New Anti-corruption Bill

What is the issue?

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- Parliament recently passed crucial amendments to the “Prevention of Corruption Act – 1988”, to give more teeth to the anti-graft law.
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- In this context, the provisions of the new bill are analysed here.
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How did the current amendment come up?

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- While Prevention of Corruption (Amendment) Bill, 2013 was sent to a Parliamentary Standing Committee for discussions.
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- While committee gave its report in 2014, the Law Commission subsequently came up with an extensive report on the same in 2015.
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- Finally, a Select Committee of Rajya Sabha studied the amendments and finalised its recommendations in August 2016, and then a new bill was drafted.
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- The current bill “Prevention of Corruption (Amendment) Bill, 2018” passed by both houses of the parliament recently.
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What are the main aspects of the new bill?

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- **Bribe -** The Bill describes bribe as an “undue advantage”, on the lines of “United Nations Convention against Corruption”, which India ratified in 2011.

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- Any “gratification” other than legal remuneration (official salaries and perks) received by a public servant can be construed as an undue advantage.
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- Notably, “Gratification” was stated to include things that can’t be measured in terms of money, as well as “gifts”.
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- As the scope for investigating agencies to misuse the vast provisions to harass public servants is high, the need for precautions was stressed.
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- **Bribe Giver -** The new law seeks to punish collusive bribe givers too with up to 7 years in jail and further fined accordingly.
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- Further, the Select Committee wanted courts to decide the minimum punishment for bribe givers on the merits of the specific case.
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- In contrast to collusive bribe givers, the bill states that ones who are forced to bribe (coerced bribe givers) to access services shall not be prosecuted.
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- **Problems -** Coerced bribe givers are required to inform the officials of the same within a week’s time since the bribe was given to gain the exemption.
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- As the situation might not be favourable for all coerced bribe givers to intimate officials within a week, some MPs voiced that the time needs to be extended.
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- Further, activists have warned that the government officials might delay providing services till 7 days from the receipt of bribe to escape being reported.
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What are the other aspects?

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- Earlier, the punishment for corruption was “a minimum of 6 years, which was extendable up to 3 years fine”.
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- This has been enhanced to a minimum of 3 years, which is extendable up to 7 years with fine, which can go up to 10 years for a repeat offender”.
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- Under the new bill, public servants processing assets disproportionate to his/her legal sources of income will be deemed to have committed a crime.

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- Further, law enforcers have been empowered to immediately attach such property of a public servant, until a proper explanation is received.
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What are the challenges?

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- While it is desirable for corruption cases to be concluded between two and four years from the date of filing the case, it usually gets very delayed.
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- The new law mandates pre-certification by a “competent authority” for prosecuting government functionaries at all levels, in order to avoid misuse.
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- As this immunity was earlier available only to officials of the level of Joint Secretary and above, this is likely to slow down prosecution.
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- Nonetheless, as a maximum of 3 months time has been set for approval/denial of permission for prosecution, the government claims it won’t slow cases.
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Source: Indian Express

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