

Comparative Analysis of Bribery Laws and Implications

Dr. Jayshree Gautam Kanchanpurkar

Assistant Professor, V.E.S. College of Law.

Abstract

In light of the Global Peace Index's recognition of Denmark, New Zealand, and Finland as nations with excellent governance standards and low levels of corruption, this study compares the bribery laws and their effects in these three nations. Denmark's legislative system strictly prohibits bribery in the public and private sectors, as outlined in particular provisions of its Criminal Code. In line with international anti-corruption conventions including the OECD Convention and EU Criminal Law Convention, provisions prohibit both active and passive bribery. Similarly, New Zealand's approach to bribery is broad, extending its authority extraterritorially, and penalising offenders severely. It is largely handled by the Crimes Act 1961 and Secret Commissions Act 1910.

Finland, on the other hand, has a thorough legislative approach that is scattered throughout its Criminal Code and covers fraud, bribery, and other corrupt practices. This strategy is in line with Finland's resolve to fight corruption by enacting specific laws and enforcing strict penalties—which include fines and jail time in more serious cases. The methodology employed is qualitative in nature and entails a thorough examination of statutory texts, case law, and international agreements. Secondary sources, such as government reports and scholarly literature, are also consulted. A detailed investigation of how each nation defines, prosecutes, and deters bribery is made possible by comparative legal analysis, which takes into account contextual elements like historical evolution, the sociopolitical climate, and international commitments.

This study advances our knowledge of how well legal frameworks function to prevent corruption, advance transparency, and build public confidence in the public and private sectors of the economy. The comparative analysis provides valuable insights that guide efforts to strengthen anti-corruption measures worldwide. These tactics highlight the significance of strong legislative frameworks that are customised to national circumstances in order to maintain integrity and accountability in government.

Keywords- Bribery laws, Corruption, Anti-corruption conventions, Criminal Code, Crimes Act

INTRODUCTION:

Bribery continues to be a major global problem that erodes social cohesiveness, distorts economic activity, and undermines confidence in governmental institutions. Acknowledging the deleterious effects of corruption, countries across the globe have instituted diverse legal structures to counteract this problem. Denmark, New Zealand, Finland, and India are a few of the nations acknowledged for their successful anti-corruption initiatives. This comparative study looks at the bribery laws and consequences of Denmark, New Zealand, and Finland—three nations known for their strong governance standards and low levels of corruption. It also examines India's legal system and bribery issues, providing suggestions for

strengthening the country's anti-corruption initiatives. Denmark upholds strict anti-bribery rules in both the public and private domains, conforming to global norms established by agreements such as the OECD and EU Criminal Law Convention. In contrast, New Zealand uses a comprehensive legislative strategy to combat bribery, extending its extraterritorial jurisdiction through the Crimes Act 1961 and the Secret Commissions Act 1910. Finland combats corruption via a broad yet dispersed legislative framework that places a strong emphasis on punishing offenders severely in order to maintain integrity and transparency. On the other hand, India's legal system, which includes the Prevention of Corruption Act 1988 and pertinent sections of the Indian Penal Code, demonstrates the country's determination to combat bribery inside the public sector. Notwithstanding these efforts, there are still issues with implementation and enforcement, which exacerbates India's chronic corruption problem.

This study attempts to shed light on effective anti-corruption measures by analysing these various approaches and emphasising the value of customised legal frameworks, strong enforcement mechanisms, and international cooperation. These kinds of findings are essential for directing international initiatives aimed at enhancing accountability, openness, and integrity in business processes and governance across various national contexts.

METHODOLOGY

This study examines bribery laws and their effects in Denmark, Finland, and New Zealand using a qualitative comparative method. The legal frameworks governing bribery are thoroughly examined utilising qualitative research methodologies, with an emphasis on the in-depth investigation and interpretation of statute legislation, case law, and international treaties. Legal materials such as each nation's Criminal Code and pertinent Acts are considered primary sources. Secondary sources that support primary sources include academic journals, official government publications, and international legal treaties. Comparative legal analysis takes into account contextual elements such historical evolution, the sociopolitical environment, and international commitments to enable a detailed evaluation of the similarities and contrasts in how each nation defines, prosecutes, and punishes bribery.

In order to provide insights into practical strategies for preventing corruption and fostering integrity in governmental and corporate practices across various national contexts, the qualitative methodology places a strong emphasis on understanding the complexities of anti-corruption legislation, its enforcement mechanisms, and the broader societal impacts.

This methodology guarantees an exhaustive investigation of anti-bribery legislation, facilitating a sophisticated comprehension of their efficacy and ramifications in the wider context of ethical behaviour and governance.

Bribery: Laws and Implications.

