



## Jan Lokpal Bill: A MYTH or REALITY

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**Abstract** : Corruption in its literal term means abuse of public power for private benefit. It has been found that every department of government has become a den of corruption. It is rooted in our acquisitive society where greatness of individuals and nobility of their family is judged by what they possess rather than by what they are.

To overcome this a plethora of advice was given by Mr. Shanti Bhushan in 1968 in the form of **Lokpal Bill**, an anti-corruption bill drafted to control corruption. Bill was revived several times but it has not been passed till date. Steps had been taken at the

state level for the establishment of **Lokayuktas** for combating corruption.

The Lokpal Bill drafted by the government was riddled with loopholes, so the civil society proposed an alternative bill called **Jan Lokpal Bill** drafted by Santosh Hegde, Prashant Bhushan and Arvind Kejriwal. Jan Lokpal Bill is referred to as the Citizen's Ombudsman Bill. It is an independent body that would investigate corruption cases. It aims to effectively deter corruption, compensate citizen's grievances and protect whistle blowers.

It appears that corruption is rampant and requires adequate handling. The 50 respondents and even the media have also stressed this point. The work makes an attempt to probe into the crux of problems and find the actual status of the bill. Surprisingly it appears to be a myth or an electoral gimmick.

**Key Words** : Ombudsman, Myth, Electoral Gimmick, N-50.

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## Introduction :

**Kautilya**, the author of Arthashastra, opined “Just as it is impossible not to taste honey that finds itself at the tip of the tongue. So, it is impossible for a government official not to eat up, at least a bit of king's revenue”. (Avasthi & Maheshwari : 601). At present the bug in the system is corruption. **Section 161** of the Indian Penal Code defines corruption-” It deals with a public servant who accepts or obtains or agrees to accept from any person for himself or for any other person any gratification other than the legal remuneration”. – (Tyagi, : 559).

Corruption is not only an enemy of development and good governance, it is also a foe of democracy. Corruption is a multi-faceted problem having legal, political, economic, psychological and administrative dimensions. It has become the way of life and has evolved as cultural habit. Like an omnipresent entity it is everywhere and everyone is a part of it.

Corruption like poverty cannot be eradicated completely. It can only be minimized to a significant extent.

India has a number of stringent laws to deal with corruption and some of them are following:- (Laxmikanth : 222)

1. Indian Penal Code, 1850,
2. Prosecution Section of Income Tax, 1961,
3. The Prevention of Corruption Act, 1988,
4. The Benami Transaction Act, 1988,
5. Prevention of Money Laundering Act, 2001,
6. India is a signatory to the UN Convention against corruption since 2005,
7. Right to Information Act, 2005.

Despite the above mentioned adequate laws to fight corruption, it is still one of the biggest menace in our Indian Society.

No one can afford to ignore the flow of scams which is becoming the news of the day for example: Adarsh Scam, 2G Spectrum, Coalgate, Fodder Scam etc.

Thus to overcome this the **Administrative Reforms Commissions** headed by Sri Morarji Desai recommended for setting up of a Lokpal at the centre and Lokayuktas in the states in the year 1966. (Laxmikanth : 224)

The **Lokpal Bill** is basically an anti-corruption bill drafted to control corruption of ministers and high level officials. At present, some states have enacted laws to set up Lokayukta to fight corruption. Lokpal is derived from the Sanskrit word “**LOK**” meaning **People** and “**PALA**” meaning **Protector of the People**. The basic idea of the Lokpal is borrowed from the office of Ombudsman, a Swedish word and refers to an official whose job is to investigate complaints from the public against government officers. In 1968, the Lokpal Bill was first introduced in the Lok Sabha by Mr Shanti Bhushan. In 1969 it was passed for the first time in the 4<sup>th</sup> Lok Sabha but could not get through in the Rajya Sabha. Subsequent versions were re-introduced nine times but the bill lapsed. Subsequently, Lokpal Bills were introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and most recently in 2008. However, the Bill lapsed each time except in 1985 when it was withdrawn because of the lack of political will.

