

Jan Lokpal is Better Mechanism for Grievances Redressal : Indian Context

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Introduction

The administration in a welfare state is invested with enormous power to undertake activities for public benefit. With the growth and evolution of modern democracies governments have been involved more and more with the socio-economic development and welfare of the citizens. Naturally, this has widened the sphere of activities of government in modern societies and has proliferated administrative institutions and agencies as instruments of public development and welfare. Consequently, increasing power has occurred to the bureaucrats and administrators. This trend under democratic system has given rise to the problem of keeping bureaucratic arbitrariness in check and making the administrative machinery more responsive to the needs and grievances of citizens. With more and more expansion of government activities bureaucratic power has tended to increase and with this the search for countervailing mechanisms has been widespread among the nations. Against this background the innovation of the institution of ombudsman can be regarded as an important new addition to the armory of democratic governments.

The institution of ombudsman was first created in 1809 in Sweden for the redressal of citizens grievances. The Scandinavian office of the ombudsman has in recent years assumed increasing significance in the various parts of the world as a device for controlling maladministration. The success achieved by this institution spreads its popularity to several developing countries after the Second World War.

No one can deny the fact that in India the cases of corruption and negligence of public officials, both at the state and central levels, have been conspicuously on the increase. There are some established channels through which complaints regarding maladministration can be processed in order to curb them. In the first place there are the courts of law; but they are quite often not in a position to control the aforesaid evil. The reason is simple-codes are too much overburdened with civil and criminal cases. The methods adopted by the codes to deal with the cases of corruption and negligence involve a lengthy and tedious procedure whereas the cases in which more administration is alleged need quick remedy. The weakness of judicial control is that the courts can act only if the official fails to operate within the law. The fact is that a great deal of mal administration which may inflict injustice on the citizen is not in quite reach of law and is, therefore, quite beyond the reach of judiciary. In parliamentary form of government, the legislature is another forum for raising grievances of citizens. The fundamental principle of voting a demand is that citizen's grievances must be considered before supply can be granted to executive government. Thus in debates on demands for grants, all sorts of grievances may be raised by cut motions. There are also other parliamentary methods of raising grievances; question hour, half an hour debate, calling attention notice and adjournment motions. These methods can also only be adopted when grave questions of public policy or administration are involved.

Apart from this, the question maladministration may also be dealt with by a committee of

Lok Sabha which is known as Petitions Committee and has in existence since 1954. The object of this committee is to redress the grievances of petitions against the acts of executive. The committee has been submitting periodical reports all these years but they have not been fruitful in checking maladministration.

Another channel of investigation is Vigilance Commission established by the central and state governments to eliminate and other misuses of power by the civil servants in India. Although the commissioner's performance over the years has not been very spectacular, it is claimed; however, that the extra administrative review provided by the commission keeps public servants on the alert and serve to create public confidence decision in disciplinary cases will not be hustled.i

In the view of the failure of the above channels to adequately meet the cases of maladministration, it is essential to explore the possibility of new machinery which may investigate into complaints of corrupt practices, undue delay and misuse of powers independently of the executive branch of government.

"It is said that the power corrupts and absolute power corrupts absolutely." These prophetic words have really been proved true, in the case of public administration in India. In any democratic set-up, such as ours, the citizen in theory are the masters and the government officials their servants. But in actual practice the concept often appears to operate in the reverse manner. While a government official enjoys certain powers vested in him as a trustee, holding a public office to act according to due process of law on the behalf of citizens collectively, the individual citizens suffers in practice from the ignorance and appears too weak before the government officials.ii

It has rightly been said, "evil tolerated is evil propagated", unfortunately we have, and are going on tolerating this evil for the last many years. Corruption has now become an often discussed subject in the country. One author has summarized the whole situation in these words; "It is a symptom of decaying society in the grip of a fatal disease"iii

Need for an Institution of Grievance Redressal :Lokpal

A truly responsive administration must have two essential characteristics; it must be representative and responsible. In general, an ombudsman is a state official appointed to provide a check on government activity in the interests of the citizen, and to oversee the investigation of complaints of improper government activity against the citizen. If the ombudsman finds a complaint to be substantiated, the problem may get rectified, or an ombudsman report is published making recommendations for change. Further redress depends on the laws of the country concerned, but this typically involves financial compensation. Ombudsmen in most countries do not have the power to initiate legal proceedings or prosecution on the grounds of a complaint. This role is sometimes referred to as a "tribunitian" role, and has been traditionally fulfilled by elected representatives – the term refers to the ancient Roman "tribunes of the plebeians" (tribuniplebis), whose role was to intercede in the political process on behalf of common citizens.

