



**THE INDIAN ADMINISTRATIVE SERVICE :
A Study of the current state of
Punitive & Preventive
Vigllance mechanisms**

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Government of India
Central Vigilance Commission
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INTRODUCTION

The present study focuses on the advices tendered by the Commission during **1998, 1999** and **2000**, in respect of the members of the Indian Administrative Service, the country's premier civil service. This is the fourth in the series of sectoral studies undertaken by the Commission during the current year. The other studies dealt with the references received by the Commission from the banking industry, PSUs and DDA.

2. The objective behind the present study is to make a quantitative and qualitative analysis of the advices tendered by the Commission and examine whether any inferences can be made with regard to:

- i. nature and gravity of lapses reported;
- ii. present state of the vigilance mechanisms dealing with the Service; and
- iii. how these can be further strengthened so as to further help the Service to better realise the objectives for which it was created.

3. The study has important implications. The state of probity within the Service directly affects the quality of governance and the effectiveness of the developmental efforts undertaken by the Central and State Governments. The Commission found it worthwhile to undertake this study in the first instance for this very reason.

SCOPE OF STUDY

4. Broadly, this report confines itself to the study of:

- i. the nature of misconduct committed by the officers concerned in the cases reported;
- ii. the view taken by the Commission in respect of such misconduct or negligence; and
- iii. the inferences and conclusions that can be drawn therefrom.

METHODOLOGY

5. The Study is limited to 133 cases reported to the Commission during the years 1998, 1999 and 2000. Records of all these 133 cases were studied. This includes 20 cases where the Commission suo motu advised investigation to either the Department of Personnel & Training or the State Governments on the basis of complaints/source information received by it.

CLASSIFICATION

6. The lapses of the officers concerned could broadly be classified into the following six categories:
- i. Possession of assets disproportionate to the known sources of income;
 - ii. Misuse of official position and violation of prescribed rules, regulations, procedures or norms;
 - iii. Showing undue favour to private parties for monetary considerations/causing loss to the State Exchequer;
 - iv. Violations of Conduct Rules;
 - v. Gross negligence of duties and inadequate supervision; and
 - vi. Demand and acceptance of bribes and illegal gratification.

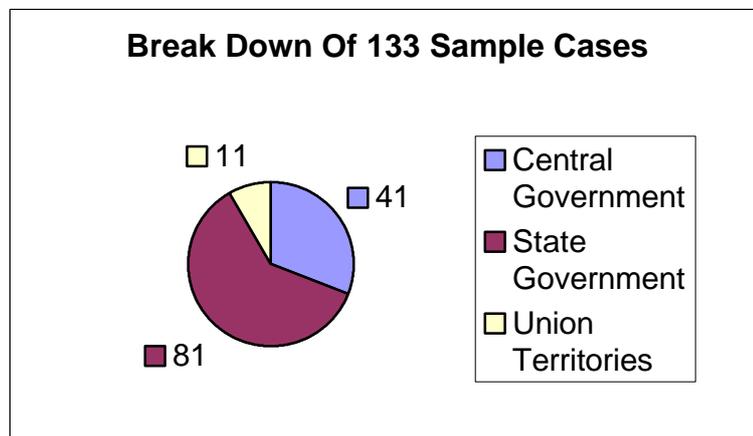
ANALYSIS

7. **Breakdown of the sample**

41 out of 133 cases (30.8%) emanated from the Central Government.

81 out of 133 cases (60.9%) related to the State Governments.

11 cases out of 133 cases (8.27%) emerged from the Union Territories.



Further details are as follows:

TABLE - I

Year	No. of Cases emanating from Central Government	No. of Cases emanating from State Governments & Union Territories (Figures in brackets are for U.Ts.)	Total
1998	6	26 (6)	32
1999	17	20 (1)	37
2000	18	46 (4)	64
Total	41	92 (11)	133

This data now needs to be correlated with the number of officers deployed in the Central Government on the one hand and the State Governments and Union Territories on the other.

TABLE - II

<u>YEAR</u>	<u>No. of Cases emanating from Central Govt.</u>	No. of officers working in the Central Govt. *	Col. 2 as %age of Col. 3
(1)	(2)	(3)	(4)
1998	6	734	0.82
1999	17	741	2.30
2000	18	753	2.40

- as on 1.1.98, 1.1.99 and 1.1.2000 respectively - source: DOPT.