The step was taken into the establishment of **Lokayuktas** in various states which has been effective as compared to Lokpal. Odisha has been a pioneer state in the case of establishment of the Lokayukta in the year 1970. Second state to set up Lokayukta was Maharashtra (1971) followed by Bihar in 1973, Rajasthan in 1973, Tamil Nadu in 1974, Kashmir in 1975, Madhya Pradesh in 1981, Andhra Pradesh in 1983, Kerala in 1983, Himachal Pradesh in 1984, Karnataka in 1984, Assam in 1985, Gujarat in 1986 and Punjab in 1995.

The Lokayukta have been combating corruption at the state level but the powers and the effectiveness of the functionary vary from state to state. In Himachal Pradesh, Odisha, Kerala and Bihar, the Chief Minister has been brought within the orbit of inquiry by the Lokayukta. It will also have jurisdiction over actions of public servants rather than action within the preview of the proposed Lokpal.

A study of the working of the Lokayuktas brings out a number of shortcomings in its functioning which needs immediate overcoming strategies. The first All India Conference of Lokayukta and Upa-Lokayukta was held in Shimla in May, 1968 and a number of resolutions were passed to streamline the functioning of this institution. Thus, there was also demanded initiate Lokayukta in every state and to ensure uniformity throughout India with regard to the service condition of the Lokayukta and Upa-Lokayuktas.

But all states are drafting Lokayukta Act in accordance with their convenience and understanding. India is a Union of States. If this discrepancy is allowed then there will be lack of uniformity and the purpose would be defeated.

The Lokpal Bill drafted by the government was riddled with loopholes which defeated the very purpose of the bill. As the Lokpal Bill is to be introduced in the Parliament, civil society activists came forward with an alternative bill called the “**Jan Lokpal Bill**” drafted by Justice Santosh Hegde, Prashant Bhushan (Lawyer) and Arvind Kejriwal (IITian). This Bill as proposed is an improved version of the original Lokpal Bill.

In short Jan Lokpal Bill is Lokpal Bill with teeth.

Jan Lokpal Bill is also referred to as Citizen's Ombudsman Bill. It is an independent body that would investigate corruption cases, complete the investigation within a year and try the case the following year.

The Jan Lokpal Bill aims to effectively deter corruption, compensate citizen grievances and **protect whistle blowers**. If passed into law, the body would be empowered to register and investigate complaints of corruption against politicians and bureaucrats without prior government approval to the extent of making Prime Minister accountable. The prefix Jan signifies that these improvements include “ordinary citizens” through an activist driven, non - governmental public consultation.

**Anna Hazare** fought to get this bill passed, and it was passed on December 27, 2011 with some modifications. However, Anna Hazare and his team as well as other political parties claimed that the Lokpal Bill passed by the Lok Sabha was weak, and would not serve its intended purpose. Meanwhile, the proposed bill by the ruling Congress Party has yet to be accepted in the Rajya Sabha. As of December 29, 2011, the bill has been deferred to the next parliamentary session, amid much controversy and disruption by LJP, RJD and SP parties. The media, at large, and the opposition parties claimed the situation had been staged. Retired IPS Officer Kiran Bedi and others, like Anna Hazare, Swami Agnivesh, Sri Sri Ravishankar and Mallika Sarabhai are also the members of the movement called **India Against Corruption**.

#### **Need for Jan Lokpal Bill :**

There are several deficiencies in our anti-corruption systems because of which despite overwhelming evidence against the corrupt, no honest investigation and prosecution takes place and the corrupt are hardly punished. The whole anti-corruption set up ends up protecting the corrupt and penalizing the victim by not giving justice.

Our anti-corruption agencies have basic structure deficiencies because of which they are incapable of doing honest investigations. The process of investigation is also cumbersome. It needs to be simplified as the main target are common people.

**The following four deficiencies stand out in our anti-corruption system:**

- (a) **Lack of Independence** : Most of our agencies like CBI, State Vigilance Department, Internal Vigilance wings of various departments, anti-corruption branch of state police etc are not independent. In many cases, they have to report to the same people who are either themselves accused or are likely to be influenced by the accused. Autonomous functioning is the demand of the day but it is not beyond doubt, it may become Leviathan curtailing further the right of the masses.
- (b) **Powerlessness** : Some bodies like CVC or Lokayuktas are independent, but they do not have any power. They have been made advisory bodies. So they are like toothless tigers and they do not have any impact.
- (c) **Multiplicity of agencies** : Governments have deliberately created plethora of anti-corruption agencies and given them fractured mandates. This has been done to render them ineffective i.e. ulterior motive of the government.
- (d) **Lack of Transparency and Internal Accountability** : In addition , there is the problem of internal transparency and accountability of these anti-corruption agencies. Presently, there isn't any separate and effective mechanism to

check if the staff of these anti-corruption agencies turns corrupt. Therefore there seems to be too much protection for the corrupt people.