The major advantage of an ombudsman is that he or she examines complaints from outside the offending state institution, thus avoiding the conflicts of interest inherent in self-policing. However, the ombudsman system relies heavily on the selection of an appropriate individual for the office, and on the cooperation of at least some effective official from within the apparatus of

the state

OBJECTIVES OF THE STUDY

1. To study the differences between Lokpal Bill and Jan Lokpal Bill
2. To study the advantages and disadvantages of Lokpal Bill in India.
3. To find the factors that enables Jan Lokpal as better tool for Public Grievance Rdressal .

METHODOLOGY OF THE STUDY

The present study has been descriptive; the data for this study were obtained from primary and secondary sources. For primary data the scholar has put a questionnaire to different groups of intellectuals. These primary data used for analyze the impact and credibility of Jan Lokpal institution. The secondary data has been collected from various references which already existed in published form; part of the paper is based on literature review the method comprising of collecting all the available papers relating to the theme and selecting relevant papers/books for the review purpose. Selection of the paper is done on the basis of their relevance and contribution to the body of knowledge. The scholar has made an attempt to do primary reading of the selected papers which will constitute the core of this review study.

History of Ombudsman: Lokpal

In 1697, when he was only 15 years old, Charles XII became King of Sweden. For the next 17 years, however, Charles was out of the country fighting wars, mostly against Russia. During this time, because he was away from the country, Charles signed a law creating an office called the King's Highest Ombudsman. The job of the King's Highest Ombudsman was to make sure that while the king was away the government workers, judges, and the military were acting properly and following the rules the King had left for them. When the wars were over and the King returned to Sweden, the office of the ombudsman disappeared for several decades, but it was not forgotten.

About a hundred years later, in 1809, Sweden had a different king but it was still fighting wars with Russia. The war was not going very well for Sweden. In fact, the king had been taken prisoner by the Russian army. Without a King to make final decisions and settle disputes, the Swedish Parliament brought back the idea of the ombudsman. The ombudsman who was appointed in 1809 was responsible to Parliament and his job was to protect the rights of citizens against unfair or oppressive decisions of the bureaucracy. His name was Lars Augustin Mannerheim.

The appointment of this parliamentary ombudsman in Sweden in 1809 is generally regarded as the birthdate of the modern ombudsman. Most of the public or parliamentary ombudsmen around the world are modeled on what happened in Sweden in 1809. A common definition that is accepted today says that a public or parliamentary ombudsman is "a public official appointed by the legislature to receive and investigate citizen complaints against administrative acts of government".

The word ombudsman is originally Swedish and means "representative". In various countries around the world the representatives of the people who protect peoples' rights, are given a variety

of names. By 2001 the institution of ombudsman on the national level had spread to approximately 110 countries of the world. In many countries there are also regional, city and provincial ombudsmen, and some countries have ombudsmen on the national, regional and sub-national level.

Protection of human rights is one of the main purposes of ombudsmen and their offices, and this purpose is also reflected in the name of the institution. The roots of the institution of ombudsman stretch back to 1809 in Sweden, when an ombudsman for justice was established. Up until the 20th century the institution did not extend beyond the Swedish border, but it was then adopted by the other Scandinavian countries (Finland in 1919, Denmark in 1955 and Norway in 1962). The institution of ombudsman enjoyed its greatest popularity in the 1960s, when it was established on a mass scale by the Commonwealth countries and by other, mainly European countries. In the middle of 1983 approximately 21 countries had the institution of ombudsman on the national level, and 6 had the institution on the provincial/state or regional level.

Brief History of Lokpal in India

The Lokpal Bill was first introduced by Adv. Shanti Bhushan in 1968 and passed by 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.

The historic Lokpal and Lokayuktas Bill, 2011 passed by Parliament (December 17, 2013 in Rajya Sabha and December 18, 2013 in Lok Sabha) paves the way for setting up of the institution of Lokpal at the Centre and Lokayuktas in States by law enacted by the respective State Legislatures within one year of coming into force of the Act. The Bill as passed by both Houses and enacted by the President on 01.01.2014. The new law provides for a mechanism for dealing with complaints of corruption against public functionaries, including those in high places.

