



Layers of protection-Protecting honest public servants is important; so are anti-corruption efforts

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Highlights

- The Prevention of Corruption Act, 1988 is an Act of the Parliament of India enacted to combat corruption in government agencies and public sector businesses in India.
- This law defines who a public servant is and punishes public servants involved in corruption or bribery. It also punishes anyone who helps him or her commit the crime corruption or bribery.
- The amendments to the Prevention of Corruption Act, 1988, adopted recently by both Houses of Parliament
- Section 13 (1) d resulted in many honest officials being prosecuted even when they gained nothing and merely exercised their power or discretion in favour of someone.
- Insofar as it had a chilling effect on governance and deterred bold decision-making, the amended form may have a liberating effect on honest officials.
- Besides, it is more concise and restricts criminal misconduct to two offences: misappropriating or converting to one's own use property entrusted to a public servant or is in his control, and amassing unexplained wealth.
- By making citizens liable for offering a bribe to a public servant, the anti-corruption law has been brought in line with the UN Convention Against Corruption.
- The only exception to this rule is when one is forced to give a bribe. This exception kicks in only when the fact that one was forced to pay a bribe is reported to a law enforcement authority within seven days.

Issues

- The penal provision can empower people by allowing them to cite it to refuse to pay a bribe. People may be left in the lurch with no redress when the police or any other agency refuses to register a complaint.
- Further, it may render them vulnerable to threats from unscrupulous public servants who collect money to speed up public services but do not deliver.
- The most unacceptable change is the introduction of a prior approval norm to start an investigation. When a prior sanction requirement exists in law for prosecution, it is incomprehensible that the legislature should create another layer of protection in the initial stage of a probe.
- Public servants need to be protected against unfair prosecution, but a genuine drive against corruption needs a package of legislative measures.
- These should contain penal provisions, create an ombudsman in the form of a Lokpal or

Lokayukta, as well as assure citizens of time-bound services and whistle-blower protection. Laws to fulfil these objectives are either not operational or are yet to materialise.

Source: [The Hindu](#)

