupt behaviours of section 5 and 6 involving a (potential) contract with the Government or any public body or subcontractor to fulfil any work promised in such a contract. Then the term of imprisonment is set up to seven years.

Section 8. Presumption of corruption in certain cases

In cases under Section 5 or 6, if it is proven that a government or public body employee received gratification from someone dealing with or seeking to deal with that body, the payment is presumed to be corrupt, intended as a bribe or reward, unless proven otherwise. This kind of presumption is already familiar to us through the Malaysian and Indian law.[178]

Section 9. Acceptor of gratification to be guilty notwithstanding that purpose not carried out, etc.

As the title is self-explaining, the Singaporean legislator highlights specifically that even the attempt is already punishable. A concept that is also familiar to the other two legal systems.[179]

Section 10. Corruptly procuring withdrawal of tenders & Section 12. Bribery of member of public body

These offences found their pendant in section 20 and 21 MACC Act.[180]

[178] See above 51.
[179] See above 48f.
[180] See above 50.

Section 11. Bribery of Member of Parliament

This provision specifically penalizes any offer of gratification to a Member of Parliament as an inducement or reward and the Member of Parliament her-/himself for accepting it in exchange for performing or refraining from any action in their official capacity.

Section 37. Liability of citizens of Singapore for offences committed outside Singapore

Not only within the territory of the country the Act claims jurisdiction as the provisions apply to Singapore citizens outside its territory as well. If a citizen commits an offence under the Act abroad, they can be prosecuted in Singapore as if the offence occurred locally.

VI.3.b. Penal Code, 1871

In contrast to the POCA, the sections 161 to 165 of the Penal Code are dedicated to the bribery of domestic public officers. As noted above, Malaysia and Singapore shared the same Penal Code from 1871. The corruption relevant sections from 213-215, 384-389, 403-420, 465-476 and 477A still can be found in each Codes until today. Except of section 471, 473A-C and 474 the offences are identical in their formulations according to the official English translation.[181] The Singaporean legislator adjusted section 471 and 474 by adding forged *electronic records* to documents as an applicable component. Furthermore, to explicitly penalise the production or possession of equipment for making a false instrument it implemented the following new sections:

- Section 473A. Making or possessing equipment for making a false instrument
- Section 473B. Making or possessing equipment for making a false instrument with intent to induce prejudice
- Section 473C. Meaning of “prejudice” and “induce”

VI.3.c. Parliamentary Elections Act, 1954

Similar to the other two legal systems, Singaporean legislation includes *legis specialis* addressing bribery and other corrupt practices related to parliamentary elections. Interestingly, enacted in the same year as Malaysia’s Election Offences Act 1954.

[181] See above 51f.

Section 57. Personation

Unlike the Indian and Malaysian Acts, Singaporean law specifically includes a provision addressing the offence of personation. This offence occurs when someone tries to vote using another person's identity, whether real, deceased, or fictitious or attempts to vote again under their own name after already having voted in the same election.

Section 58. Treating, Section 59. Undue influence & Section 60. Bribery

These concepts are already familiar to us through the Malaysian and Indian law: A person is guilty of *treating* if they corruptly give or fund any material gifts, entertainment, or similar benefits, directly or indirectly, before, during, or after an election to influence someone's vote, attendance at an election meeting, or in return for voting behaviour. It is also an offence to corruptly accept such benefits for the same purposes. A person commits *undue influence* if they use or threaten force, harm, coercion, or deception to interfere with a voter's free choice, either to influence their vote or to punish them for how they voted. Bribery instead, doesn't use force rather tools of manipulation to influence decision of a voter, that comprises according to the Singaporean Act any offer, promise, procurement, consideration or even the promise of the return of any person as a Member of Parliament.[182]

Section 61. Punishment and incapacities for corrupt practice & Section 99. Votes to be struck off at scrutiny

This section establishes the legal consequences and restrictions imposed on those convicted of such offences by outlining the penalties for corrupt practices as mentioned above, including fines up to S$5.000[183], imprisonment limited either by six months or up to three years, and every person that found guilty will be disqualified from voting or holding public office for a period of seven years. Additionally, section 99 foresees that the vote which was procured by bribery, treating or undue influence is to be crossed out.

VI.3.d. Political Donation Act, 2000

Singapore is the only one of the three examples that has an explicit Act that prohibits politically significant persons such as including political associations,

[182] See above 23, 54.

[183] That equals about 16.500 Malaysian Ringgit and 335.000 Indian Rupees, https://www.xe.com/currencyconverter/convert/?Amount=5000&From=SGD&To=INR; https://www.xe.com/currencyconverter/c-onvert/?Amount=5000&From=SGD&To=MYR, accessed 12.06.2025.

candidates, and their election agents, from accepting donations unless they come from permissible sources, and places restrictions on the acceptance of anonymous donations.[184] In Malaysia the Political Funding Act is in the making but until then the funding is quite unregulated and intransparent. India overbridges the regulation through the Representation of the People Act, 1951 and the Income Tax Act, 1961.[185]

VI.3.e. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 & Anti-Money Laundering and Other Matters Act, 2024

While the POCA punishes corrupt behaviour, the CDSA penalizes perpetrators for money laundering and enables the state to confiscate corrupt advantages. Two agencies carry the primary responsibility of enforcement, the Central Narcotics Bureau along with the CPIB.[186] The CSDA is the result of the Singapore's commitment efforts as a member of the FATF since 1992. Part six comprises all offences from section 50,51, 53-55A that criminalize the assistance of retaining benefits from drug dealing or criminal conduct, then, the acquiring, possessing, using, concealing or transferring benefits from drug dealing or criminal conduct and in more specific circumstances. Finally, even the possession or the use of property for the benefit from drug dealing is punishable.