Salient Features of the Bill - 2013

The Bill as passed by Parliament provided broadly for the following:

- (a) Establishment of the institution of Lokpal at the Centre and Lokayuktas at the level of the States, thus providing a uniform vigilance and anti-corruption road-map for the nation, both at the Centre and the States.
- (b) The Lokpal to consist of a Chairperson and a maximum of eight Members, of which fifty percent shall be judicial Members. Fifty per cent of members of Lokpal shall be from amongst SC, ST, OBCs, Minorities and Women.
- (c) The selection of Chairperson and Members of Lokpal shall be through a Selection Committee consisting of –
 - Prime Minister;
 - Speaker of Lok Sabha;
 - Leader of Opposition in the Lok Sabha;

- Chief Justice of India or a sitting Supreme Court Judge nominated by CJI;
 - An eminent jurist to be nominated by the President of India
- (d) A Search Committee will assist the Selection Committee in the process of selection. Fifty per cent of members of the Search Committee shall also be from amongst SC, ST, OBCs, Minorities and Women.
- (e) Prime Minister was brought under the purview of the Lokpal with subject matter exclusions and specific process for handling complaints against the Prime Minister.
- (f) Lokpal's jurisdiction will cover all categories of public servants including Group 'A', 'B', 'C' & 'D' officers and employees of Government. On complaints referred to CVC by Lokpal, CVC will send its report of Preliminary enquiry in respect of Group 'A' and 'B' officers back to Lokpal for further decision. With respect to Group 'C' and 'D' employees, CVC will proceed further in exercise of its own powers under the CVC Act subject to reporting and review by Lokpal.
- (g) All entities receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of Rs. 10 lakhs per year are brought under the jurisdiction of Lokpal.
- (h) Lokpal will have power of superintendence and direction over any investigation agency including CBI for cases referred to them by Lokpal.
- (i) A high powered Committee chaired by the Prime Minister will recommend selection of the Director, CBI.
- (j) Attachment and confiscation of property of public servants acquired by corrupt means, even while prosecution is pending.
- (k) Clear time lines for:-
- Preliminary enquiry – three months extendable by three months.
 - Investigation – six months which may be extended by six months at a time.
 - Trial – one year extendable by one year and, to achieve this, special courts to be set up.
- (l) Enhancement of maximum punishment under the Prevention of Corruption Act from seven years to 10 years. The minimum punishment under sections 7, 8, 9 and 12 of the Prevention of Corruption Act will now be three years and the minimum punishment under section 15 (punishment for attempt) will now be two years.

Advantages of Lokpal Bill

- The major advantage lies in the nature of the legislation proposed. The clauses are aimed at tackling a major socio-political problem – corruption.
- Unlike the traditional system, the Lokpal Bill proposes to give decision making power to highly qualified individuals who are neither bureaucrats nor politicians.

- This bill has been in the pipeline for almost five decades, which is a clear indication that people across generations had faith in this legislation.
- It is expected that the corruption cases will witness a speedy conclusion and the decision will be swifter. The turnaround time for justice to be meted out will be less.
- Moreover, people will not get lost in the size of Indian judiciary system and they can count on a single entity to report crime and get their grievances redressed.

Nobel laureate Amartya Sen had voiced his discontentment over the proposed legislation. Besides saying that it is not well thought out, he pontificated that the challenge is to integrate it “without undermining the democratic structure” and at the same time, “making corruption easily to be dealt with by the judicial system.”