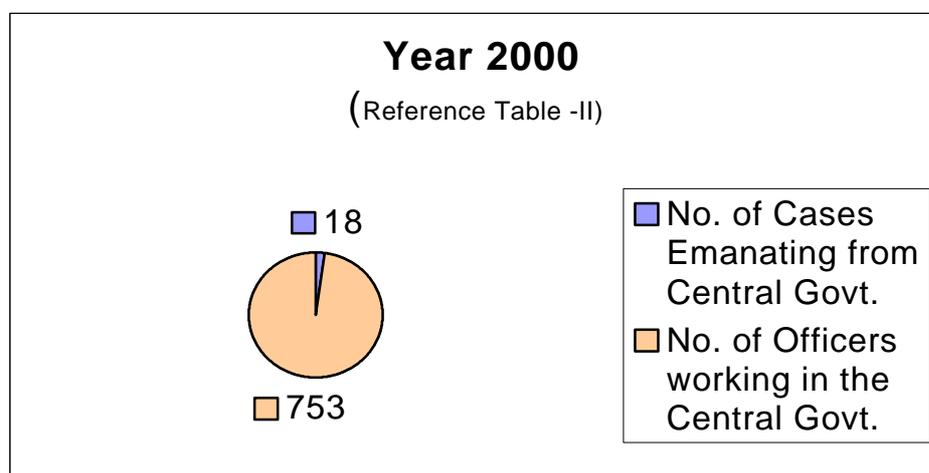
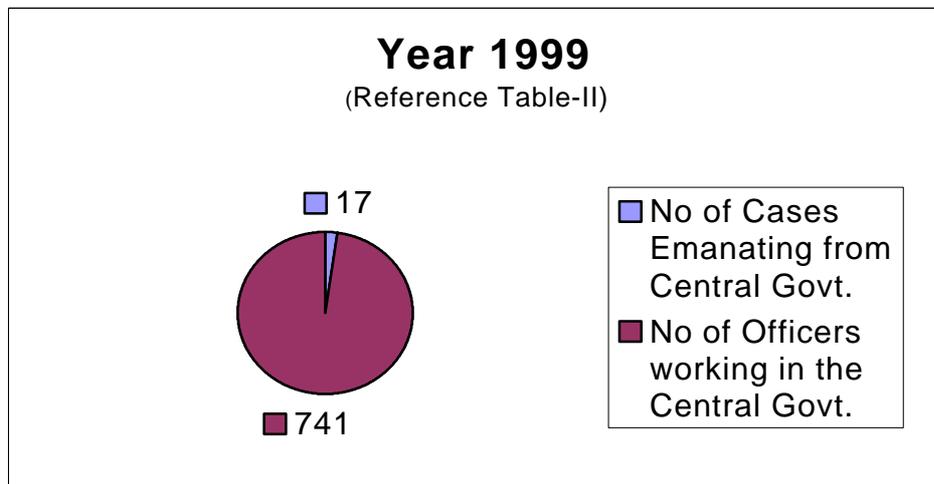
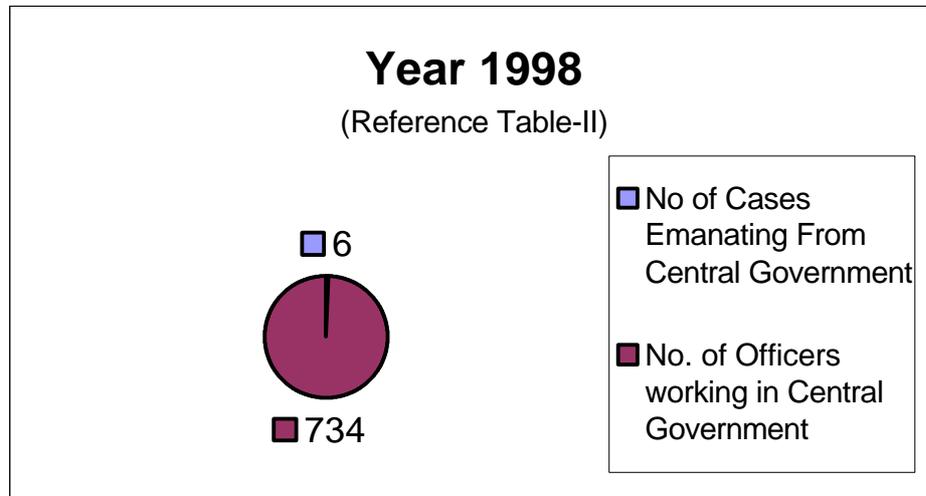
