

A faint, light gray world map is visible in the background, showing the outlines of continents and countries. The map is centered on the Atlantic Ocean, with North and South America on the left and Europe, Africa, and Asia on the right.

# Criminalization and Law Enforcement

I N D I A

# UNGASS Political Declaration

## Criminalization and Law Enforcement

- 
- Criminalization
    - Bribery
    - Embezzlement
    - Money Laundering
    - Obstruction of Justice
    - Trading in Influence
    - Abuse of Functions
    - Illicit Enrichment
  - Privileges and Immunities
  - Capacity Building
  - Collaboration & Information Exchange

# UNCAC: INDIA

- 
- Convention Signed 9 December 2005
  - Ratification of Convention 9 May 2011
  - Convention into force 8 June 2011

# Indian Legal System

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- India Maintains Common Law System
  - Constitution of India is the Supreme Law
  - Statutory Separation of Powers (Union/State/Concurrent Lists)
    - Delegated Legislation
    - Executive Orders
  - Independent Judiciary
  - Treaties part of Domestic Law when Parliament enacts relevant Legislation

# Institutions



Central Bureau  
of Investigation



Financial  
Intelligence  
Unit - India



Enforcement  
Directorate



Central  
Vigilance  
Commission

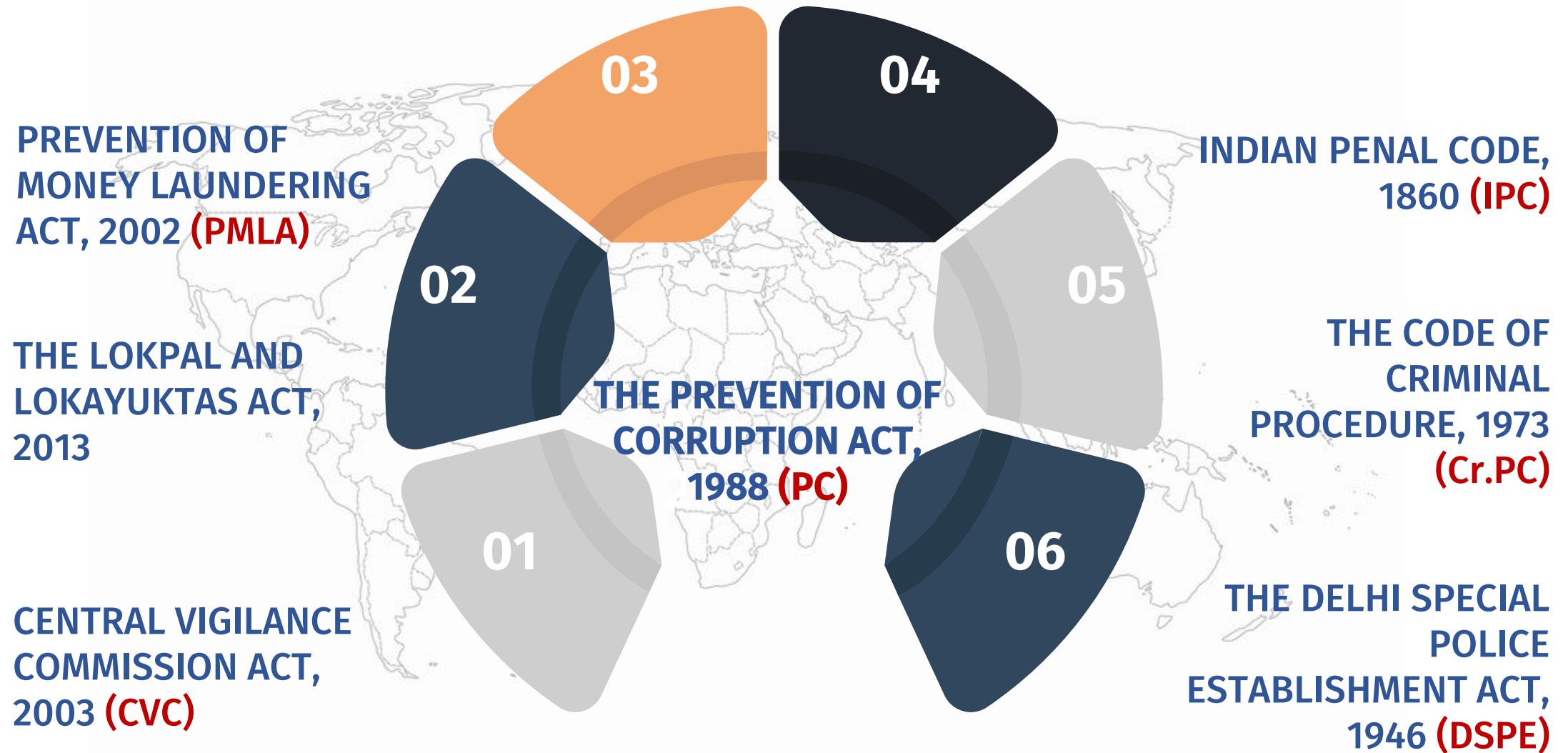


Lokpal



State Anti  
Corruption  
Units

# Anti-Corruption Laws





# Prevention of Corruption Act

- Bribery
  - Trading in Influence
  - Illicit Enrichment
  - Abuse of Functions
  - Attempt, Abetment of offences
  - Covers Commercial Organization/Office bearers
  - Asset Recovery
  - Protection of action in good faith
  - Special Courts/Trial in timeframe
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# Bribery (Article 15)

