Amendments to the “Prevention of Corruption Act - 1988”

What is the issue?

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- The amendments to the “Prevention of Corruption Act, 1988”, was recently adopted recently by both Houses of Parliament.
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- While this is to safeguard government staff from malicious witch-hunts, a more comprehensive and nuanced approach is needed to end corruption.
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Why is the “Prevention of Corruption Act” being amended?

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- Section 13 of the Act holds public servants culpable for securing a pecuniary advantage for another “without any public interest”.
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- This resulted in many honest officials being prosecuted even when they gained nothing and merely exercised their discretion in favour of someone.
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- Even former PM Manmohan Singh had criticised this provision as it is prone to misuse and affects decision making within the government.
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- Notably, even officials with the most honest of intentions tend to hesitate in making decisions if their actions are likely to be suspected and scrutinized.
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- Hence, the current government has proposed an amendment to rectify section 13 in order to make liberate officials from possible witch hunts.
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What are the provisions envisioned in the new law?

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- The new version seeks to be more concise and restricts criminal misconduct to two offences namely:
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- Misappropriating public property for private gratification
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- Amassing unexplained wealth (beyond known sources of income).
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- The law also seeks to make citizens liable for offering a bribe to a public servant, which is in line with “UN Convention against Corruption”.
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- In situations where citizens are forced to give a bribe, the above provision doesn’t apply, provided the incidence is reported to authorities within a week.
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What are the challenges involved?

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- **Vulnerability -** If the police or any other agency refuses to register complaints regarding instances of bribery, then the people are left in the lurch.
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- It may also render them vulnerable to threats from unscrupulous public servants who might completely refuse to further their papers.
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- **Approval -** A prior sanction requirement already exists in law before proceeding for prosecuting a public servant (after investigations conclude).
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- But the new law seeks a prior approval mechanism even before commencing investigations, which will only make it harder to deal with corruption.
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What is the way ahead?

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- Public servants need to be protected against unfair prosecution, but a genuine drive against corruption needs a package of legislative measures.
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- The legal mandate needed include “penal clauses, independent ombudsmen like Lokpal, time stipulated services delivery and whistle-blower protection”.
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- As laws to fulfil these objectives are either not operational yet or haven’t been framed, the government needs to focus on these aspects.
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Source: The Hindu

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