**ICPC CONTENT**

**INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT**

**EXPLANATORY MEMORANDUM**

The act seeks to prohibit and prescribe punishment for corrupt practices and other related offences.

It establishes an Independent Corrupt Practices and Other Related Offences Commission vesting it with the responsibility for investigation and prosecution of offenders thereof.

Provision has also been made for the protection of anybody who gives information to the commission in respect of an offence committed or likely to be committed by any other person.

AN ACT TO PROHIBIT AND PRESCRIBE PUNISHMENT FOR CORRUPT PRACTICES AND OTHER RELATED OFFENCES

**PRELIMINARY**

Commencement . [13th June, 2000]

1. (a) Any purchase, sale, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation trust, settle deposit withdrawal, transfer between accounts, or extension of credit;

1. Any agency or grant of power of attorney, and
2. Any act which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole of or in part any property being conferred on any person:

“False pretence” means any representation made by words, writing, or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be or does not believe to be true;

“Financial Institution” means anybody or institution which carries on any banking business or

financial transactions whether lawfully or unlawfully as defined in the Bank and other financial institutions Decree; “Gratification” means

1. Money, donation, gift, loan, fee, reward, valuable security, property of any description whether movable or immovable or any other similar advantage, given or promised to any person with intent to influence such a person in the performance or non- performance of

his duties;

1. Any office, dignity, employment, contract of empowerment or service and any agreement to give employment or render services in any capacity;
2. Any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
3. Any valuable consideration of any kind, any discount, commission, rebate, bonus deduction or percentage;
4. Any forbearance to demand any money or money’s worth or valuable thing;
5. Any other service or favour of any description, such as protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any rights or any official power or duty; and
6. Any offer, undertaking or promises, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs (a) to (f);

“Judge of Superior Court of Record” means a judge holding any of the offices defined by section 6 (5) of the constitution;

“Member” means any of the member of the Commission appointed in accordance with section 3 of this Act;

“An official” means any director, functionary, offer, agent, servant, privy or employee serving in any capacity whatsoever in the public service or other public body, or in any private.

**Corruption laws in India**

Public servants in India can be penalized for corruption under the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988. The Benami Transactions (Prohibition) Act, 1988 prohibits benami transactions. The Prevention of Money Laundering Act, 2002 penalises public servants for the offence of money laundering. India is also a signatory (not ratified) to the UN Convention against Corruption since 2005. The Convention covers a wide range of acts of corruption and also proposes certain preventive policies.

Key Features of the Acts related to corruption Indian Penal Code, 1860:

* The IPC defines “public servant” as a government employee, officers in the military, navy or air force; police, judges, officers of Court of Justice, and any local authority established by a central or state Act.
* Section 169 pertains to a public servant unlawfully buying or bidding for property. The public servant shall be punished with imprisonment of upto two years or with fine or both. If the property is purchased, it shall be confiscated.
* Section 409 pertains to criminal breach of trust by a public servant. The public servant shall be punished with life imprisonment or with imprisonment of upto 10 years and a fine.

The Prevention of Corruption Act, 1988

* In addition to the categories included in the IPC, the definition of “public servant” includes office bearers of cooperative societies receiving financial aid from the government, employees of universities, Public Service Commission and banks.
* If a public servant takes gratification other than his legal remuneration in respect of an official act or to influence public servants is liable to minimum punishment of six months and maximum punishment of five years and fine. The Act also penalizes a public servant for taking gratification to influence the public by illegal means and for exercising his personal influence with a public servant.
* If a public servant accepts a valuable thing without paying for it or paying inadequately from a person with whom he is involved in a business transaction in his official capacity, he shall be penalized with minimum punishment of six months and maximum punishment of five years and fine.
* It is necessary to obtain prior sanction from the central or state government in order to prosecute a public servant.

The Benami Transactions (Prohibition) Act, 1988

* The Act prohibits any benami transaction (purchase of property in false name of another person who does not pay for the property) except when a person purchases property in his

wife’s or unmarried daughter’s name.