With the Anti-Money Laundering and Other Matters Act 2024 the government worked on measures to meet the requirements of the FATF recommendations since the 2016 report. Following adjustments were made in the CDSA and are in force since 14 November 2024:[187]

- Section 11: Eased burden of proof for money laundering – Prosecutors no longer need to prove that the property involved is the actual proceeds of drug dealing or criminal conduct.
- Section 13 and the new Third Schedule: Expanded scope of predicate offences – Certain foreign environmental crimes are now classified as predicate offences for money laundering, enabling investigations into funds in Singapore suspected to originate from such crimes.

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[184] Section 8, 14, Part 5, 31 Political Donations Act, 2000.

[185] https://www.nst.com.my/news/nation/2025/02/1175977/political-funding-act-must-be-overseen-independent-bodies, accessed 15.06.2025.

[186] Singapore Police Force, CNB, CPIB, Singapore's Law Enforcement Strategy to Combat Money Laundering, October 2024, 1.

[187] https://www.mha.gov.sg/mediaroom/press-releases/phased-commencement-of-the-anti-money-laundering-and-other-matters-act/#:~:text=%5B1%5D%20The%20FATF%20is%20an,United%20Nations-%20Security%20Council%20Resolutions., accessed 12.06.2025; https://www.fatf-gafi.org/en/-countries/detail/Singapore.html#:~:text=Member%20since%201992,3%20of%20the%2040%20Recommendations, accessed 12.06.2025.

- Sections 18–21: Improved cross-agency data sharing – Amendments to various laws now allow Inland Revenue Authority of Singapore and Singapore Customs to share tax and trade data with the Financial Intelligence Unit, enhancing the quality of financial intelligence and enforcement.
- Section 10: Greater regulator access to suspicious transaction reports – AML/CFT regulators can now access suspicious transaction reports from their regulated entities to support more effective oversight.

VI.3.f. UN Convention against Corruption, 2005

Singapore signed the UNCAC as well, on November 11, 2005 and ratified it on November 6, 2009. Since then, it has actively engaged in the UNCAC process by both reviewing other State Parties and undergoing its own review. The country is a strong supporter of the international collaboration in combating corruption and is a founding member of the International Anti-Corruption Coordination Centre.[188]

VI.3.g. Comments of comparison to India and Malaysia

Right at the first sight, it is apparent that Singapore operates with far less provisions than to the States India and foremost than Malaysia. Until now the government abstained from enacting special rules for commercial organizations or provided a whistleblower act. Concepts that are implemented as a standard in the other two examples.[189]

Nevertheless, this doesn't exclude that companies can be liable for corrupt conducts. In Singapore, commercial organizations can be held accountable for corruption under the POCA and other applicable laws, even though there are no specific offences solely targeting companies. The PCA broadly defines corruption as the offering of a bribe in exchange for a favour and applies to both public and private sectors. A company may be held liable if its employees or agents engage in corrupt activities, particularly if the organization fails to implement adequate measures to prevent such misconduct. A *perso*n and *party* comprise *any company or association or body of persons, corporate or unincorporate* as defined in Section 2 of the Singapore Interpretation Act. This concept is strengthened through the Singaporean case law by attributing crimes committed by their employees, agents, directors and so forth, accordingly *Tom Reck Security Services Pte Ltd v PP*, 2001,

[188] United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group Sixteenth session Vienna, 17.–21. February 2025, 2f.

[189] See above 21, 26, 49, 55

2 SLR 70. To determine corporate liability, a key test is whether the individual who committed the offence can be seen as the *embodiment of the company* of the company. That is, whether their actions fall within the scope of authority properly delegated to them by the organization. This approach, known as the identification doctrine, originates from English case law, notably *Tesco Supermarkets Ltd v Natrass*, 1971, 2 All ER 127.

Additionally, to support ethical business conduct, the Code of Corporate Governance 2018, overseen by the Monetary Authority of Singapore and the Singapore Exchange, provides general guidelines for internal systems that promote efficiency and help prevent corruption within companies. It covers key areas such as board responsibilities, executive remuneration, audit controls, and shareholder communication. While the Code offers a broad framework, companies are responsible for developing their own tailored governance systems.[190]

It seems like there is a crucial gap and lack of protection without a whistleblower act. Does this subsequently mean there is no protection at all or only insufficient protection? Even though there is not one specialized reporting system for whistleblowers Singapore operates through various systems: For example, the Inland Revenue Authority of Singapore addresses tax evasion reports, while agencies such as the Economic Development Board, Singapore Exchange, and the Accounting and Corporate Regulatory Authority handle sector-specific complaints. Certain laws provide limited legal safeguards for whistleblowers: suspected corruption can be reported to the CPIB with some degree of identity protection under the POCA.[191] Employees who flag workplace safety issues are protected under the Workplace Safety and Health Act. However, despite these mechanisms, Singapore still lacks a comprehensive, overarching whistleblower protection framework that addresses corporate crime, corruption, and fraud.[192]

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[190] ADB/OECD Anti-Corruption Initiative for Asia and the Pacific: Strategies for Business, Government, and Civil Society to Fight Corruption in Asia and the Pacific - Proceedings of the 6th Regional Anti-Corruption Conference for Asia and the Pacific, 173.