**Key Features of Proposed Bill :**

Some important features of the Proposed Bill are-

1. To establish a central government anti-corruption institution called Lokpal, supported by Lokayukta at the State Level.
2. As in 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.
3. Members will be appointed by judges, IAS officers with a clean record, private citizens and constitutional authorities through a transparent and participatory process.
4. A selection committee will invite share listed candidates for interviews, the video recordings of which will thereafter be made public.
5. 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.
6. Investigation of each case must be completed in one year. Any resulting trail

should be concluded in the following year giving a total maximum process time of two years.

7. Losses to the government by a corrupt individual will be recovered at the time of conviction.
8. 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.
9. Complaints against any officer of Lokpal will be investigated and completed within a month and, if found to be substantive, will result in the officer being dismissed within two months.
10. Central Vigilance Commission, the departmental vigilance and anti-corruption branch of CBI, will be merged into Lokpal. Lokpal will have complete powers and machinery to independently investigate and prosecute any officer, judge or politician.
11. It will be the duty of the Lokpal to provide protection to the whistle blowers who are being victimized for raising their voice against corruption.

**Fundamental Duties :**

1. To judge the cases and make jurisdictions against corruption cases with the Lokpal.
2. To judge whether a case is genuine or whether a fake complaint has been made.
3. To potentially impose fines on a fake complaint or even a short span of jail time, if the case is not proved to be legally true.

**Differences Between Jan Lokpal Bill & Government's Lokpal Bill**

(Fadia, 2011 : 1143)

Jan Lokpal Bill	Government's Lokpal Bill
1. Lokpal will have power to initiate SUO MOTU action or receive complaints of corruption from the general public.	1. Lokpal will have no power to initiate SUO MOTU action or receive complaints of corruption from the general public
2. Lokpal will have power to initiate prosecution of anyone found guilty.	2. Lokpal will be an advisory body with a role limited to forwarding reports to competent authority.
3. Lokpal will have police powers as well as ability to register FIRs.	3. Lokpal will not have police powers and no ability to register an FIR or proceed with the criminal investigation.
4. Lokpal and the anti-corruption wing of the CBI will be one independent body.	4. The CBI and Lokpal will be unconnected.
5. It will have jurisdiction over politicians, officials and judges.	5. It does not have jurisdiction over bureaucrats and government officers.

**Hypotheses of the Project:**

- Efficiency of three organs of the government will increase.
- Procedures to seek remedies against administrative actions are woefully inadequate.
- Educational Institutions should include the matter to make the coming generation aware.

**Objectives of the Project :**

- To make India a corruption free country.
- To find a solution between Lokpal Bill and Jan lokpal Bill.
- How Jan lokpal Bill will combat corruption.

**Methodology:**

- It is an empirical study based on both primary and secondary methods.  
Primary method include interview of 50 respondents and secondary method includes interpretation of data available in black and white.
- **Area of Study:** Patna Women's College, Patna.
- **Sample size and sampling method:** 50 and incidental cum purposive sampling.

- Tools and Techniques for Data Collection: **Questionnaire method.**
- Method of data analysis: **Pie charts Analysis.**

