

Jan Lokpal Bill & The Lokpal and Lokayukta Bill 2011

The **Jan Lokpal Bill**, also referred to the **Citizen's Ombudsman Bill**, is an anti-corruption bill drafted and drawn up by civil society activists in India seeking the appointment of a Jan Lokpal, an independent body to investigate corruption cases. This bill also proposes improvements to the Lokpal and Lokayukta Bill 2011, which was to be passed by Lok Sabha in December 2011. The Jan Lokpal Bill aims to effectively deter corruption, compensate citizen grievances, and protect whistle-blowers. The prefix *Jan* (translation: citizens) signifies that these improvements includes inputs provided by "ordinary citizens" through an activist-driven, non-governmental public consultation.

Background

The word *Lokpal* was coined in 1963 by L.M. Singhvi, a Member of Parliament during a debate in Parliament about grievance redressal mechanisms. His son Dr. Abhishek Singhvi was head of the Parliament standing committee reviewing the bill but later resigned from the post after a sex-tape controversy.

In order to draw the attention of the government, a focused campaign "India Against Corruption" (IAC) was started in 2011. Anna Hazare is the head of civil society and the IAC movement. Being a foreground for Jan Lokpal campaign. Through these collaborative efforts till August 2011, IAC was able to upload the 23rd version of Jan Lokpal Bill draft.

Lokpal Bill

The Lokpal Bill was first introduced by Shanti Bhushan in 1968 and passed the 4th Lok Sabha in 1969. But before it could be passed by Rajya Sabha, the Lok Sabha was dissolved and the bill lapsed. Subsequent versions were re-introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and in 2008, but none of them were passed.

In 2011, during the Parliament's Winter Session, the Lok Sabha passed the controversial Lokpal Bill, but could not be passed by Rajya Sabha due to shortage of time in the winter session of 2011. Government has not put Lokpal bill again in Rajya Sabha

Timeline and cost

The Lokpal Bill has been introduced in the Parliament a total of eight times since 1968.

- 1968 – ₹ 3 lakh¹ (300,000)
- 1971 – ₹ 20 lakh (2 million)
- 1977 – ₹ 25 lakh (2.5 million)
- 1985 – ₹ 25 lakh
- 1989 – ₹ 35 lakh (3.5 million) – PM under lokpal
- 1996 – ₹ 1 crore (10 million) – PM under lokpal
- 2001 – ₹ 35 crore (350 million) – PM under lokpal
- 2011 – ₹ 1700 crore (17 billion)
- 2012 - ₹ 2000 crore (20 billion)

Current anti-corruption laws and organizations

While India currently has a number of laws intended to stem corruption, supporters of the Jan Lokpal Bill have argued that the current laws are inadequate in light of the large number and size of scandals in India.

Central Vigilance Commission (CVC)

CVC has a staff strength of between 200 and 250 employees. If one went by international standards, India needs 28 anti-corruption staff in CVC to check corruption of 57 lakh employees. There has been considerable delay in many cases for grant of sanction for prosecution against corrupt government officials. The permission to prosecute such officials acts as a deterrent in the drive to eradicate corruption and bring transparency in the system.

Central Bureau of Investigation (CBI)

Because the CBI is under the control of the central government, it needs a go-ahead from central agencies to initiate criminal proceedings. By then, the accused can take advantage of such a situation. He can get time to pressure the complainant and intimidate him so that the case be withdrawn.

In the Jan Lokpal Bill, it is proposed that both of these wings be merged into the Lokpal. This would enable the Lokpal to be completely independent of the government and free from ministerial influence in its investigations in.

Inspiration

The bill was inspired by the Hong Kong Independent Commission Against Corruption (ICAC). In the 1970s, the level of corruption in Hong Kong was seen so high, that the government created the commission with direct powers to investigate and deal with corruption. In the first instance, the ICAC sacked 119 out of 180 police officers.

Key features of proposed bill

Some important features of the proposed bill are:

To establish a central government anti-corruption institution called *Lokpal*, supported by *Lokayukta* at the state level.