[191] https://www.iras.gov.sg/contact-us/report-tax-evasion, accessed 13.06.2025; https://www.acra.gov.-sg/how-to-guides/lodging-complaints/lodging-complaints, accessed 13.06.2025; https://www.edb.gov.-sg/en/other-pages/whistleblowing.html, accessed 13.06.2025; https://regco.sgx.com/regco/whistleblo-wing, accessed 13.06.2025; https://www.cpib.gov.sg/e-ser-vices/e-complaint-for-corrupt-conduct/, accessed 13.06.2025; Section 36 POCA.

[192] https://www.acga-asia.org/blog-detail.php?id=99, accessed 13.06.2025.

VI.4. Cases and Criticism

As demonstrated, Singapore has been executing its anti-corruption strategy with near perfection. However, corrupt individuals will continue to forge ways to circumvent the system, seeking out loopholes to exploit for personal gain. Recently, the former Minister for Transport und of Trade Relations of Singapore Subramaniam Iswaran (2018-2024) was convicted on the 3rd of October 2024 in the Supreme Court of four charges under Section 165 and was convicted of obstruction of justice under Section 204A (a) of the Penal Code for receiving gifts from two local businessmen, Ong Beng Seng and Lum Kok Seng, during his tenure as a Minister in the Singapore Government.[193] The theoretical procedure presented in the preceding chapters will be examined on the basis of this case: On the morning of Jul 12, 2023 CPIB arrested, interviewed and subsequently released on bail Iswaran after the agency had received the concurrence of Prime minister Lee. As a reaction of these investigations the Prime Minister stressed the need to keep Singapore's system clean, including keeping corrupting influences out of Singapore: *We have maintained it for over 60 years now, rigorously enforcing discipline and keeping the party clean*, he stated. *We have made Singapore one of the cleanest, least corrupt countries, not just in Asia but in the world*. On 14th of July 2023, prominent businessman Ong Beng Seng was also arrested by the CPIB. Ong is known for his instrumental role in securing the 2007 agreement between the Singapore Tourism Board and then-Formula 1 CEO, which brought the inaugural F1 night race to Singapore. Following the completion of investigations, the matter was referred to the Attorney General's Chambers for review. In March 2024, Lum Kok Seng was also drawn into the case as the director of mainboard listed construction company Lum Chhang Holdings, further expanding the scope of the proceedings.[194] The Attorney's General's Chamber filed the 35 charges at the High Court. The total value of the gifts Iswaran received amounted to S$403,297.92. During the investigation, the CPIB seized items from Iswaran including wine, whisky, golf clubs, and a Brompton T-Line bicycle,

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[193] Section 165. Penal Code 1871 – Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant
Whoever, being a public servant, 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 inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceedings or business transacted, or about to be transacted, by such public servant, 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, shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.
Section 204 A. Penal Code 1871 – Obstructing, preventing, perverting or defeating course of justice
Whoever does an act that has a tendency to obstruct, prevent, pervert or defeat the course of justice— (a) knowing that the act is likely to obstruct, prevent, pervert or defeat the course of justice […]

[194] https://www.channelnewsasia.com/singapore/iswaran-12-months-jail-timeline-cpib-court-ong-beng-seng-f1-lum-kok-seng-4054046, accessed 19.06.2025.

collectively valued at S$17,291.97. Iswaran consented to the forfeiture of these items to the State. He also disgorged S$380,305.95 to the State, reflecting the value of gifts he had used, such as Formula One tickets, tickets to overseas events, and alcohol.[195]
In concern of the application of Section 165 the Court reasons that *General deterrence is the predominant sentencing consideration* by stating in Paragraph 75 that

> *the gravamen of the offence is the damage to the trust in and integrity of public institutions stemming from the perception that the patronage of public servants may be cultivated by offers of valuable items from interested persons, such as those with an interest in the outcomes of legal proceedings or a business interest in a transaction with a public institution. Persons who hold public office are conferred status and power by virtue of such office for the purpose of serving the public interest, and the obtaining of gifts from persons who have a connection with a public servant's official duties is an abuse of such power.*

