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Corruption and Prior Sanction — Case of a Divided House

Context

- The split verdict delivered by Justices B.V. Nagarathna and K.V. Viswanathan in Centre for Public Interest Litigation (CPIL) v. Union of India marks a significant moment in India's **constitutional** and **anti-corruption**
- The dispute concerns Section 17A of the **Prevention of Corruption Act**, 1988, which bars inquiry or investigation into allegations against public servants for decisions taken in the discharge of official duties without prior sanction of the appropriate government.
- The controversy revives longstanding questions regarding the balance between shielding honest officials and preserving **investigative independence**.

Historical and Legal Context

- The conflict surrounding Section 17A follows earlier judicial interventions against executive control over corruption investigations.
- The **Single Directive**, which required government approval before investigating senior bureaucrats, was struck down in Vineet Narain v. Union of India (1998).
- The judgment emphasised that the **rule of law, equality before law**, and protection against the **politician-bureaucrat nexus** demand insulation of investigative agencies from executive interference.
- Parliament later reintroduced a similar threshold through Section 6A of the **Delhi Special Police Establishment Act**, enacted via the **Central Vigilance Commission Act**, 2003.
- In Dr. Subramanian Swamy v. Director, CBI (2014), the Supreme Court invalidated Section 6A, declaring differential investigative thresholds for senior officials **discriminatory** and violative of **Article 14**.
- The Court reiterated that however high you may be, the law is above you, underscoring the principle of **accountability** irrespective of official rank.
- Section 17A of the PC Act, inserted in 2018, extended the protective threshold from senior bureaucrats to all public servants.
- Critics argue that this framework suppresses corruption detection and conflicts with Lalita Kumari v. State of Uttar Pradesh (2014), which mandates **FIR registration** upon disclosure of a **cognisable offence**.
- The government defended Section 17A as a safeguard against frivolous complaints and a necessary measure for administrative confidence and **policy stability**.

The Competing Judicial Views

- **Justice Nagarathna's Position: Section 17A is Unconstitutional**

- Justice Nagarathna held that Section 17A imposes an impermissible barrier to initial inquiry and thus **protects the corrupt**.
- The vice lies not in who grants approval but in the requirement of prior sanction itself.
- For her, Section 17A revives protections previously rejected and undermines **transparency, probity**, and the demands of the **rule-based governance**.
- She identified structural conflicts of interest: the government both oversees the accused officials and grants approval for investigations, enabling a shared departmental interest to deny sanction.
- The arrangement promotes an **institutional nexus** that discourages scrutiny and allows wrongdoing to remain **unchecked**.

- **Justice Viswanathan's Position: Section 17A is Constitutional with Safeguards**

- Justice Viswanathan agreed that vesting approval power in the government would be unconstitutional but viewed prior sanction as legitimate to prevent **policy paralysis** and shield honest decision-makers from vexatious complaints.
- The constitutional defect lies in **placement**, not **existence**. He proposed that the **Lokpal**, conceived as an independent **anti-corruption** authority, could serve as an external filter.
- The Lokpal Act and PC Act operate in the same **normative field**, as both incorporate mechanisms for **screening, accountability**, and **protection** against misuse, allowing an institutional equilibrium that balances governance and scrutiny.

The Core Constitutional Disagreement, Broader Implications and the Way Forward

- **The Core Constitutional Disagreement**

- The core disagreement centres on whether prior investigative filters are impermissible barriers or permissible institutional checks if independent.
- Justice Nagarathna rejects any pre-investigation threshold as inconsistent with earlier jurisprudence, while Justice Viswanathan endorses a hybrid model where an independent authority mitigates abuse while preventing executive veto.

- **Broader Implications and the Way Forward**

- The dispute engages three constitutional concerns: **separation of powers, anti-corruption capability**, and **administrative efficiency**.
- The resolution will shape India's **state accountability**
- Excessive investigative insulation promotes impunity, whereas unmediated investigative power risks bureaucratic hesitation and diminished state capacity in economic and administrative fields.

Conclusion

- The split verdict in *CPI v. Union of India* illustrates a constitutional struggle to balance **governance**, **integrity**, and **oversight** within the modern administrative state.
- A larger Bench of the Supreme Court will now determine whether investigative autonomy, filtered scrutiny, or an institutional hybrid best reflects constitutional commitments to democracy and the **rule of law**.

Corruption and Prior Sanction — Case of a Divided House FAQs

Q1. What legal issue was central to *CPI v. Union of India*?

Ans. The central issue was the constitutional validity of Section 17A of the Prevention of Corruption Act, which required prior government approval for corruption investigations against public servants.

Q2. Why did Justice Nagarathna consider Section 17A unconstitutional?

Ans. Justice Nagarathna considered Section 17A unconstitutional because it created a pre-investigation barrier that protected corrupt officials and impeded investigative independence.

Q3. What alternative approach did Justice Viswanathan propose?

Ans. Justice Viswanathan proposed that prior approval could be constitutional if the sanctioning power was placed with an independent authority such as the Lokpal instead of the government.

Q4. Which earlier judgments influenced the debate around Section 17A?

Ans. The debate was influenced by earlier judgments such as *Vineet Narain* (1998) and *Subramanian Swamy* (2014), which rejected executive control over corruption investigations.

Q5. What broader constitutional concern underlies the disagreement between the judges?

Ans. The broader constitutional concern was how to balance the protection of honest public decision-making with the need to ensure robust and unbiased anti-corruption enforcement.