The Global Peace Index (GPI) ranks countries based on safety using 23 indicators across three categories: ongoing international conflict, societal safety and security, and militarization.¹ The top 10 safest countries in 2022 are:

1. Iceland - Known for low crime, high standard of living, and strong social cohesion.
2. Denmark - High equality, low corruption, and strong social welfare.
3. Ireland - Low crime, minimal terrorism threat, and improved peacefulness.

¹ *Safest Countries in the World 2024*. worldpopulationreview.com/country-rankings/safest-countries-in-the-world.

4. New Zealand - Low crime rates, no dangerous wildlife, and strong freedom protections.
5. Austria - Rare violent crime, minimal terrorism, and safe environment.
6. Portugal - Decreased crime with armed police, economic resurgence.
7. Slovenia - High travel security, low medical risks, and road safety.
8. Czech Republic - Decreasing crime rates, low terrorism risk, and quality healthcare.
9. Singapore - Low crime due to strict penalties, high personal security.
10. Japan - Low crime rates, minimal internal conflict, and stable political environment.

These countries share qualities like high wealth, social welfare, effective governance, and low corruption, robust legal framework to tackle criminalization in politics, contributing to their high safety rankings.

DENMARK

In Denmark, bribery and corruption laws are detailed under Sections 122, 144, and 299(2) of the Criminal Code:

1. Bribery in the Public Sector:

- **Active Bribery (Section 122):** Criminalizes giving, promising, or offering undue gifts or advantages to public officials to influence their actions or decisions.
- **Passive Bribery (Section 144):** Criminalizes the receipt or agreement to receive undue gifts or advantages by public officials in exchange for influencing their actions.

2. Bribery in the Private Sector:

- Regulated under Section 299(2), which criminalizes both active (offering) and passive (accepting) bribery involving private individuals entrusted with property or authority, where the act constitutes a breach of their duties.

International Conventions: Denmark is party to several anti-corruption conventions including:

- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- EU Criminal Law Convention on Corruption
- UN Convention against Corruption
- EU Convention against Corruption involving Officials

These conventions ensure Denmark adheres to international standards in combating bribery and corruption across both public and private sectors.²

NEW ZEALAND

The legal framework governing bribery in New Zealand is primarily established by the Crimes Act 1961 (CA) and the Secret Commissions Act 1910 (SCA), which address both public sector corruption and private sector misconduct, respectively. Under the CA, bribery is broadly defined as the provision or acceptance of money, valuable considerations, offices, employment opportunities, or any other benefit, whether directly or indirectly, with the intent to influence the actions or decisions of Persons of Position. These include judicial officers, Ministers of the Crown, members of Parliament, law enforcement officers, and officials. Offenses encompass giving, offering, or agreeing to give a bribe, as well as accepting or obtaining a bribe. The penalties vary depending on the severity of the offense, ranging up to 14 years of imprisonment for judicial officers and Ministers of the Crown, and up to seven years for other public

² "Anti-Corruption and Bribery in Denmark." *Lexology*, 26 Apr. 2019.

officials and individuals. Jurisdiction extends to acts committed abroad if involving NZ citizens, residents, or NZ-incorporated entities. The SCA complements the CA by specifically targeting private sector bribery, prohibiting agents from accepting inducements or rewards in relation to their principal's affairs. This act also imposes penalties of up to seven years' imprisonment. Together, these legislative measures aim to uphold transparency, accountability, and ethical conduct across governmental and business sectors in New Zealand, ensuring robust deterrence and enforcement against corrupt practices.³

FINLAND

In Finland, anti-corruption measures are not governed by a single law but are instead addressed through a comprehensive legislative framework that covers various forms of corruption. This approach acknowledges the diverse nature of corrupt activities, each requiring specific legal provisions due to unique circumstances, motives, and parties involved.

The Criminal Code of Finland contains fourteen sections specifically targeting bribery offences, including electoral bribery, bribery violations, and various forms of giving and accepting bribes in both political and business contexts. These provisions aim to prevent inappropriate influence over decision-making in the public sector and maintain trust in business relationships in the private sector.

Punishments for bribery offences range from fines to imprisonment, with aggravated cases involving significant bribes leading to more severe penalties. Beyond bribery, other offences such as fraud, embezzlement, money laundering, and misuse of insider information may also include elements of corruption, further expanding the legal framework's scope.

Overall, Finland's legislative approach underscores the importance of robust legal measures tailored to combat corruption across different sectors, aiming to uphold transparency, accountability, and public trust in governmental and business practices.⁴

Indian Laws and Position on Bribery

In India, bribery and corruption are addressed primarily under the Prevention of Corruption Act, 1988 (PCA), which defines and penalizes corruption among public servants. The Act criminalizes bribery and provides for severe penalties, including imprisonment and fines. Sections 7 to 12 of the PCA cover various forms of bribery, including taking and giving bribes, abuse of official position, and the criminal misconduct of public servants.