The court disagree with the Defence's contention that general deterrence has limited relevance in this case merely because offences under section 165 of the Penal Code are uncommon, as indicated by the absence of any reported decisions involving such offences to date. It encountered this argument with when an offence causes widespread public concern and offends public sensibilities, a deterrent sentence is both necessary and appropriate to address and alleviate such unease. Public concern is a key reason why general deterrence is relevant in sentencing. Such concern need not exist before charges are filed or publicized; in fact, it would be illogical to reduce the importance of deterrence simply because the offence was not previously in the public eye, as many offences remain unnoticed until criminal proceedings begin. The prosecution aims to bring the offender to justice, which starts with criminal proceedings and ends with a fitting sentence upon conviction. If sentencing is inadequate, justice is not served. Therefore, general deterrence is the primary factor in sentencing offences under section 165, and the Defence's claim that it has limited relevance is incorrect. Furthermore, *the higher the office held by the offender as a public servant, the higher his level of culpability.*[196]
As noted by both parties, there are no reported cases in Singapore concerning an offence under section 165 of the Penal Code that provide guidance on sentencing.
In light of the need for strong deterrence against offences that undermine trust in public institutions, a custodial sentence should, in the Courts view, generally be the starting

[195] Paragraph 4-7. 45, 47 Hight Court of the Republic of Singapore. S. Iswaran v. Public Prosecutor, SGHC 123, 8 May 2024.
[196] Paragraph 76f., 79, 90 ibid.

point where: Firstly, a public servant receives a valuable item from a giver; and secondly, the public servant is aware that the giver has an interest in a business transaction linked to the public servant's official duties. Additionally, the Court dared to take a look at foreign case law, while acknowledging that they only could give limited guidance. The case about the former Malaysian Chief Minister Mohd Khir is persuasive insofar as it suggests that the nature of the offender's public office may be a relevant factor in sentencing for offences under the Malaysian equivalent of section 165 of the Penal Code, which was sustained by its Federal Court.[197] After weighing the arguments included: (a) the similarity between the charges taken into consideration and the proceeded charges under section 165 of the Penal Code; (b) the overall duration of the accused's offending conduct; (c) the extent of harm caused to public interest and erosion of trust in public institutions; and (d) the senior position held by the accused, and including the Guidelines on Reduction in Sentences for Guilty Pleas, Iswaran was sentenced to 12 months of imprisonment.[198] The Attorney General's Chamber charged Ong with Section 165 read with Section 109 of the Penal Code 1871[199], for abetting Iswaran to purchase two flights and accommodation in Doha, Qatar, with a total value of S$20,848.03, from Ong himself, for no consideration; and under Section 204A (a) read with Section 109 of the Penal Code 1871, for abetting Iswaran to obstruct the course of justice. According to *Singapore Law Watch* the Billionaire will plea guilty on the 3rd of July.[200] Concerning Lum, the Prosecution has abstained from making charges but announced to take a decision against the businessman after the Iswaran case has been completed.[201]

In the next step this thesis will take a broader view on the collected data about the proportion of investigations done in the private and public sector by the CPIB.

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[197] Paragraph 80, 84, 87, 89 Hight Court of the Republic of Singapore. S. Iswaran v. Public Prosecutor, SGHC 123, 8 May 2024.

[198] Paragraph 155, 162, 164.

[199] Section 109. Penal Code 1871 - Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.
Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

[200] Attorney' General's Chambers, Ong Beng Seng Charged with Abetting Offences under section 165 and 204A of the Penal Code, For immediate Release 4 October 2024; https://www.singaporelaw-watch.sg/Headlines/ong-beng-seng-to-plead-guilty-on-july-3-in-case-involving-ex-transport-minis-ter, accessed 19.20.2024.

[201] Attorney' General's Chambers, Ong Beng Seng Charged with Abetting Offences under section 165 and 204A of the Penal Code, For immediate Release 4 October 2024; https://www.straitstimes.co-m/singapore/courts-crime/who-is-lum-kok-seng-the-man-named-in-iswaran-s-new-charges, accessed 19.06.2025.

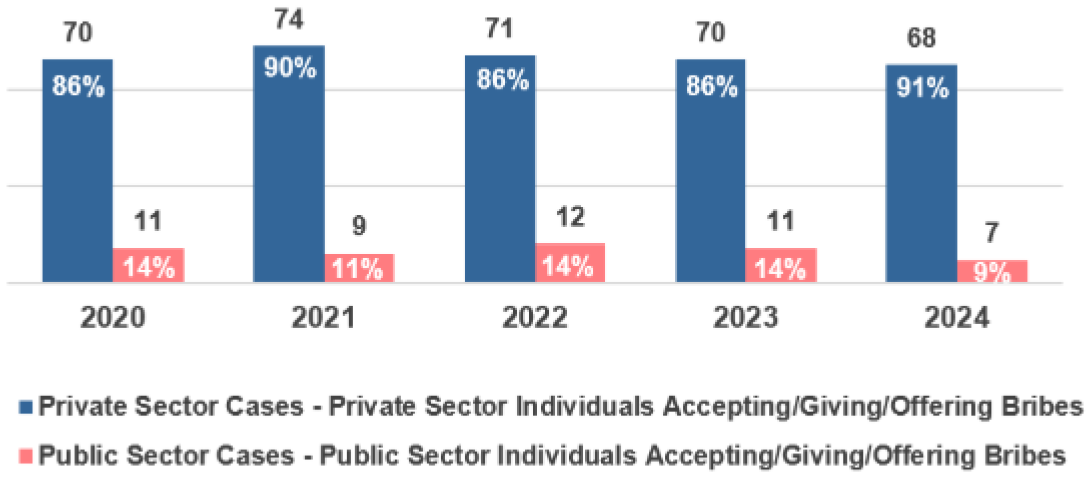

Figure 6: Statistics on new cases registered by public in private sector[202]