Source: **The Hindu**

A Display Plan for the Piprawaha Relics

Context

- The recent partial reunification of **ancient Buddhist gems** associated with the historical Buddha marks a moment of considerable significance for India's cultural heritage sector.
- These artifacts, dispersed for more than a century, were reacquired from abroad by an Indian conglomerate and subsequently transferred to the government, prompting a celebratory public exhibition inaugurated in Delhi by Prime Minister Narendra Modi.
- Beyond the event itself lies a deeper question about the **long-term stewardship**, presentation, and interpretation of these relics.
- If handled with care and foresight, their return has the potential to shift public attitudes toward India's museums, enhance **heritage governance**, and position India as a central destination for global Buddhist pilgrimage.

Buddhist Relics and Early Indian Heritage Practices

- Understanding the historical place of relics in Buddhism clarifies why such objects, often visually modest and materially unremarkable, commanded extraordinary devotion.
- Following the Buddha's passing, his corporeal remains, including ash and bone fragments, were **periodically divided** among followers and ultimately placed in vessels with gems and offerings.
- These relics were interred in stupas, large hemispherical mounds that functioned simultaneously as reliquaries, teaching devices, and ritual centres.
- Their power derived not from aesthetic value but from their perceived ability to sanctify spaces, cultivate devotion, and **transform the spiritual lives** of those who approached them.

Sanchi as a Model of Spatial and Ritual Engagement

- The Great Stupa at Sanchi illustrates the sophisticated strategies through which relics were contextualized in early India.
- Initially constructed under Ashoka and later expanded, the stupa complex incorporated gateways at the cardinal directions leading to a circumambulatory path.
- Carved reliefs on the gateways depicted episodes from the Buddha's life, scenes of worship, auspicious symbols, and figures in foreign dress, suggesting both historical continuity and cross-cultural interaction along emerging trade routes.
- Such visual programs prepared visitors emotionally and intellectually to encounter the relics, while railings and monastic presence facilitated a semi-secluded sacred environment conducive to reflection and community-building.
- The success of these strategies is reflected in **Sanchi's growth as a major religious centre** supported by diverse social strata and by the expansion of Buddhist sites across the subcontinent.

Adaptation Across Regions and Symbolic Presence

- As Buddhism spread, relic-centred practices evolved.
- In peninsular India, for example, rock-cut cave complexes often contained monolithic stupas that lacked corporeal relics yet conveyed the Buddha's presence symbolically through sculpture and architectural design.
- This adaptation demonstrates that Buddhist sacred environments could operate even in the absence of physical remains, underscoring the importance of spatial, visual, and ritual framing in mediating sacred experience.
- Such precedents offer instructive models for contemporary institutions seeking to present relics in ways that respect both historical traditions and modern sensibilities.

Contemporary Challenges of Display and Stewardship

- With little of the original Piprawaha stupa surviving, the recently reunited relics are expected to move into a public institution after the Delhi exhibition.

- Merely placing them behind glass vitrines would replicate a colonial museological model that encourages passive viewing and strips objects of ritual potency.
- To avoid this, museums must articulate and implement long-term strategies that honour the multifaceted roles relics have historically played.
- Thoughtfully designed spaces should allow visitors to engage with the relics through chanting, contemplation, meditation, or aesthetic appreciation, acknowledging that **relics can still function as living objects** within the cultural sphere.

Institutional Responsibilities and Community Engagement

- The return of the relics should also **catalyse systemic changes** in heritage education and governance.
- Museums could establish grants and fellowships encouraging collaboration among art historians, anthropologists, scientists, and filmmakers to trace how artifacts shape social worlds.
- Educational initiatives should introduce postgraduate students and heritage practitioners to stewardship, restitution ethics, and interpretive methodologies.
- Simultaneously, institutions must engage communities living near heritage sites to combat illicit antiquities trafficking by training them in documentation practices, legal awareness, and heritage advocacy.
- Such programs align **India's heritage stewardship** with international norms while empowering local custodians.

Conclusion

- The **reunification of the Piprawaha** relics represents more than an act of repatriation; it provides an opportunity to reimagine heritage stewardship in India.
- By adopting historically informed display strategies, enhancing educational infrastructures, and involving communities in heritage protection, India can ensure that these relics are not merely preserved but meaningfully revived.
- If such efforts succeed, the relics will not only have returned to the land of the Buddha but will once again be able to exert their transformative aura, inviting both local and international publics to engage with **India's profound Buddhist past**.

A Display Plan for the Piprawaha Relics FAQs

Q1. Why is the reunification of the Buddhist gems considered significant?

Ans. The reunification is significant because it symbolizes a major act of cultural restitution and has the potential to transform India's heritage stewardship and museum practices.

Q2. What role did stupas play in early Buddhist traditions?

Ans. Stupas served as reliquaries for the Buddha's corporeal remains and functioned as ritual, pedagogical, and devotional spaces for followers.

Q3. How did the Great Stupa at Sanchi prepare visitors to engage with relics?

Ans. The Great Stupa at Sanchi prepared visitors through carved gateways, visual narratives, and spatial pathways that guided pilgrims toward a meaningful encounter with the relics.

Q4. What contemporary problem arises if relics are merely placed in glass vitrines?

Ans. Placing relics in glass vitrines risks reducing them to inert display objects and reinforces a colonial model of passive viewing that strips the relics of their ritual and symbolic vitality.

Q5. What broader reforms could the return of the relics inspire in India's heritage sector?

Ans. The return could inspire reforms in museum education, community engagement, ethical stewardship, and the development of new interpretive and collaborative programs.

Source: **The Hindu**

Source: <https://vajiramandravi.com/current-affairs/daily-editorial-analysis-19-january-2026/>

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