



A balancing Act

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Highlights

- It is unfortunate that India has not been able to shed the image of a highly corrupt nation even after seven decades of Independence.
- In the recent past, things have undoubtedly changed for the better — even if only marginally — when people try to obtain a passport, a driving licence, or a birth/death certificate. This is thanks to digitisation and the sensible pruning of prescribed procedures.
- The Centre and a few States deserve praise for taking some initiatives to reduce corruption. But this is small comfort. A lot more needs to be done before we can relax the fight against corruption among public servants.

It is against this backdrop that Parliament has passed the Prevention of Corruption (Amendment) Bill. At least one of the amendments, which mandates prior government approval of the Central or State government to initiate investigation into corruption charges, is bound to evoke negative reactions from large sections of the public.

- Protection to government servants from arbitrary and unilateral action by anti-corruption agencies without prior permission from the government was earlier available only to the higher echelons, from the rank of Joint Secretary and above, before the Supreme Court struck down the so-called 'Single Directive'. The latest tweak extends this protection to all public servants.
- The Central Vigilance Commissioner may have to step in with some practical guidelines. The exercise involved here is enormous, given the size of India's bureaucracy and the entrenched sophistication of dishonest practices.
- Another major change is the deletion of the whole of clause (d) of sub-section (1) of Section 13, which defines 'criminal misconduct' as the acquisition of a 'valuable thing' or 'pecuniary advantage' in a dishonest manner.
- The deleted clause was the sole effective weapon against a misbehaving senior official. This deletion (without substituting it with any other clause) is disappointing because corruption in high places is sophisticated and takes place in a highly clandestine manner.
- One reasonable apprehension is that where a public servant causes performance of a public duty which is improper and against prescribed rules and procedures, and there is no proof of a transaction of bribery, he will go scot free.
- There is a misgiving here that the latest amendments to Section 13(1) could be in conflict with the spirit of Article 19 of the United Nations Convention Against Corruption.

The primary objective of these amendments is to tone down law enforcement excesses without diluting the authority of agencies like the CBI; or, in other words, to strike a balance between enforcement overzealousness and the need for stringent action against corrupt public

servants. With some civil servants complaining that they had been wronged for discharging their lawful duties, such a balance is the need of the hour.

Source: [The Hindu](#)