Looking at the year 2024, the majority of cases registered for investigation, 91% (68 cases), originated from the private sector. Public sector cases made up the remaining 9%, with only seven such cases recorded. This represents a decline compared to the previous four-year annual average of 11 public sector cases. Among the 68 private sector cases, 12 (18%) involved instances where public sector employees rejected bribes offered by individuals from the private sector, a figure that exceeds the previous four-year annual average of 9 such cases. In 2024, a total of 133 individuals were prosecuted in court for offences investigated by the CPIB. Of these, 96% (128 individuals) were from the private sector, while only 4% (5 individuals) were public sector employees. This resulted in a conviction rate of 97%.[203]
The CPIB also cooperates with Anti-corruption agencies abroad, like in the Citiraya case it was supported by the MACC in its investigations. In 2005, the CPIB investigated Ng Teck Lee, then CEO of Citiraya Industries Ltd, for embezzling over US$51 million by diverting electronic scrap meant for processing and exporting it illicitly. Ng and his wife, Thor Chwee Hwa, fled Singapore as the probe commenced and evaded capture for nearly 20 years despite immigration controls, arrest warrants, and an Interpol Red Notice. With support from the MACC, Ng and Thor were apprehended in Johor Bahru on 3 December 2024 and subsequently repatriated to Singapore the next day. Ng is now charged with criminal breach of trust under Section 408 of the Penal Code, while Thor faces charges under the CDSA. CPIB's investigations remain ongoing.[204]

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[202] https://www.cpib.gov.sg/firm-enforcement-strong-partnerships-key-to-securing-a-corruption-free-singapore/, accessed 17.06.2025
[203] Ibid.
[204] https://www.cpib.gov.sg/firm-enforcement-strong-partnerships-key-to-securing-a-corruption-free-singapore/, accessed 17.06.2025

Quah names five reasons for Singapore's outstanding success that are also strongly connected: Geographical size, meritocracy, equality, economical wealth and political consistency:[205]

1. The smallness of Singapore simplifies the work of the CPIB to efficiently and impartially enforce anti-corruption mechanisms. Supported by strong political control, sufficient personnel, efficient communication, administrative coordination and the absence of a vast hinterland or rural sector.
2. The introduction of meritocracy by the British colonial government in January 1951, through the establishment of the Public Service Commission, significantly enhanced the CPIB's effectiveness. The historical background will be examined in greater detail later, but it is briefly noted here for context. The Public Service Commission was designed to ensure that civil servant recruitment and promotion were based on merit rather than patronage, while also accelerating the localization of the Singapore Civil Service. When the PAP government came to power in June 1959, it upheld this meritocratic approach by retaining the Public Service Commission and using it to attract the nation's most talented individuals, awarding scholarships to top students in each cohort to encourage them to join the civil service.
3. Singapore's drastic transformation from a poor nation and a high unemployment rate to an economically advanced country with a low unemployment rate has been a key factor in the CPIB's success in combating corruption. This economic wealth has enabled the PAP government to demonstrate strong political will by allocating adequate resources and personnel to the CPIB, thereby ensuring the effective enforcement of anti-corruption laws.
4. Despite Singapore's ethnical diversity all people are equal in front of the law. Hence, individuals found guilty of corruption in Singapore are held accountable under the law, irrespective of their ethnic background, language, or religious affiliation.
5. The long and consistent reign of the PAP over five decades is a crucial contribution to this political stability has supported long-term policy planning, attracted foreign investment, and strengthened anti-corruption efforts through consistent commitment and effective implementation.

[205] Jon S.T. Quah, Different Paths to Curbing Corruption: Lesson from Denmark, Finland, Hong Kong, New Zealand and Singapore, Research in Public Policy Analysis and Management, Volume 23, 2013, 138ff.

Quah also mentions the necessity of an adequate budget to realise its competences efficiently and act quickly. The financial grant expresses the seriousness of the government to curb corruption in numbers.[206]

In summary it can be concluded that Singapore has an elaborated system that functions very well in an ideal environment of political will of the government, the lived principal of integrity and equality of all people that are carried by consistency and stability of a long period of time.

Especially the Independency of the CPIB is safeguarded by the constitution and the agency has clear competences to operate and cooperate with other agencies and institutions, furthermore financial resources are at its disposal. Nevertheless, its system might lack a dedicated Whistleblowers Act, which could facilitate people's participation against corruption by explicitly providing protection of whistleblowers and give clearance of procedural questions. Additionally, it could be considered to implement an Ombudsman ease the complaints of individuals and cooperates about maladministration by public bodies.