Disadvantages of Lokpal Bill

- First and foremost criticism of government's Lokpal Bill is the clause which prevents Lokpal from receiving complaints of corruption from common people. It has to be at the Parliament's mercy to get access to those complaints.
- Proposed Lokpal Bill treats the institution only as an advisory body. After Lokpal makes an enquiry in any case, it has to forward the report to the 'competent authority', which will have the final powers to decide whether to take action or not. That makes Lokpal completely toothless.
- Lokpal is deprived of police powers and therefore it cannot register an FIR. In such a situation, enquiries conducted by Lokpal will be considered as “preliminary enquiries”. There's no mention on the procedure following the acceptance of Lokpal's report. Who is going to file the chargesheet in the court and initiate prosecution? Moreover, who is going to appoint the prosecution lawyer?
- There's no clarity on the role of CBI once Lokpal Bill becomes a law. The question still remains whether CBI and Lokpal will investigate the same case or will CBI be restricted to investigating politicians only?
- Government's Lokpal bill talks about punishment (amounting to imprisonment) for 'frivolous' complaints. However, if the complaint is found to be true, the Ombudsman will not have the power to send the corrupt public servants to jail!
- Lokpal Bill proposes jurisdiction only on MPs, Ministers and PM and not on officers. It is understood that any corruption is perpetrated collaboratively by the officers and politicians. According to government's Lokpal Bill CVC will look into the role of bureaucrats while Lokpal will look into the role of politicians. This will surely create a bottleneck.
- Lokpal will have no power to probe any case against PM that deals with foreign affairs, security and defence. This is another way of saying that corruption in defence deals will be out of Lokpal's jurisdiction and hence no scrutiny is possible.

Although certain amendments are being made on the bill, some sections of the social activists are yet to consider it as strong enough to rise up to the occasion.

Why India needed Lokpal Bill so badly?

India is recognized as a promising 'BRIC' economy and expected to become an economic giant. Within a short span of time India has become the most sought after country among investors across the world. Though India's economy is booming but there is one major problem which is holding back all the progress and foreign investment. This is CORRUPTION.

Though corruption is there in every other country but the way it is working and penetrating in our system cannot be seen elsewhere. Due to this investors are now less interested in making investments as corruption causes unnecessary delay and increases the overall cost of business.

History and Current system working against corruption

Weak system and outdated laws resulted in corruption. With not so effective system in the past the problem grew like anything in the recent years. 'License Raj', a period between 1947-1990 was the time when government intervention in private business was to its extreme. According to the 1951 Industries Act, all the industrial units were required to get licenses from the central government for business. Then the powers were given to state with the 1956 Industrial Policy Resolution. This created a duplicate system and doing business in India became very complicated. The power was in the hands of government so government officials started taking bribe. Moreover lack of transparency in the system further favored the corruption. In 1991 economic liberalization took place that had attracted many foreign investors and investments. But corruption reduced their interest in doing business.

Presently there are two major reforms which are working against corruption in India. These are – the Prevention of Corruption Act in 1988 (amending the 1947 law) and the Right to Information Act (RTI) in 2005.

- **The Prevention of Corruption Act (PCA)**

This was the first major anti-corruption law that was originally enacted in 1947. Violations under the PCA are handled by the Central Vigilance Commission (CVC) established in 1964. PCA was amended in 1988 to prevent corruption. Criminal liability got attached to the 1988 PCA. According to the section 7 of this Act, any public official taking gratification other than legal remuneration as a motive or reward for doing anything is a crime.

Lack of effect is the major drawback of the Prevention or Corruption Act, as punishment under this Act has rarely happened.

The Act is numb on the issues related to foreign corruption. So Indian citizens or corporation doing frauds in international transaction cannot be penalized under this Act.

- **The Right to Information Act 2005**

With the Right to Information Act in 2005 common citizen of India is granted with the fundamental right to retrieve information related to the functioning from public authorities without giving reason for the inquiry. The RTI is applicable in all the states except for Jammu and

Kashmir due to political conflicts and it covers all the government bodies from central, state to local bodies as well as NGOs.

For functioning, public information officers (PIOs) are appointed to receive applications for information at sub-divisional or sub- district level. Within three days PIO needs to respond. In case no information is provided then the citizen has complete right to appeal to a senior authority and second appeal can be made to the Central Information Commission. The officer can be penalized for not providing the information if not falling under any rule of exception.

But this system has its own flaws:

Firstly, right to obtain information has been given to a common citizen and getting information depends upon his will. It is possible that he might not be interested in this. Also he has no power, confidence and knowledge of the legalities involve which certainly make this system weak.

Secondly the RTI has too many exceptions making the Act ineffective in many cases.

Thirdly the whistle blower gets no protection under the RTI. So no one dares to fight against powerful people. Whistleblower must feel safe and must be statutorily protected.

Since 2005 when the Act was made law no major scandal or corruption has been uncovered.