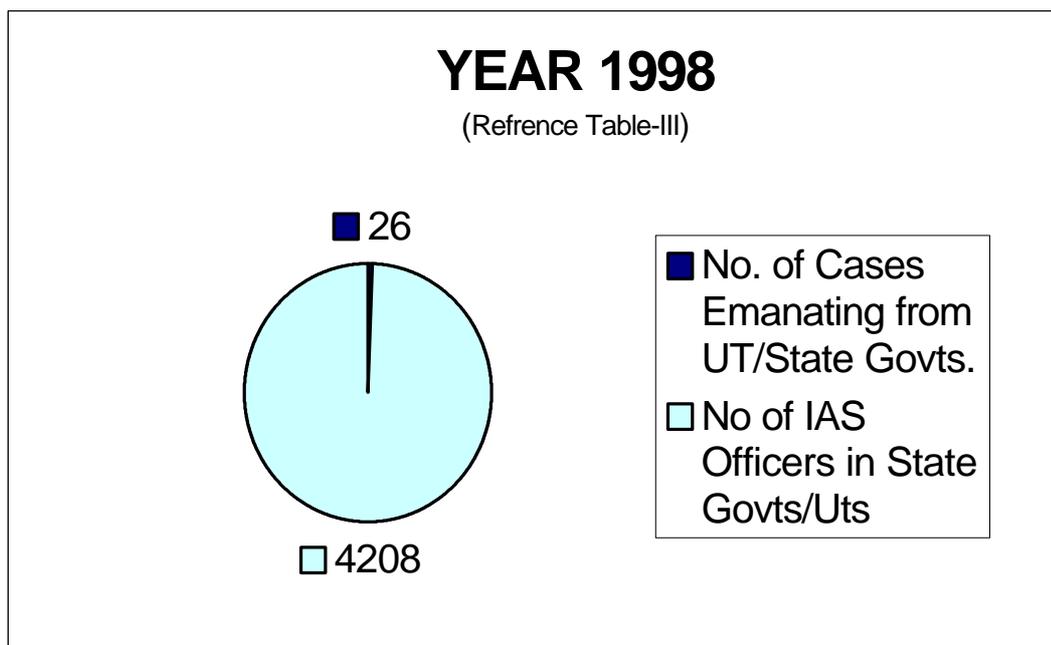
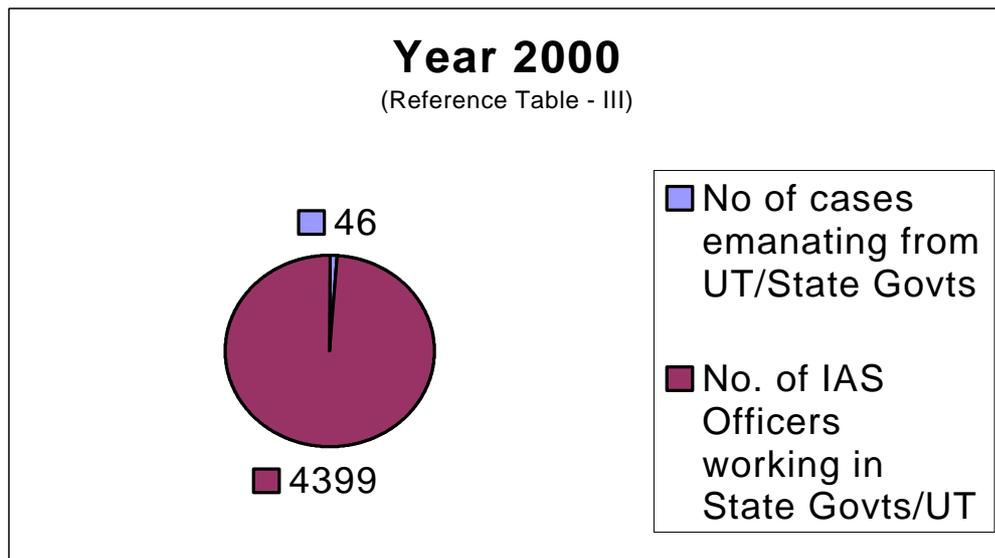
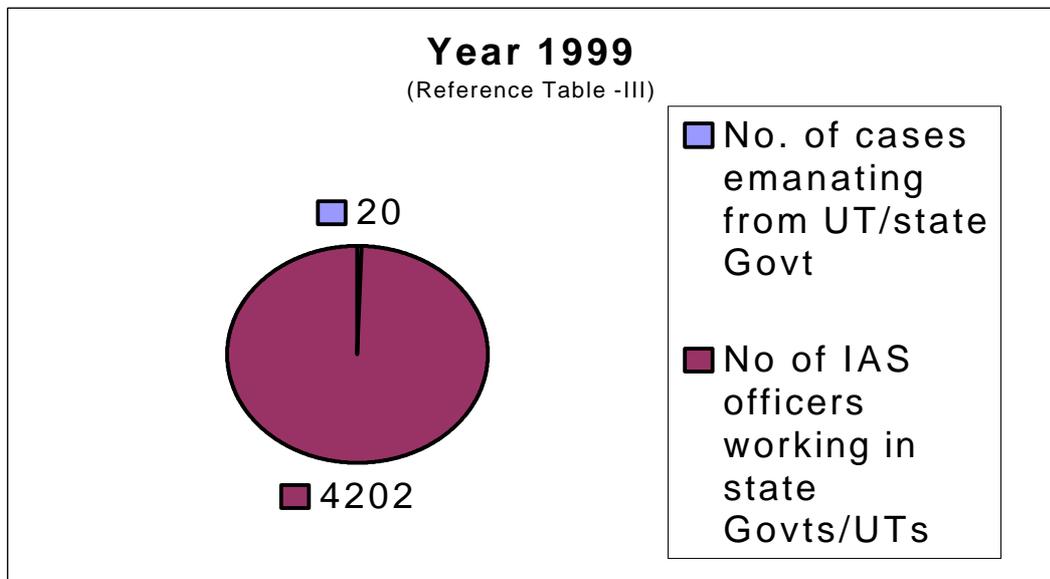