VI.5. Historical Background – From Colony of Singapore to Republic of Singapore

As discovered under the chapter *Historical Background – From British Malaya to Malaysia,* Singapore and Malaysia share a similar past. This part will add more details to Singapore's anti-corruption story. In this context it shall be highlighted that the CPIB itself did great research and reconstruction of its development of anti-corruption mechanism provided on its homepage under *Our Heritage*.[207] Additionally, compared to the Indian and Malaysian sources there is a lot of literature that give great insights and recapitulate the legal and social environment of Singapore at that time. With that being said, in the following the historical background will be examined: Singapore's demographic development, marked by significant population growth and enduring ethnic diversity, was largely driven by expanding commercial opportunities. This growth stemmed from global economic forces linked to colonial trade, particularly the activities of the British EIC. Positioned strategically along the trade route between China, India, and Europe, Singapore became a key hub in this network. Its advantageous location also made it a military asset. The Opium Wars, which Britain waged to strengthen its influence in China and reverse an unfavourable trade imbalance, further underscored

[206] Jon S.T. Quah, Different Paths to Curbing Corruption: Lesson from Denmark, Finland, Hong Kong, New Zealand and Singapore, Research in Public Policy Analysis and Management, Volume 23, 2013, 140.

[207] https://www.cpib.gov.sg/who-we-are/our-heritage/, accessed 20.03.2024.

the strategic and economic importance of the region. Commonly traded goods included food, medicines, tea, porcelain, pottery, and silk from China, Vietnam, and Thailand; opium from India; cotton textiles and firearms from Britain; and rice, spices, mother-of-pearl, rattan, and camphor from Indonesia. While the west coast of the Malay Peninsula saw limited import activity, the east coast featured ports where supplies and opium were delivered to Chinese tin miners and traders dealing in gold, tin, agricultural produce, and spices. Much of this regional trade also passed through Singapore.[208] Corruption was widespread in Singapore during the colonial era, largely due to the British colonial government's weak will and effort to address the issue. Despite installing the Penal Code 1871 this was evident in its reliance on the under-resourced and largely ineffective ACB of the CID within the Singapore Police Force. The ACB, staffed by only 17 officers, had to compete for resources with other CID divisions, as combating corruption was given lower priority than tackling crimes such as homicide and kidnapping. A significant misstep by the colonial government was the decision to task the ACB with addressing corruption through the enactment of the POCO in December 1937. Like in British Malay the POCO was applicable but the ordinance could not prove itself in practice. It was ineffective as the offenses were not seizable and the powers of arrest, search and investigations of police officers were constraint by prerequisite that warrants were required before arrests could even be made. Another reason was that the penalty of imprisonment for two years and/or a S§10,000 fine were not deterrent enough to prevent corrupt behaviour.[209] The British colonial government made the ACB of the Singapore Police responsible for corruption control. However, the personnel were understaffed as they were assigned to perform corruption and non-corruption-related tasks. Furthermore, as the ACB was integrated to the CID combating corruption had only a subordinate role next to the fight against severe crimes like gambling promoter, pawnshops, narcotic traffickers, murder or kidnapping. This meant that the ACB had to rival with other departments of the CID for limited personnel and other resources.[210] The most limiting factor was the corrupt activities among the police themselves. In the 1950s, the Commissioner of Police, Pennefather-Evans, sustained the widespread number of police corruption recorded by the Commissions of Inquiry, and stated that corruption was also practiced in government departments in Singapore. Shortly after

[208] Jean E. Abshire, The History of Singapore, 46f., 48.

[209] Jon S.T. Quah, Combating Corruption Singapore-Style: Lessons for other Asian Countries, Baltimore, MD: University of Maryland, 2007, No. 2,1-56, 14f.; Jon S.T. Quah, American Association for Chinese Studies, October 2016, Vol. 23, No. 2, 187-209, 190; Jon S.T. Quah: Chapter 6, Curbing Corruption in Singapore: The Importance of Political Will, Expertise, Enforcement, and Context, in ed. Jon S.T. Quah, Different Paths to Curbing Corruption: Lessons from Denmark, Finland, Hong Kong, New Zealand and Singapore, Emerald, Bingley, 2013, 142.

[210] Quah: Chapter 6, Curbing Corruption in Singapore: The Importance of Political Will, Expertise, Enforcement, and Context, 142.

Pennefather-Evans statement the ACB Chief confessed that the problem of corruption aggravated. During the British colonial area corruption prospered due to low salaries of local junior policemen plus bad working conditions. They were not supplied with free uniforms, food or accommodation, despite rising living costs. Thus, many saw themselves in the urge to accept bribes from the gambling house owners or took on a second job, although it was prohibited for the police to do so.[211] Corruption was not only a problem of the police but woven in the entire public bureaucracy. Particularly prone were the government departments which were granting licenses, in concern of food and price control action, such as protection rackets combined with the trafficking of gold bars and opium, and gambling.[212] During the period of the Japanese Occupation from February 1942 to August 1945 the rampant inflation and low salaries compelled civil servants in a pressuring situation. Many saw a way out by receiving bribes or trading on the black market.[213] This was even fostered by the Kumiai system introduced by the Japanese military administration. The actual idea was to organize suppliers of goods into distribution monopolies to prevent inflation and exploitation by storing all supplies and regulating their distribution. In practice, this system turned out to worsen the situation as the monopolization was vastly abused by businessmen and authorities engaged in black-market activities and advantaged the public.[214] Under the Japanese authority gambling, operation of brothels and the consumption of opium were legalized.[215] According to Lee's research the Japanese ruled by violence, fear and bribery seemed to ease and smooth the impact of oppression:

> *From generals to the ordinary soldier, gifts and money smoothed the way. Nothing was transparent and everything was about connections and payoffs. Nothing was impossible with the right connections [...]Everyone - the Japanese included - did black marketing. The Japanese Occupation culture brought out the basic survival instincts in people and produced a society where all manner of evils could be justified because it was all about survival […] It would take years to undo the corruption and address the social evils that Japanese military occupation bred in Singapore.*[216]

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[211] Ibid.143.