1. As is the case with the Supreme Court of India and Cabinet Secretariat, the *Lokpal* will be supervised by the Cabinet Secretary and the Election Commission. As a result, it will be completely independent of the government and free from ministerial influence in its investigations.
2. Members will be appointed by judges, Indian Administrative Service officers with a clean record, private citizens and constitutional authorities through a transparent and participatory process.
3. A selection committee will invite short-listed candidates for interviews, the video recordings of which will thereafter be made public.
4. Every month on its website, the *Lokayukta* will publish a list of cases dealt with, brief details of each, their outcome and any action taken or proposed. It will also publish lists of all cases received by the *Lokayukta* during the previous month, cases dealt with and those which are pending.
5. Investigations of each case must be completed in one year. Any resulting trials should be concluded in the following year, giving a total maximum process time of two years.
6. Losses to the government by a corrupt individual will be recovered at the time of conviction.
7. Government office-work required by a citizen that is not completed within a prescribed time period will result in *Lokpal* imposing financial penalties on those responsible, which will then be given as compensation to the complainant.

8. Complaints against any officer of *Lokpal* will be investigated and completed within one month and, if found to be substantive, will result in the officer being dismissed within two months.
9. The existing anti-corruption agencies [CVC], departmental vigilance and the anti-corruption branch of the [CBI] will be merged into *Lokpal* which will have complete power authority to independently investigate and prosecute any officer, judge or politician.
10. Whistle-blowers who alert the agency to potential corruption cases will also be provided with protection by it.

Difference between government's and activists' drafts

Highlights

Difference between Jan Lokpal Bill and Draft Bill 2010	
Jan Lokpal Bill (Citizen's Ombudsman Bill)	Draft Lokpal Bill (2010)
<i>Lokpal</i> will have powers to initiate <i>suo motu</i> action or receive complaints of corruption from the general public.	<i>Lokpal</i> will have no power to initiate <i>suo motu</i> action or receive complaints of corruption from the general public. It can only probe complaints forwarded by the Speaker of the <i>Lok Sabha</i> or the Chairman of the <i>Rajya Sabha</i> .
<i>Lokpal</i> will have the power to initiate prosecution of anyone found guilty.	<i>Lokpal</i> will only be an Advisory Body with a role limited to forwarding reports to a "Competent Authority".
<i>Lokpal</i> will have police powers as well as the ability to register FIRs.	<i>Lokpal</i> will have no police powers and no ability to register an FIR or proceed with criminal investigations.
<i>Lokpal</i> and the anti corruption wing of the CBI will be one independent body.	The CBI and <i>Lokpal</i> will be unconnected.

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Punishments will be a minimum of 1 year and a maximum of up to life imprisonment.	Punishment for corruption will be a minimum of 6 months and a maximum of up to 7 years.
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Details

The following table details differences between the Government and activist backed versions.

Comparison:.

Issue	The Jan Lokpal Bill	Government's Lokpal Bill
Prime Minister	PM can be investigated with permission of seven member Lokpal bench	PM can be investigated by Lokpal after she/he vacates office.
Judiciary	Can be investigated, though high level members may be investigated only with permission of a seven member Lokpal bench	Judiciary is exempt and will be covered by a separate "judicial accountability bill".
Conduct of MPs	Can be investigated with permission of seven member Lokpal bench	Can be investigated, but their conduct within Parliament, such as voting, cannot be investigated.
Lower bureaucracy	All public servants would be included.	Only senior officers (Group A) will be covered.
Anti-Corruption wing of the Central Bureau of Investigation (CBI)	The Anti-Corruption wing of the CBI will be merged into the Lokpal	The Anti-Corruption wing of the CBI cannot be merged into the Lokpal.
Removal of Lokpal members and Chair	Any person can bring a complaint to the Supreme Court, who can then recommend removal of any member to the President	Any "aggrieved party" can raise a complaint to the President, who will refer the matter to the CJI.