TABLE - III

Year	No. of cases emanating from UT/State Govts.	No. of IAS Officers working in State Govts./ U.Ts. **	Col.2 as %age of Col.3
(1)	(2)	(3)	(4)
1998	26	4208	0.62
1999	20	4202	0.48
2000	46	4399	1.05

** Source: Civil List, 1998, 1999 and 2000.





FURTHER INFORMATION

8. Further information is still required in 34 cases (25.56% cases) as the references received in these cases were incomplete, thus further depleting the miniscule size of the statistical universe.

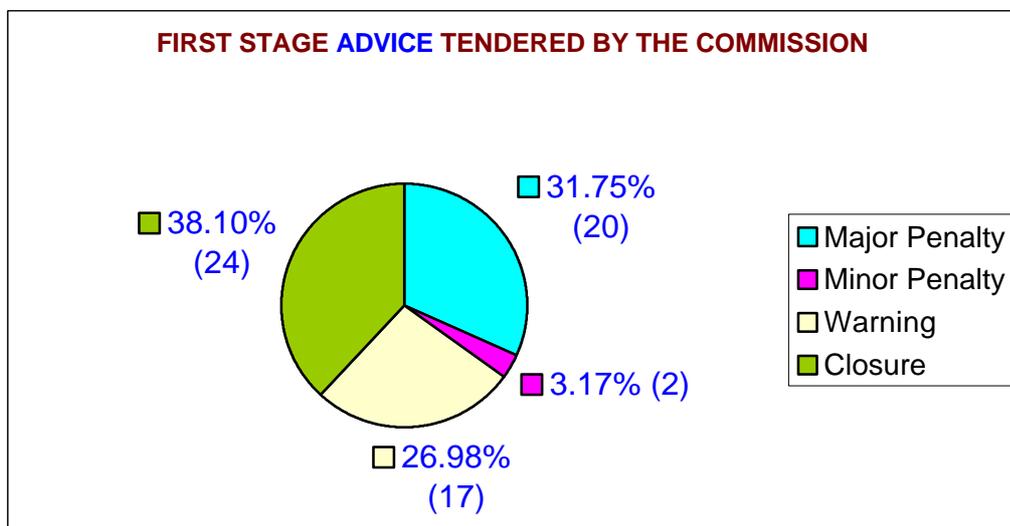
Prosecution

9. The Commission advised the issue of prosecution sanction in 23 out of 133 cases (17.29%). According to the information available with it, the competent authorities sanctioned prosecution in 22 cases. Simultaneous departmental action was recommended by the Commission in 3 cases: two for major penalty proceedings and one for cut in Pension. Information as to whether such action has been taken or not is still awaited.