[212] Quah, Different Paths to Curbing Corruption, 143.

[213] Quah, Different Paths to Curbing Corruption, 144; Stanley Tik Loong, ed. Pitt Kuan Wah, Leong Weng Kee: Syonan Years 1942-1945: Living beneath the rising sun. Singapore: National Archives of Singapore, Singapore, 2009, 194; Jon S.T. Quah, Lee Kuan Yew's Role in Minimising Corruption in Singapore, Public Administration and Policy, August 2022, Vol. 25 (2), 163-175, 165.

[214] Quah, Different Paths to Curbing Corruption, 144; Loong, The Syonan Years, 158f.

[215] Wilson, H. E. Pacific Affairs, Pacific affairs, University of British Columbia, ,1978, Vol. 51, No. 4, 697-698, 205.

[216] Lee Geok Boi, The Syonan years: Singapore under Japanese Rule 1942-1945, National Archives of Singapore, Singapore, 2005, 205.

After the surrender of the Japanese, the British power took back the authority in Singapore. Corruption continued to be part of the daily life as people were still confronted with low wages, inflation and even the British Military Administration acted in corrupt manner. The British Military Administration was synonymously called the *Black Market Administration*, because of the arbitrary confiscation of private property, crude maladministration in the allocational of rice, financial inefficiency and corruption.[217]

For many years this system survived, but with the Opium Hijacked Scandal 1951 lessons were learned. A gang of robbers, involving three police officers, stole a cargo of 1,800 pounds of opium worth S§ 400,000. In response, 1952 the British government replaced the ACB with the CPIB. A type A ACA, an agency that is only dedicated to the fight against corruption and acts outside the jurisdiction of the police.[218]

In 1952, Singapore established the CPIB, placing it under the authority of the Attorney General. This new agency replaced the Anti-Corruption Branch of the CID within the Singapore Police. The primary motivation for creating the CPIB was the widespread corruption within the police force and the urgent need for an independent investigative body free from police influence.[219]

The CPIB had its headquarters on the second floor of the Supreme Court Building. The first "team" started out with a director, assisted by a Superintendent of Police, his Assistant, five undercover agents and five support staff. Then later increased with a senior inspector of police, four civilian investigators, two undercover agents, an interpreter and a peon.[220] However, the first eight years showed that the CPIB was granted insufficient legal powers, budget, manpower and de facto independence. In 1946 amendments should correct the shortcoming by increasing the penalty of prison term up to three years, hence making corrupt offenses seizable and subsequently giving police officers competence of arrest, search and investigation.[221] Despite these amendments, the POCO was rather an impediment for the CPIB officers in their effort to collect evidence than an operational tool. Also, the conflict of interest was not solved as intended. The CPIB officers were recruited from the police on temporary

[217] C. Mary Turnbull: A history of Singapore: 1819-1975, Oxford University Press, Kuala Lumpur, 1980, 225; Quah, Different Paths to Curbing Corruption, 145.

[218] Jon S.T. Quah, Learning from the Past Mistakes: The Colonial Legacy of Combating Corruption, in ed. Singapore Tommy Koh, Scott Wightman: 200 years of Singapore and United Kingdom, 2019, 237f.

[219] Luis de Sousa, Anti-Corruption Agencies: Between Empowerment and Irrelevance, Crime, Law and Social Change, 2010, Vol.53 (1), 5-22, 6; Jon S.T. Quah, Anti-Corruption Agencies in Four Asian Countries: A Comparative Analysis, International Public Management Review, 2007, Vol.8 (2), 73-96, 73.

[220] Quah, Learning from the Past Mistakes: The Colonial Legacy of Combating Corruption, 238.

[221] Quah, Chapter 6, Curbing Corruption in Singapore: The Importance of Political Will, Expertise, Enforcement, and Context, 142.

secondment. This upheld the prevailing negative social stigma of investigating their colleagues. Besides, due to the timely limited-service officers were often posted back even before an investigation could be finalized. Besides, the prevailing negative social stigma of investigating fellow police officers tied the hands of the CPIB. Lead by Lee Kuang Yew the PAP won the general election in May 1959 and officially took office on 3 June 1959, following the British government's decision to grant Singapore self-government. The new government faced the main problems of the colonial past by enacting the POCA 1960 to strengthen the CPIB, which is still in force today. The law provides adequate independency of the officers, sufficient legal powers, budget and personnel.[222] To cover also corruption cases in the private sector in 1984 the CAD was established under the Police Force Act first as the Commercial Crime Department. With these, the current anti-corruption mechanisms were brought to completion.[223]

C. Conclusion

The anti-corruption frameworks of India, Malaysia, and Singapore have been significantly shaped by their shared history under British colonial rule. This legacy has left both positive and negative marks on their legal and institutional structures. One enduring influence is the establishment of dedicated anti-corruption agencies, which mirror the administrative models introduced during colonial times.