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Removal of Lokpal staff and officers	Complaints against Lokpal staff will be handled by independent boards set-up in each state, composed of retired bureaucrats, judges, and civil society members.	Lokpal will conduct inquiries into its own behaviour.
Lokayukta	Lokayukta and other local/state anti-corruption agency would remain in place.	All state anti-corruption agencies would be closed and responsibilities taken over by centralised Lokpal.
Whistleblower protection	Whistleblowers are protected by Lokpal	No protection granted to whistleblowers by Lokpal.
Punishment for corruption	Lokpal can either directly impose penalties, or refer the matter to the courts. Penalties can include removal from office, imprisonment, and recovery of assets from those who benefited from the corruption.	Lokpal can only refer matters to the courts, not take any direct punitive actions. Penalties remain equivalent to those in current laws.
Investigatory powers	Lokpal can obtain wiretaps (to make a connection to a telegraph or telephone wire in order to obtain information secretly), issue rogatory letters, and recruit investigating officers. Cannot issue contempt orders.	Lokpal can issue contempt orders, and has the ability to punish those in contempt. No authority to obtain wiretaps, issue rogatory letters, or recruit investigating officers.
False, frivolous and vexatious complaints	Lokpal can issue fines for frivolous complaints (including frivolous complaints against Lokpal itself), with a maximum penalty of Rs 100,000.	Court system will handle matters of frivolous complaints. Courts can give 2–5 years imprisonment and fines of Rs 25,000 to 200,000.
NGOs	NGOs not within the scope due to their role in exposing	NGOs are within the scope

	corruption.	and can be investigated.
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Governments approach about Whistleblower protection & Citizen-charter

In a bid to narrow differences on the anti-graft legislation and provide itself some political cover against the threat of a public protest, the Government introduced Citizen's Charter and Grievance Redressal Bill 2011 or *Citizen-charter bill in Dec 20, 2011* along with the already introduced Whistleblower Protection Law or *Public Interest Disclosure (Protection of Information) Bill – 2010* back in August 2011. Responding to this move, Team Anna issued a statement that: "The government proposes to remove CBI, judiciary, citizen charter, whistle blower protection, Group C and Group D employees from the Lokpal jurisdiction. Wouldn't that reduce Lokpal to an empty tin box with no powers and functions?". This issue remains open between Team Anna & Government.

Lokpal and Lokayukta Bill 2011

On 27 December 2011, Lok Sabha Parliament winter session passed controversial Lokpal Bill under title of Lokpal and Lokayukta Bill 2011 but without constitutional status. Before passing this bill it was introduced in Lok Sabha with key amendments moved. The 10 hour house debate, number of opposition parties claimed introduced bill is weak and wanted it withdrawn. Key amendments that were discussed but defeated were following:

- Including corporates, media and NGOs receiving donations
- Bringing CBI under the purview of Lokpal

Amendments that the house agreed upon were:

- Keeping the defence forces and coast guard personnel out of the purview of the anti-graft ombudsman
- Increasing the exemption time of former MPs from five to seven years

Team Anna rejected the proposed bill describing it as "anti-people and dangerous" even before the Lok Sabha gave its assent. The key notes Team Anna made about rejection were:

- Government will have all the control over Lokpal as it will have powers to appoint and remove members at its will.
- Only 10 per cent political leaders are covered by this Bill

- Bill was also covering temples, mosques and churches
- Bill was offering favor to corruption accused by offering them free lawyer service.
- Bill was also unclear about handling corruption within Lokpal office.
- Only five per cent of employees are in its ambit, as Class C & D officers were not included.

Team Anna was also disappointed over following inherent exclusions within tabled government bill.

Central Bureau of Investigation (CBI) should be merged with the Lokpal, and the anti-corruption bureaus and the Vigilance Departments of the State governments with the Lokayuktas.

- The Lokpal and the Lokayuktas should have their own investigative wings with exclusive jurisdiction over cases filed under the Prevention of Corruption Act.
- The Lokpal should have administrative and financial control over the CBI, and the appointment of the CBI Director should be independent of any political control.
- The jurisdiction of the Lokpal and the Lokayukta should cover Class C and D officers directly.

This bill was then presented in Rajya Sabha where it hit log jam again.