* Any person who enters into a benami transaction shall be punishable with imprisonment of upto three years and/or a fine.
* All properties that are held to be benami can be acquired by a prescribed authority and no money shall be paid for such acquisition.

The Prevention of Money Laundering Act, 2002

* The Act states that an offence of money laundering has been committed if a person is a party to any process connected with the proceeds of crime and projects such proceeds as untainted property. “Proceeds of crime” means any property obtained by a person as a result of criminal activity related to certain offences listed in the schedule to the Act. A person can be charged with the offence of money laundering only if he has been charged with committing a scheduled offence.
* The penalty for committing the offence of money laundering is rigorous imprisonment for three to seven years and a fine of upto Rs 5 lakh. If a person is convicted of an offence under the Narcotics Drugs and Psychotropic Substances Act, 1985 the term of imprisonment can extend upto 10 years.
* The Adjudicating Authority, appointed by the central government, shall decide whether any of the property attached or seized is involved in money laundering. An Appellate Tribunal shall hear appeals against the orders of the Adjudicating Authority and any other authority under the Act.
* Every banking company, financial institution and intermediary shall maintain a record of all transactions of a specified nature and value, and verify and maintain records of all its customers, and furnish such information to the specified authorities.

Process followed to investigate and prosecute corrupt public servants

* The three main authorities involved in inquiring, investigating and prosecuting corruption cases are the Central Vigilance Commission (CVC), the Central Bureau of Investigation

(CBI) and the state Anti-Corruption Bureau (ACB). Cases related to money laundering

by public servants are investigated and prosecuted by the Directorate of Enforcement and the Financial Intelligence Unit, which are under the Ministry of Finance.

* The CBI and state ACBs investigate cases related to corruption under the Prevention of Corruption Act, 1988 and the Indian Penal Code, 1860. The CBI’s jurisdiction is the central government and Union Territories while the state ACBs investigates cases within the states. States can refer cases to the CBI.
* The CVC is a statutory body that supervises corruption cases in government departments. The CBI is under its supervision. The CVC can refer cases either to the Central

Vigilance Officer (CVO) in each department or to the CBI. The CVC or the CVO recommends the action to be taken against a public servant but the decision to take any disciplinary action against a civil servant rests on the department authority.

* Prosecution can be initiated by an investigating agency only after it has the prior sanction of the central or state government. Government appointed prosecutors undertake the prosecution proceeding in the courts.
* All cases under the Prevention of Corruption Act, 1988 are tried by Special Judges who are appointed by the central or state government.

**The Independent Corrupt Practices Commission (ICPC) has several objectives**:

Receive complaints

The ICPC receives complaints from the public about alleged corrupt practices. Investigate

The ICPC investigates complaints and reviews operational systems in ministries, agencies, and parastatals. Prosecute

The ICPC prosecutes offenders in appropriate cases.

**Review systems and procedures:-**

The ICPC examines, reviews, and enforces the correction of corruption-prone systems and procedures of public bodies.

Educate the public

The ICPC educates the public against corruption and enlists public support for the fight against corruption.

The ICPC is structured into 10 departments and 6 units, including operational departments such as Operations, Legal Services, and Public Enlightenment & Education.

It is responsible for the investigation of corruption and other related crimes. The Department's principal functions are: To receive and investigate complaints of alleged or suspected corrupt practices. Intelligence gathering and data analysis.

**Operational Structure of ICPC**

ICPC is structured into 10 departments and 6 units. The departments, which are directorates include the operational departments such as Operations; Legal Services; Proceeds of Crime, Recovery & Management; Special Services; Systems Study & Review and Public Enlightenment & Education. The general services departments are Administration & Human Resources; Finance & Accounts; Planning Research & Statistics; and the Anti-Corruption Academy of Nigeria (ACAN), the training arm of ICPC.

The 6 units of the Commission include Internal Audit; Procurement; Reform (SERVICOM, ACTU & FoI) as well as Protocol, Internal Security & Support; and the Clinic.