The Indian Penal Code (IPC) provides provisions related to bribery and corruption under several sections.

1. **Section 161:** This section deals with public servants taking gratification other than legal remuneration in respect of an official act. It criminalizes the act of accepting any gratification (other than legal remuneration) as a motive or reward for doing or forbearing to do any official act or for showing favor or disfavor to any person in the exercise of official functions.
2. **Section 165:** This section deals with public servants obtaining valuable things, without consideration from persons concerned in proceedings or business transacted by such public servant. It criminalizes the act of a public servant obtaining any valuable thing without consideration from any person concerned in any proceeding or business transacted by such public servant.
3. **Section 169:** This section deals with public servant unlawfully buying or bidding for property. It criminalizes the act of a public servant unlawfully buying or bidding for property.

³ "New Zealand - Global bribery offenses guide | DLA Piper." *DLA Piper*, www.dlapiper.com

⁴ "National legislation and combating of corruption | Anti-corruption.fi." *Korruptiontorjunta*, korruptiontorjunta.fi/en/national-legislation.

4. **Section 172:** This section deals with obstruction to a public servant in the discharge of his public functions. It criminalizes the act of whoever voluntarily obstructs any public servant in the discharge of his public functions.
5. **Section 172A:** This section deals with failure of officer in duty or his public servant to give information of the commission of an offense. It criminalizes the act of failure of an officer in duty to give information of the commission of an offense.
6. **Section 173:** This section deals with prevention of officer in the charge of a police station from taking cognizance of the offense. It criminalizes the act of obstruction of an officer in charge of a police station from taking cognizance of an offense.
7. **Section 174:** This section deals with non-attendance in obedience to an order from public servant. It criminalizes the act of non-attendance in obedience to an order from a public servant.
8. **Section 175:** This section deals with disobedience to order duly promulgated by public servant. It criminalizes the act of disobedience to an order duly promulgated by a public servant.

These provisions outline various aspects related to bribery, corruption, and the conduct of public servants under the Indian Penal Code. They aim to prevent abuse of authority, ensure transparency in public administration, and uphold integrity in governmental functions. In spite of this legal framework India's corruption rate is high, much of it is due to its implementation and loopholes in laws and policies. Following are some suggestions for India.

Suggestions for India

1. **International Conventions:** Like Denmark and New Zealand, India could consider ratifying and effectively implementing international anti-corruption conventions such as the UN Convention against Corruption (UNCAC) and the OECD Convention on Combating Bribery of Foreign Public Officials. These conventions promote international cooperation and set standards for combating bribery and corruption.
2. **Enhanced Enforcement:** Strengthening enforcement mechanisms, such as independent anti-corruption agencies with adequate resources and powers, can improve India's ability to investigate and prosecute bribery cases effectively.
3. **Transparency and Accountability:** Implementing measures to enhance transparency in government transactions, public procurement processes, and corporate governance can reduce opportunities for bribery. Public awareness campaigns and whistleblower protection mechanisms can also encourage reporting of corrupt practices.
4. **Capacity Building:** Investing in training for public officials on ethical conduct, anti-corruption laws, and compliance measures can foster a culture of integrity and accountability within government and private sectors.
5. **Adopting Best Practices:** India can study the experiences and best practices of countries like Denmark, New Zealand, and Finland in combating corruption. This includes periodic reviews and updates of anti-corruption laws to address emerging challenges and evolving forms of corrupt practices.

CONCLUSION

The study of bribery laws in Denmark, New Zealand, Finland, and India shows that different strategies and results are achieved in the fight against corruption. Denmark and New Zealand are notable for having

extensive legal systems that include the public and private spheres. These systems are reinforced by stringent enforcement protocols and a commitment to international anti-corruption agreements. Finland emphasises harsh punishments to effectively deter unethical practices through its dispersed yet comprehensive legislative strategy.

India, on the other hand, has strong legal protections under the Indian Penal Code and the Prevention of Corruption Act, yet it still faces many difficulties. India's attempts to effectively combat bribery are weakened by systemic corruption, insufficient enforcement, and implementation deficiencies.

India might gain from adopting and ratifying international conventions, bolstering law enforcement, encouraging governance transparency, and funding public officials' capacity-building in order to improve anti-corruption initiatives. Based on the insights gained from Denmark, New Zealand, and Finland, India can modify optimal methodologies to effectively tackle changing obstacles and cultivate an ethos of truthfulness and responsibility.

In the end, this study emphasises how important it is to fight bribery and corruption through specialised legal frameworks, strict enforcement, and international cooperation. Through proactive actions and worldwide best practices, countries may reduce the negative impacts of corruption, advance sustainable development, and preserve public confidence in governance.