#### **Questionnaire :**

- Q.1. Can Jan Lokpal Bill remove 100% corruption from India?
- Q.2. Is Jan Lokpal Bill a super cop?
- Q.3. Should Jan Lokpal Bill have its own investigation machinery?
- Q.4. Do you think the proposed Jan Lokpal Bill will ensure punishment for corruption?
- Q.5. Do you think that by maintaining accountability and transparency to people no complaint against corruption will be rejected?
- Q.6. Do you agree that whistle blowers will get protection under Jan Lokpal Bill system?
- Q.7. People's grievances will overburden Jan Lokpal?
- Q.8. PM and Judiciary should be covered under Jan Lokpal Bill or not?
- Q.9. Confiscation of assets under the proposed Jan Lokpal Bill will control corruption or not?
- Q.10. Is the Bill within the legislative competence of parliament?
- Q.11. Should Team Anna form a political party?
- Q.12. Jan Lokpal Bill is just frustration with governance and corruption. Do you agree?
- Q.13. Did we just witness the emergence of a new pressure group?
- Q.14. Jan lokpal Bill is valid for people to demand a good law?
- Q.15. Can Jan Lokpal Bill be used to save democracy?

#### **Results and Discussion :**

Through the empirical study views of 50 respondents were taken into consideration. Though our questionnaire

comprised of 15 questions but our findings revolve around 5 major questions which are mentioned above.

Majority of the respondents said that Jan Lokpal bill cannot remove 100% corruption because it will act as Big Brother, that is, it will assume so much power that the body will become corrupt in it self, as power corrupts and absolute power corrupts absolutely.

We analyzed that 54% of the respondents agreed that whistle blowers will get protection under Jan Lokpal Bill because earlier whistle blowers were victimized.

58% of the respondents expressed their view that they witness the emergence of a new pressure group because pressure techniques like fast, dharnas, gherao etc. were used as democratically acknowledged protest techniques. It is legitimate form of political participation and cannot be stopped.

We also analyzed that majority of the respondents were in favour of Jan Lokpal Bill as the saviour of democracy because it is related to Jan and where Jan is related there would be democracy.

Further we analyzed that majority of the respondents were not in favour of Team Anna forming a political party because Team Anna is clueless about what they had started. People are with Anna but they are smelling foul game more.

#### **Our other findings were:**

There is no provision in the Indian Constitution for Lokpal and it will be set up as a statutory body created by an Act of parliament.

Provisions of the present Jan Lokpal Bill go against many of the basic features of the constitution. Passing such a bill into an act would itself be against two other basic features namely supremacy of the constitution and limited powers of parliament to amend the constitution.

People's grievances will overburden Jan Lokpal Bill because it includes lower level of corruption to higher level of corruption for example Public Interest Litigation (PIL).

At present in our society there is no provision for recovery of loss caused to the government which is diminishing the intensity of the body.

The proposed Bill will ensure punishment for corruption because it has time bound investigation.

So because of their inherent ideological rift it has definitely weakened the texture of civil society.

### **Conclusion :**

Good governance cannot be achieved unless and until the Government itself is firmly committed to the task of weeding out dishonest and corrupt officials, irrespective of rank and status. All government employees, irrespective of rank, whose integrity and honesty are even slightly in doubt should be dealt with severely. The real remedy for the evil of corrupt practices lies in creating a clean and healthy atmosphere in which every person holding prominent position in the political, social, religious and even educational spheres shall follow a certain standard of conduct, a life of austerity and simplicity, and imbibe the good values of our country.

It is indeed true that, no one can be completely against the Jan Lokpal Bill. But the need is to analyze everything with a sense of responsibility and not to create unnecessary furore over it. The Jan Lokpal Bill should not become an issue of adamant stances, political rivalries and personality driven agitations. What we need is a universe, detailed debate for legislation of immense social significance and public concern. The first road starts from us. Unless we don't start our journey, we should not expect from others to make a corruption free India. Change begins from an individual. Corruption is still one of the biggest

impediments to extending the benefits of development and progress to the poorest of the poor. It is high time now to demand an Ombudsman who will address our grievances and force the government to act. Any changes that are likely to affect the balance of Constitutional framework must be attempted only after considering and deliberating on all the possible consequences and not under any threats. The only way forward must be wide ranging dialogue with various sections of society under purview of the Standing Committee of Parliament or any other body and to arrive at a consensual Bill that meets the aspirations for an effective ombudsman while conforming to the basic features of the Indian Constitution.

So it is a bed of roses which seems beautiful but the plantation process is not known to the common people.

It can be safely asserted that the two extremes of myth and reality is still under investigation till the outcome is made public. Instead of hype and cry what is required is cool thinking and workable plan because charity begins at home.

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