1st Stage Advice

10. Out of the 99 (after ignoring 34 cases returned for further information) cases referred to the Commission, 63 were for first stage advice. The Commission advised:

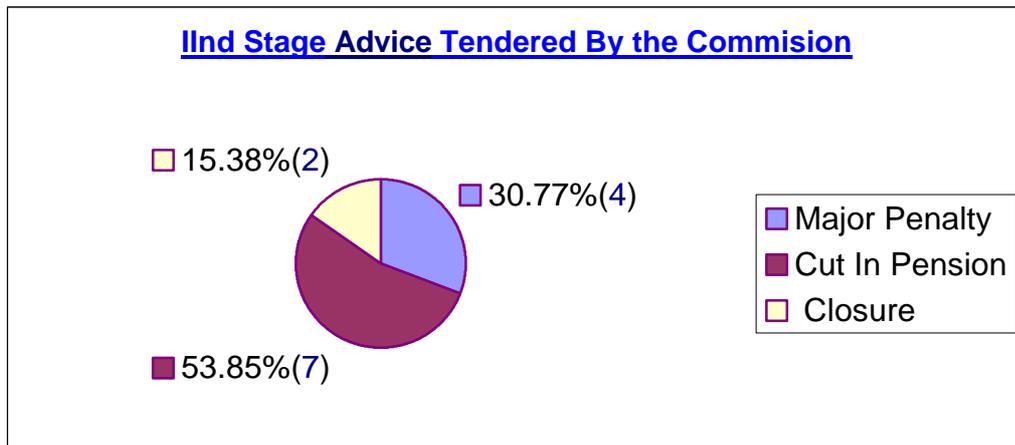
- i. major penalty proceedings or cut in Pension in 20 cases (31.75% cases)
- ii. minor penalty proceedings in 2 cases (3.17% cases)
- iii. Administrative warning, reprimand, displeasure, other administrative action, less than a formal penalty, in 17 cases (26.98% cases).
- iv. Closure in 24 cases (38.10% cases).



2nd Stage Advice

11. 13 cases were referred to the Commission for second stage advice. The Commission advised:

- i. the imposition of a suitable major penalty in 4 cases (30.77%).
- ii. the imposition of a suitable cut in Pension in 7 cases (53.85%).
- iii. closure in 2 cases (15.38%).

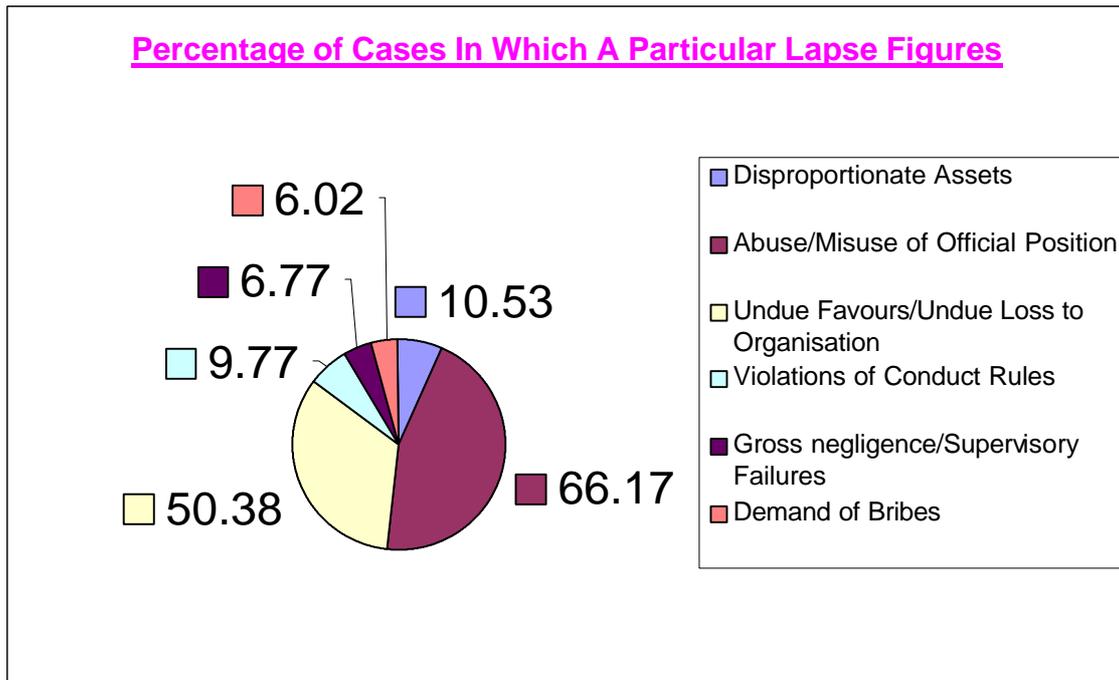


Lapses noticed

12. The study revealed a wide gamut of lapses. The exact statistics are as follows (the figures within brackets indicate the percentage of cases in which a particular lapse figures)

- i. Possession of assets disproportionate to known sources of income (10.53%)
- ii. Abuse/misuse of official position in violation of prescribed norms, rules and regulations (66.17%).
- iii. Showing of undue favours to private parties and/or causing loss to the exchequer (50.38%).
- iv. Violations of Conduct Rules (9.77%).