What more is required?

So the Lokpal Bill will surely help in combating corruption but to weed out this problem every sector must be audited. The desired change can be brought by completely freeing the Lokpal and its investigating agencies.

The Lokpal Bill in isolation cannot work successfully. So along with this the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2010, Whistleblowers Protection Bill and Judicial Accountability Bill should have been passed.

Jan Lokpal

The Jan Lokpal Bill, also referred to as 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 include inputs provided by "ordinary citizens" through an activist-driven, non-governmental public consultation.

The word Lokpal was coined in 1963 by late Mr. L.M. Singhvi, a member of parliament during a debate.

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 the Jan Lokpal Bill draft.[5] As of January 2014, the Delhi State Government led by CM ArvindKejriwal was preparing to adopt the Jan Lokpal Bill, but was unable to introduce it to the house, resigning moments later.

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.

Logjam of 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,[2] 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 favour 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.

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 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.
3. 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.
4. A selection committee will invite short-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. Inquiry has to be completed within 60 days and investigation to be completed within six months. Lokpal shall order an investigation only after hearing the public servant.
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 one month and, if found to be substantive, will result in the officer being dismissed within two months.
10. 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.
11. Whistle-blowers who alert the agency to potential corruption cases will also be provided with protection.

Key differences between the proposed Jan Lokpal Bill of 2011 and the current Lokpal bill passed by Parliament.^{iv}

	Issues	Details Of The Government Bill (Lokpal And Lokayuktas Bill,2011)	What the Jan Lokpal Bill proposed/demanded
1.	Whistle Blower Protection	No whistleblower provision.	The “Whistleblower” is defined as any person who faces threat of physical harm or professional harm like illegitimate transfers, denial of promotions, denial of appropriate perks, departmental proceedings, discrimination or is actually subjected to harm for making a complaint to Lokpal under this Act or for filing an application under Right to Information Act. The Lokpal has the power to take necessary action to provide protection to a whistleblower as per various provisions of this Act.
2.	Lokayukta	A body called “Lokayukta” will be established in every State through the enactment of a law by the State legislatures within a period of 365 days from the date of commencement of this Act. States to have absolute freedom in determining the nature and type of the institution of Lokayukta.	The Jan Lokpal bill sought to create a Lokayukta along the same lines as the one at the Centre.
3.	Punishment for false or frivolous complaints	Clause 46 of the Bill provides for a punishment with imprisonment for a term which may extend to one year and with a fine which may extend to Rs1 lakh in case a complaint is found to be false and frivolous or vexatious.	Fines on complainants but no imprisonment. Lokpal would decide whether a complaint is frivolous or vexatious or false.
4.	Jurisdiction of the Lokpal	Jurisdiction of Lokpal to include Prime Minister, Ministers, Members of Parliament, Groups A, B, C and D officers and officials of Central Government. Any decision of Lokpal to initiate preliminary inquiry or investigation against the Prime Minister shall be taken only by the Full Bench with a “2/3 rd majority”. Judiciary not to be brought under the Lokpal.	All Public Servants as defined in the Prevention of Corruption Act and the Jan Lokpal bill will fall under the Lokpal’s ambit. However, for high functionaries like the PM, Members of the Council of Ministers, sitting judges of the Supreme Court and High Court, any Member of the Parliament- approval of the seven member bench of Lokpal is required.
5.	CBI	The CBI shall have a separate Directorate of Prosecution under a Director, who shall function under Director of CBI. The Director of CBI shall be the head of the entire Organisation.	Merger of anti-corruption branch of CBI into Lokpal- the Central Government shall cease to have any control over the transferred part.

		<p>Director of CBI will be appointed by a collegium comprising of the Prime Minister, Leader of Opposition in Lok Sabha and Chief Justice of India.</p> <p>Director of Prosecution will be appointed on the recommendation of the CVC.</p> <p>Director of Prosecution and Director of CBI shall have a fixed term of two years.</p> <p>Power of superintendence and direction of the CBI in relation to Lokpal referred cases must vest with the Lokpal.</p> <p>Officers of CBI investigating cases referred by Lokpal will be transferred with the approval of Lokpal.</p>	
6.	Citizen's Charter	No mention of Citizen's Charter.	<p>Each public authority shall be responsible for ensuring the preparation and implementation of Citizen's Charter, within a reasonable time, and not exceeding one year from this Act coming into force. Each Citizen's Charter shall enumerate the commitments of the respective public authority to the citizens, officer responsible for meeting each such commitment and the time limit within which the commitment shall be met.</p> <p>Each public authority shall designate an official called Public Grievance Redressal Officer, whom a complainant should approach for any violation of the Citizen's Charter.</p> <p>It shall be the duty of the Grievance Redressal Officer to get the grievance redressed within a period of 30 days from the receipt of the complaint.</p> <p>In the event of even the Grievance Redressal Officer not getting the grievance redressed within the specific</p>