<https://icpc.gov.ng/wp-content/uploads/2023/10/Screenshot-2023-10-24-at-12.30.46-PM-1536x1187.png>

**Indian Penal Code**

**The Indian Penal Code was the official criminal code in the Republic of India, inherited from British India after since independence till it was replaced by Bharatiya Nyaya Sanhita in December 2023. It was a comprehensive code intended to cover all substantive aspects of criminal law.**

**The first draft of the Indian Penal Code was prepared by the First Law Commission, chaired by Thomas Babington Macaulay.**

**Citation: Act No. 45 of 1860**

**Commenced: 1 January 1862**

**Committee report: First Law Commission Enacted: 6 October 1860**

**Territorial extent: India**

**The IPC is a substantive law that defines crimes and provides punishments for**

**most criminal and actionable wrongs. It covers all people of Indian origin, except for the military and other armed forces.**

**The IPC is a document that lists all the cases and punishments that a person committing a crime is liable to be charged with. For example, the IPC includes sections on:**

**Offences relating to documents and property marks**

**. Voyerism**

**. Stalking**

**. Assault or criminal force with intent to dishonour a person**

**. Theft**

**. Extortion**

**. Robbery and dacoity**

**. Criminal misappropriation of property**

**. Criminal breach of trust**

**. Receiving stolen property**

**. Cheating**

**. Fraudulent deeds and dispositions of property**

**The Indian Penal Code (IPC) has 511 sections divided into 23 chapters. The IPC is India's primary criminal code, defining crimes and punishments for almost all criminal and actionable wrongs.**

**Some sections of the IPC include:**

**Section 1: Introduction, title, and extent of operation of the code**

**Section 36: General explanations, effect caused partly by act and partly by omission**

**Section 499: Defines defamation as any imputation made or published which affects the reputation of individuals through words either spoken or written, signs or visible representations**

**Section 511: Deals with attempts to commit offences which is punishable with any imprisonment under the Indian Penal Code**

**The five punishments given to criminals in India are: Death penalty, Life imprisonment, Imprisonment, Forfeiture of property, Solitary confinement.**

**Few sections which deals with the human body and are related to minor and major crimes are:-**

**CHAPTER XVI OF (IPC) OFFENCES AFFECTING THE HUMAN BODY**

**SECTION 299 TO 377**

1. **Culpable homicide.**
2. **Murder.**

**When culpable homicide is not murder.**

1. **Culpable homicide by causing death of person other than person whose death was intended.**
2. **Punishment for murder.**
3. **Punishment for murder by life-convict.**
4. **Punishment for culpable homicide not amounting to murder. 304A. Causing death by negligence.**

**304B. Dowry death.**

1. **Abetment of suicide of child or insane person.**
2. **Abetment of suicide.**
3. **Attempt to murder. Attempts by life-convicts.**
4. **Attempt to commit culpable homicide.**
5. **Attempt to commit suicide.**
6. **Thug.**
7. **Punishment.**

**Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants,**

**and of the concealment of Births**

1. **Causing miscarriage.**
2. **Causing miscarriage without woman's consent.**
3. **Death caused by act done with intent to cause miscarriage. if act done without woman's consent.**
4. **Act done with intent to prevent child being born alive or to cause it to die after birth.**
5. **Causing death of quick unborn child by act amounting to culpable homicide.**
6. **Exposure and abandonment of child under twelve years, by parent or person having care of it.**
7. **Concealment of birth by secret disposal of dead body. Of Hurt**
8. **Hurt.**
9. **Grievous hurt.**
10. **Voluntarily causing hurt.**
11. **Voluntarily causing grievous hurt.**
12. **Punishment for voluntarily causing hurt.**
13. **Voluntarily causing hurt by dangerous weapons or means.**
14. **Punishment for voluntarily causing grievous hurt.**
15. **Voluntarily causing grievous hurt by dangerous weapons or means. 326A. Voluntarily causing grievous hurt by use of acid, etc.**