- v. Gross negligence of duties and inadequate supervision (6.77%).
- vi. Demand and acceptance of bribes (6.02%).



13. The most common lapse related to the failure of the officers concerned to observe the limits of their delegated powers, conferred on them either statutorily or administratively. This misconduct figured in 66.17% of cases. In a large number of cases, this was also accompanied by the charge of showing undue favour and/or causing undue loss to the organisation. This charge figured in 50.38% of the cases. Other serious charges noticed by the Commission were assets disproportionate to the known sources of income (10.53%); violations of conduct rules (9.77%); gross negligence and supervisory failures (6.77%) and demand and acceptance of bribes (6.02%).

14. The total, it will be noticed, adds up to more than 100%. This is because a case might actually have more than one charge. Typically, certain kinds of misconduct were found to be closely associated with one another: Exceeding delegated powers was accompanied by conferring undue favours or causing undue loss to the organisations concerned. Abuse of official position has been accompanied by violations of Conduct Rules. Similarly, possession of assets disproportionate to known sources has been associated with the charge of violation of Conduct Rules (failure to send intimations of dealings in movable and immovable property) or misuse of official position or causing wrongful loss to the State/conferring undue favour to a private party. As expected, the charge of

disproportionate assets has also been found associated with demand and acceptance of bribes. Misuse of official position, again not unexpectedly or unnaturally, has also been accompanied with negligence of duties. Thus, a series of permutations and combinations of charges have been reported in the cases referred to the Commission.

15. Overall, the study appears to point to the existence of a whole gamut of administrative and managerial malpractices that appear to co-exist. These could possibly be symptoms of the same disease and thus also be treatable by the same set of remedies.

16. **FINDINGS**

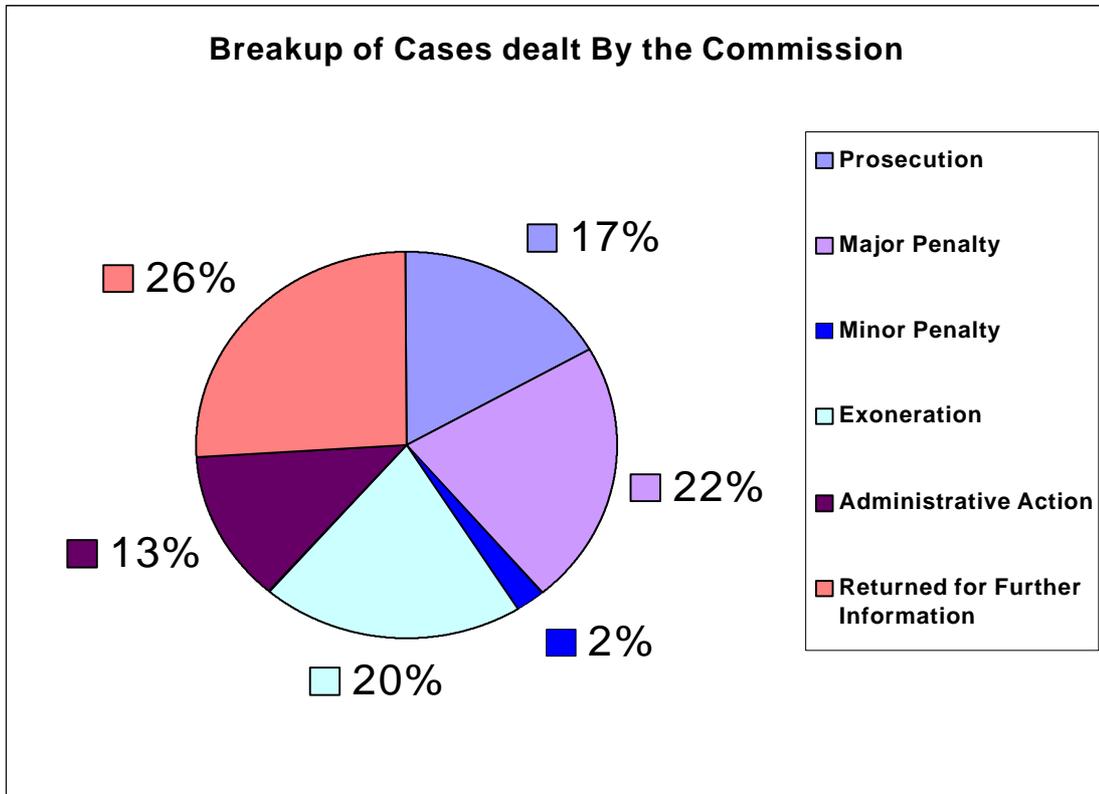
- i. Use of Performance Indicators in public management requires great care; for example, the decline in the number of arrests in a police district could either be the result of inefficient functioning of the police or a decline in the crime rate. Caution is therefore, warranted in drawing inferences from a data which might easily lend itself to diverse interpretations.
- ii. The study has used 3 kinds of performance indicators: "dials", "alarms" and "tin openers". As the terms themselves suggest, 'dials' merely indicate routine information. In the cockpit of an aircraft, during the course of a flight, a dial may indicate the height at which the aircraft is flying, its speed, the velocity of the wind, etc. Sometimes, however, 'dials' may indicate an alarming state of affairs, for example, the altitude at which the aircraft is flying may be too close to the ground for comfort. A red light by way of an 'alarm' may then get triggered. 'Tin openers' are an invitation to an observer to open a closed can and find out the nature of the contents within. Typically, policy studies often develop and utilize this kind of indicator. This study has made use of all the three indicators, discussed above.
- iii. Since the statistical population of cases is small, it would be hazardous to infer any secular time trends or attempt any cross-sectional analysis. Any such temptation has, therefore, been scrupulously avoided.
- iv. Tables II and III supra together reveal that the number of vigilance cases reported during each of the three years constituted an iota of the total number of officers of the service sanctioned for/deployed in the Central Government on the one hand and the States/Union Territories on the other. The indicators clearly point towards the overall ineffectiveness of the investigative agencies in unearthing cases of corruption both at the Centre and in the States/U.Ts.

