Positive Amendments to the Anti Corruption Law

What is the issue?

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- The government got the amendments to the Prevention of Corruption Act, 1988 passed in both the houses of the parliament.
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- In this context, criminalizing bribe-giving and time-bound trial are among the measures that will have immense positive implications.
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What are the positives in the bill?

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- **Bribe Giving -** While Bribe taking is a recognized crime, bribe giving isn't a crime under current law, which is a loophole.
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- Introduction of this provision is in fulfillment of India’s commitment under the UN Convention Against Corruption (UNCAC) ratified in 2011.
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- Notably, it is currently difficult to penalize commercial organizations involved in corruption, when the supply side of corruption is not criminalized.
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- If the current amendments are passed, the commercial organization shall be punished with fine, if any person associated with them bribes officials.
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- **Gains -** A public servant can currently be held guilty even if actions haven't resulted in any personal benefits but have caused undue loss to the government.
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- This clause is the most used one by CBI in booking cases against officials.
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- This had generated a fear psychosis and was slowing down policy decisions.
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- The amendment bill proposes to drop this provision to facilitate confidence

among officials to take honest decisions without fear of prosecution.
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- **Checks -** The new bill has diluted the power of investigating agencies to prosecute public servants, by mandating prior approval from higher ups.
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- While this is a dilution, it has been deliberately introduced in favour of public servants in order to avoid undue harassment.
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- Hence, no police officer can directly conduct any inquiry in future, against a serving or retired public servant regarding the official duties.
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- Nonetheless, the approval-granting authority has to grant or reject the request within 3 months, and this can be challenged in court as well.
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- Rightly, this provision has not been made applicable for cases involving arrest of the public servant caught red handed for taking a bribe.
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- **Hearing Out -** While now, officials face a plenty of cases filed by the public against them, the new bill proposes to safeguard them from this harassment.
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- It seeks to commission a mandatory hearing from the accused official before proceeding to start an investigation into the alleged complaint.
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- **Confiscations -** Unfortunately, existing anti-corruption legislation does not have inherent provisions to seize properties of those guilty of corruption.
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- In the new bill, a provision has been introduced for confiscation of money or property procured by illegal means, if the accused is pronounced guilty.
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What are the challenges?

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- **Specifics -** Some believe that these changes would give officials a free hand to cheat the public through the strong protections that are being built into it for them.
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- Further, criminalization of bribe-giving could result in undue victimization of the public despite the clauses for protecting those coerced to give bribes.
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- **General -** One of the hurdles connected with conviction of public servants is that trial of cases in a court of law takes many years for their conclusion.

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- As there are a significant number of corruption cases pending for conclusion of trial, the new bill has sought daily hearing for anti-corruption cases.
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- The bill also seeks to set a 4 year time limit for ending the hearing of the entire corruption case in order to convict/acquit a public servant in a short time.
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- Further, as corruption has become systemic, wholesome systemic changes are needed to ensure that corruption is effectively curbed.
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Source: Business Line

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