**326B. Voluntarily throwing or attempting to throw acid.**

1. **Voluntarily causing hurt to extort property, or to constrain to an illegal act.**
2. **Causing hurt by means of poison, etc., with intent to commit an offence.**
3. **Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.**
4. **Voluntarily causing hurt to extort confession, or to compel restoration of property.**
5. **Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.**
6. **Voluntarily causing hurt to deter public servant from his duty.**
7. **Voluntarily causing grievous hurt to deter public servant from his duty.**
8. **Voluntarily causing hurt on provocation.**
9. **Voluntarily causing grievous hurt on provocation.**
10. **Act endangering life or personal safety of others.**
11. **Causing hurt by act endangering life or personal safety of others.**
12. **Causing grievous hurt by act endangering life or personal safety of others. Of wrongful restraint and wrongful confinement**
13. **Wrongful restraint.**
14. **Wrongful confinement.**
15. **Punishment for wrongful restraint.**
16. **Punishment for wrongful confinement.**
17. **Wrongful confinement for three or more days.**
18. **Wrongful confinement for ten or more days.**
19. **Wrongful confinement of person for whose liberation writ has been issued.**
20. **Wrongful confinement in secret.**
21. **Wrongful confinement to extort property, or constrain to illegal act.**
22. **Wrongful confinement to extort confession, or compel restoration of property.**

**Of Criminal Force and Assault**

1. **Force.**
2. **Criminal force.**
3. **Assault.**
4. **Punishment for assault or criminal force otherwise than on grave provocation.**
5. **Assault or criminal force to deter public servant from discharge of his duty.**
6. **Assault of criminal force to woman with intent to outrage her modesty. 354A. Sexual harassment and punishment for sexual harassment.**

**354B. Assault or use of criminal force to woman with intent to disrobe. 354C. Voyeurism.**

**354D. Stalking.**

1. **Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.**
2. **Assault or criminal force in attempt to commit theft of property carried by a person.**
3. **Assault or criminal force in attempt wrongfully to confine a person.**
4. **Assault or criminal force on grave provocation. Of Kidnapping, Abduction, Slavery and Forced Labour**
5. **Kidnapping.**
6. **Kidnapping from India.**
7. **Kidnapping from lawful guardianship.**
8. **Abduction.**
9. **Punishment for kidnapping.**

**363A. Kidnapping or maiming a minor for purposes of begging.**

1. **Kidnapping or abducting in order to murder.**

**364A. Kidnapping for ransom, etc.**

1. **Kidnapping or abducting with intent secretly and wrongfully to confine person.**
2. **Kidnapping, abducting or inducing woman to compel her marriage, etc. 366A. Procuration of minor girl.**

**366B. Importation of girl from foreign country.**

1. **Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.**
2. **Wrongfully concealing or keeping in confinement, kidnapped or abducted person.**
3. **Kidnapping or abducting child under ten years with intent to steal from its person.**
4. **Trafficking of person.**

**370A. Exploitation of a trafficked person.**

1. **Habitual dealing in slaves.**
2. **Selling minor for purposes of prostitution, etc.**
3. **Buying minor for purposes of prostitution, etc.**
4. **Unlawful compulsory labour. Sexual offences**
5. **Rape.**
6. **Punishment for rape.**

**376A. Punishment for causing death or resulting in persistent vegetative state of victim.**

**376B. Sexual intercourse by husband upon his wife during separation. 376C. Sexual intercourse by a person in authority.**

**376D. Gang rape.**

**376DA.Punishment for gang rape on woman under sixteen years of age. 376DB.Punishment for gang rape on woman under twelve years of age. 376E. Punishment for repeat offenders.**

**Of Unnatural offences**

1. **Unnatural offences.**

**MAJOR DEVELOPEMENT**

**In 2023, the Bharatiya Nyaya (Second) Sanhita 2023 was passed by Parliament to replace the Indian Penal Code 1860 (IPC). The new law omits adultery as an offense, but retains Section 498 of the IPC, which penalizes a man for enticing another man's wife to have intercourse with someone. The new law also includes provisions for life imprisonment or the death penalty for gang-rape of a girl under 18.**

**The Bharatiya Nyaya Sanhita 2023 also includes:**

**177 changed sections**

**9 new sections**

**14 repealed sections**

**358 sections, down from 511 in the IPC**

**Chapter IV, which combines incomplete category offenses like attempt, abetment, and conspiracy .**