- v. Perhaps, another reason for the poor percentages could be that all the vigilance cases, particularly those relating to less serious lapses committed by the officers who were involved in the affairs of the States are not reported (and indeed, are not required to be reported) to the Commission. Rule 7(b)(l) of the All India Services (D & A) Rules, 1966 empowers the State Governments to decide a large number of disciplinary cases of the members of All India Services on their own, when a misconduct occurs in connection with their affairs. The Central Government is to be consulted by them only when they propose to prosecute an officer under the Prevention of Corruption Act, or impose a penalty of dismissal or removal or compulsory retirement. All other penalties may be imposed by the State Governments without consulting the Centre. Despite this justification, the microscopic size of the statistical universe of this study constitutes a cause for serious concern.

- vi. The ineffectiveness of the vigilance machinery is further brought out by the fact that out of 63 first stage advices, the Commission advised major penalty proceedings in only 32% of the cases. This figure compares unfavourably with the banking sector where at the first stage, the Commission advised major penalty proceedings in 50% of the cases.

- vii. The figures for second stage advice and prosecution reflect more favourably on the functioning of the vigilance mechanisms. The Commission advised issue of prosecution sanction in 17.29% of the cases and imposition of major penalty/cut in Pension in nearly 85% of the cases referred to it. This percentage does not appear to be insignificant.

- viii. Overall, out of every 100 cases dealt with by the Commission, 17 appear to end in the advice for prosecution, 22 for imposition of major penalty (or cut in Pension), 2 for imposition of minor penalty, 20 for exoneration, 13 for appropriate administrative action (namely, issue of a displeasure, reprimand or administrative warning). 26 cases are returned for further information.



- ix. The data collected in the study would seem to suggest that the Central Ministries and Departments as well as State Governments have also not paid enough attention to preventive vigilance. Supervisory failures and gross negligence accounted for nearly 7% of the lapses reported. The levels of efficiency and effectiveness in public management could well be expected to improve substantially if such supervisory lapses and negligence could be minimized. This is perhaps possible only if officers are made more accountable for their performance. The vigilance mechanisms of an organisation are only one of the means available for achieving this subject. The disadvantage of this mechanism is that it comes into play after the event has occurred. Staff accountability exercises are, therefore, always in the nature of post-mortems.

Effective preventive vigilance, on the other hand, can transcend such limitations of a punitive approach and instead, make use of other available tools to ensure that supervisory failures are minimized.