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- Active Bribery Indirectly covered through Abetment
  - Protection to Bribe Giver
  - Third-party Benefits – Indirectly covered
- 
- Active Bribery Directly Criminalized through Amendment
  - Protection to Bribe Giver – Information to LEAs within 7 Days
  - Third-party Benefits – Directly covered through Amendment



# Embezzlement (Article 17 & 22)

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- Embezzlement in Public Sector – PC ACT
  - Attempt also covered
  - Embezzlement in Private Sector – Indian Penal Code

# Trading in Influence (Article 18)

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- Indirectly Covered
  - No separate offence
  - Taking Undue Advantage using Personal Influence
  - Direct Offence

# Abuse of Functions (Article 19)

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- Criminalized through Criminal Misconduct
  - Pecuniary advantage
  - Undue Advantage
  - Obtains or Accepts or Attempts to Obtain
  - Motive or Reward
  - Improper or dishonest performance of public duty

# Illicit Enrichment (Article 20)

- Rule of Evidence – 1947
  - Criminalized as offence (Disproportionate Assets) – 1964
  - Criminalized as offence (Illicit Enrichment) – 2018
  - Broader scope
  - Time Tested Practices
- 

# Money Laundering (Article 23)

- Comprehensive Definition of Money Laundering – PMLA 2002
- Special Agency to Implement
- Wide definition : Concealment, Possession, Acquisition, Use-Projecting or Claiming, Property as Untainted

# Liability of Legal Persons (Article 26)

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- Covered through Definition of Person
  - Directly Covered
  - Commercial organization defined
  - Person-in-Charge of Legal Person also liable



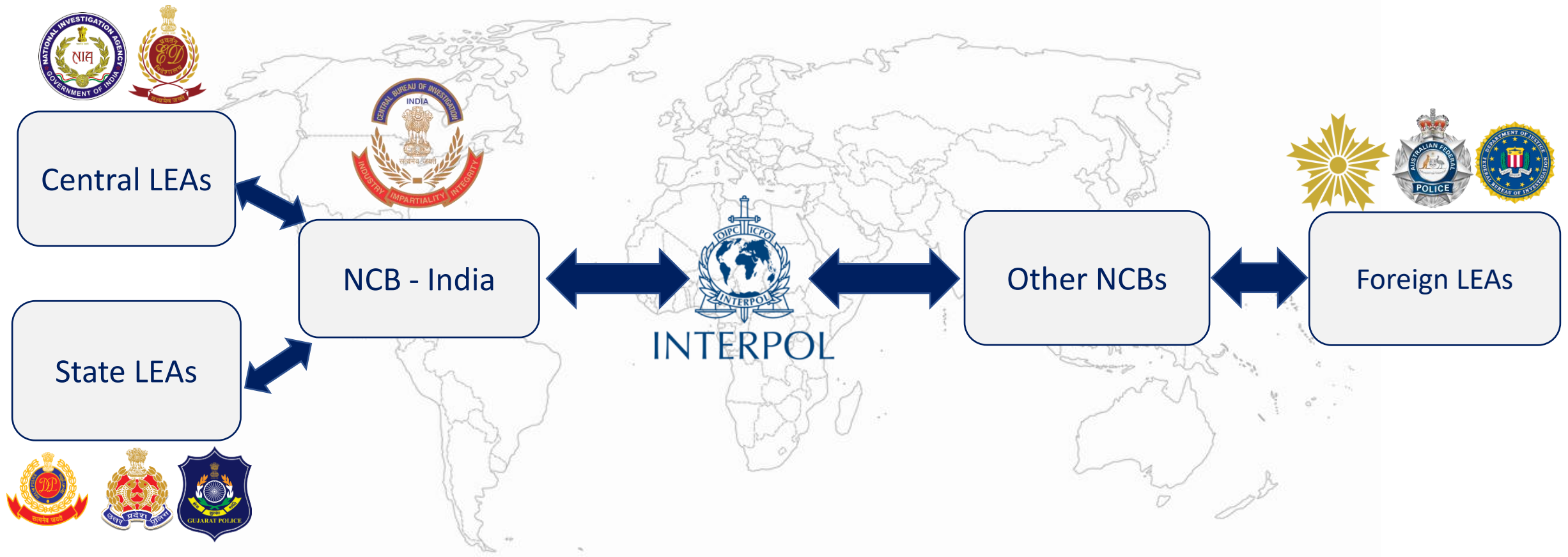
# Good Practices : Capacity Building

## CBI Academy

- 2000+ Courses Conducted
- 60000+ Persons Trained (National & International)



# Good Practices : Coordination



# Good Practices

## T E A M W O R K



# Challenges

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- Constructive Liability/ Abetment vs Direct Offence
  - Protection to Reporting person(Bribe giver)
  - Interpretation of Judicial Pronouncements/ Practice



Thank You