A considerable portion of the institutional challenges faced today in these countries can be traced back to colonial systems, particularly those implemented by the British Crown and the East India Company. The Indian Penal Code of 1860, developed from the 1837 Draft Penal Code, laid the foundation for legal systems in British territories, including Malaysia and Singapore. These nations not only inherited the substantive legal frameworks but also modelled their court systems on English law.

When comparing the legal systems several similarities emerge, particularly between Malaysia and Singapore as both countries share a common legal foundation in the 1871 Penal Code. Despite these commonalities, variations in specific offences arise as legislators prioritize and emphasize different forms of conduct based on their respective legal, cultural, or policy objectives. Singapore, for instance, features a more streamlined legal framework with fewer anti-corruption provisions. Although it does not explicitly criminalize corruption within corporate entities, the judiciary has clarified that companies are included under terms such as "*person*" or *party* within existing legislation. Malaysia places particular emphasis on the offence of

[222] Jon S.T. Quah: Learning from the Past Mistakes: The Colonial Legacy of Combating Corruption, in ed. Singapore Tommy Koh, Scott Wightman: 200 years of Singapore and United Kingdom, 2019, 238ff.

[223] Section 64 Police Force Act, 2004.

bribing foreign public officials and explicitly mandates the reporting of bribery-related transactions. Under the Indian law quite particular is the Benami Transactions Prohibition Act, 1988 and the offence of undue influence in elections, specifically prohibits religious leaders from exploiting their influence over followers or threatening them with divine consequences for voting against certain candidates.

The severity of penalties for corruption also varies across the three nations. India and Singapore impose prison sentences of up to seven years, accompanied by a fine. Malaysia, in contrast, enforces some of the harshest penalties, up to 20 years of imprisonment and 1million ringgit for certain offences. This divergence suggests that the effectiveness of anti-corruption efforts does not necessarily depend on the harshness or complexity of legal provisions. Rather, the success of anti-corruption initiatives hinges more on implementation, institutional integrity, and societal engagement.

Geographical and administrative differences further influence anti-corruption outcomes. India's vast territory and federal system have led to a complex network of state-level agencies and overlapping jurisdictions. This complexity often results in a loss of oversight and ineffective coordination, especially in rural areas. Moreover, ambiguity in jurisdictional boundaries hampers the smooth application of anti-corruption measures. This raises the broader question of whether a more centralized and streamlined system would improve enforcement. One major issue in India is balancing the autonomy of investigative agencies like the CBI with the need for effective checks and balances to ensure impartial enforcement.

Malaysia, while smaller and more centralized, also faces challenges that merit attention. Key areas for reform include enhancing coordination between national and departmental anti-corruption policies, systematizing regular assessments of anti-corruption laws, and promoting legal revisions where necessary. Establishing constitutional tenure for the Chief Commissioner of the MACC remains a pressing goal. Efforts should also focus on regulating political party financing and requiring political candidates to disclose assets and comply with tax obligations. Furthermore, Public officials must be held to standards of transparency, particularly in declaring conflicts of interest. The 1MDB scandal underscored how the erosion of fundamental rights can enable entrenched corruption. There is growing optimism that the NACS led by Prime Minister Anwar Ibrahim, will address these structural deficiencies. If effectively implemented, the NACS could result in meaningful institutional reforms, enhanced enforcement mechanisms, and improved public trust in government.

Singapore is often praised for its efficiency and low levels of corruption. Its anti-corruption body, the CPIB, is constitutionally empowered and enjoys operational independence. Article 22G of the Singapore Constitution allows the CPIB to seek the concurrence of the elected President in cases where government interference threatens an investigation. The agency also benefits from clear legal authority and ample financial resources. However, Singapore’s system is not without criticism. It lacks a dedicated Whistleblower Protection Act, which could encourage civic participation by offering legal safeguards and clarifying reporting procedures. Establishing an Ombudsman could also improve citizen engagement by providing a formal avenue for complaints regarding public sector misconduct.

Another interesting finding reveals that in general, public perception places law enforcement agencies among the most corrupt institutions. This is largely due to their broad discretionary powers, which create opportunities for abuse. Officers may exploit their authority to extort citizens through threats of arrest or unwarranted searches, often with little fear of repercussions. However, contrary to popular belief, statistics reveal that a significant proportion of corruption cases actually occur within the private sector.

Across all three countries, it becomes clear that legal frameworks alone are insufficient to eliminate corruption. Several broader factors contribute to a strong anti-corruption environment. These include geographical size (which affects administrative complexity), economic development, equality, a merit-based public service, and most importantly consistent political will. Political leadership must be demonstrated not only through legislation, but also through financial investment in enforcement, education, and staffing. Anti-corruption agencies need to be sufficiently staffed and resourced in proportion to the population they serve. Training and professional development for enforcement personnel are critical to ensuring integrity and effectiveness.

In conclusion, while India, Malaysia, and Singapore share common historical and legal roots, their anti-corruption systems have evolved in distinct ways. Effective corruption prevention requires more than just legal instruments; it demands strong institutions, public engagement, and unwavering political commitment.

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