The annual confidential report is one such mechanism available for performance measurement. This could be effectively used to ensure that an officer is held accountable for the contribution - both positive as well as negative - that he makes. Organisations would perhaps have to shift the

emphasis in such assessments, from comments on personal qualities to objective measurement of actual qualitative and quantitative achievements against targets and goals. In conjunction with other measures, this may bring greater accountability within the system.

- x. This study has revealed numerous instances of misuse of official position either with or without undue loss to the Exchequer or wrongful gain to third parties. Some instances are:
 - a. irregular appointments, selections and promotions;
 - b. misuse of official vehicles and staff for personal purposes;
 - c. financial improprieties;
 - d. irregular admissions in academic and training institutions run by the Government;
 - e. failure to follow codal formalities in awarding contracts or making procurements;
 - f. misuse of powers for conversion of land use from agricultural to residential or commercial purposes or from residential to commercial purposes;
 - g. diversion of funds from schemes, such as, the Jawahar Rozgar Yojana etc....; and
 - h. exceeding powers delegated either statutorily or administratively.
- xi. The instances of misuse of power figuring in the study appear to indicate that the checks and balances prescribed under the existing system do not appear to be working satisfactorily. Also, there is still vast scope for simplification of procedures. Areas of discretionary decision-making are still very large and afford considerable scope for corrupt practices to flourish.

One possible approach to tackle this problem could be to minimize discretion in administrative and quasi-judicial decision-making and thus make systems more mechanical. In a taxing statute, for example, it might make sense to prescribe a minimum punishment when a citizen fails to comply with a mandatory provision (such as a failure to file a return or pay taxes by a particular date). No discretion on whether to levy or not to levy a punishment may be vested in those officials who are implementing the statute.

CONCLUSIONS

17. We may not agree with theories that tend to view corruption as a cultural trait. This study appears to show that corrupt practices are possibly much more a function of needlessly complex systems and procedures. Future reforms could thus be directed towards putting in place systems that make decision-making less complex and more open and transparent. The CVC's directive on banning post-tender negotiations except with L1 was primarily directed towards achieving this objective. Such efforts need to be accompanied with other reforms that reduce areas of discretionary decision-making.

18. Case studies forming the basis of the present analysis have also indicated a possible linkage between bureaucratic and political corruption. The officers concerned could, at best, plead that they acted under pressure; in the worst scenario, they could be (and indeed have been) accused of conniving with their political masters. Regardless of the individual merits of the facts and circumstances of the different cases - which are now being tried by different courts of law and other departmental forums - all of them point to the need for independent civil services boards at the Centre and in the States to ensure impartial selections for key and sensitive posts. The Boards could play a coordinating role in:

- i. insulating the civil services from political pressures; and
- ii. ensuring that selections and promotions are fair and based only on suitability and merit.

19. An important finding that emerged in the earlier part of this study, relates to the fact that currently the State Governments are required to report to the Central Government (and the Commission) cases only where they propose to impose the penalty of dismissal, removal or compulsory retirement. It would seem that Rule 7 of the All India Services (D & A) Rules, 1966, needs to be amended so as to make a reference to the Commission mandatory in all cases where State Governments propose to impose any penalty in a case with a vigilance angle. This would ensure objectivity and fairness on the one hand and a uniformity of approach from case to case, on the other, as in the case of all other organisations that come within the Commission's purview. The Commission would provide the much needed externality to the system for the achievement of these objectives.

20. One of the findings in this study related to supervisory failures and lack of accountability. Apart from making annual confidential reports more effective (which has already been discussed), another system needs to be revived. Upto about the middle of the last century, the Central as well as State Governments had an excellent system of inspections in place. Every supervisory officer

mandatorily had to inspect the functioning of each of his subordinates at least once a year. Over the decades, this system has fallen into disuse.

21. There is an old adage that man does only what his boss inspects: nothing could be truer. If a factory manager is ready to accept cloth of the width of a ribbon, the workers would not think of producing cloth of the width of a curtain. It is therefore, imperative for all supervisory levels in the Government to measure performance of their immediate subordinates and comment on the shortcomings noticed by them. This is how subordinates will improve. Further, such inspections would constitute a much more solid basis for writing annual confidential reports than mere impressions. The inspections could also unearth vigilance lapses on a systematic basis. Governments would, therefore, do well to revive this institution.

22. Last but not least, there has been thinking in certain quarters that there has been too much vigilance in Government and that this phenomenon impairs decision-making. This study does not support this conclusion; on the contrary, it clearly indicates that there has not been too much but too little vigilance, especially preventive vigilance.