			<p>period of 30 days a complaint could be made to the Lokpal.</p> <p>The Lokpal after hearing the Grievance Redressal Officer would impose suitable penalty not exceeding Rs 500/- for each day's delay but not exceeding Rs 50,000/- to be recovered from the salaries of the Grievance Redressal Officer.</p> <p>Apart from levying the penalty on the Grievance Redressal Officer, the Lokpal may also in suitable cases recommend to the appropriate authority to have departmental punishment imposed on the Grievance Redressal Officer.</p>
7.	Appointment of the Lokpal	The Chairperson and Members shall be appointed by the President after obtaining the recommendations of a Selection Committee consisting of (a) the Prime Minister -chairperson;(b) the Speaker of the House of the People – member;(c) the Leader of Opposition in the House of the People -member;(d) the Chief Justice of India or a Judge of the Supreme Court nominated by him – member; (e) one eminent jurist nominated by the President as recommended by the chairperson and members referred to in clauses (a) to (d).	The Chairperson and members shall be appointed by the President on the recommendation of a seven-member committee, consisting of two Supreme Court judges, two High Court judges, one nominee of Comptroller And Auditor General,Central Vigilance Commissioner,Central Election Commissioner, Prime Minister and Leader of Opposition.
8.	Removal of Lokpal or any member of the Lokpal bench	The Chairperson or any Member shall be removed from his office by order of the President on grounds of misbehaviour after the Supreme Court, on a reference being made to it by the President on a petition signed by at least one hundred Members of Parliament.	Any person may move an application/petition before the Supreme Court seeking removal of one or more of the members of Chairperson of Lokpal alleging one or more of the grounds for removal and providing evidence for the same.

A look at the salient features of Jan Lokpal Bill:

1. An institution called LOKPAL at the center and LOKAYUKTA in each state will be set up
2. Like Supreme Court and Election Commission, they will be completely independent of the governments. No minister or bureaucrat will be able to influence their investigations.
3. Cases against corrupt people will not linger on for years anymore: Investigations in any case will have to be completed in one year. Trial should be completed in next one year so that the corrupt politician, officer or judge is sent to jail within two years.

4. The loss that a corrupt person caused to the government will be recovered at the time of conviction.
5. How will it help a common citizen: If any work of any citizen is not done in prescribed time in any government office, Lokpal will impose financial penalty on guilty officers, which will be given as compensation to the complainant.
6. So, you could approach Lokpal if your ration card or passport or voter card is not being made or if police is not registering your case or any other work is not being done in prescribed time. Lokpal will have to get it done in a month's time. You could also report any case of corruption to Lokpal like ration being siphoned off, poor quality roads been constructed or panchayat funds being siphoned off. Lokpal will have to complete its investigations in a year, trial will be over in next one year and the guilty will go to jail within two years.
7. But won't the government appoint corrupt and weak people as Lokpal members? That won't be possible because its members will be selected by judges, citizens and constitutional authorities and not by politicians, through a completely transparent and participatory process.
8. What if some officer in Lokpal becomes corrupt? The entire functioning of Lokpal/Lokayukta will be completely transparent. Any complaint against any officer of Lokpal shall be investigated and the officer dismissed within two months.
9. What will happen to existing anti-corruption agencies? CVC, 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.
10. It will be the duty of the Lokpal to provide protection to those who are being ictimized for raising their voice against corruption. AamAadmi party will pass a powerful anti-corruption law, Janlokal, to remove corruption from our system. Under this law, people will be able to complain directly and imprison corrupt politicians and bureaucrats.

Today a corruption case gets extended for years in our courts. In this time the corrupt politician is re-elected many times over to loot the nation. Many times accused politicians have died before being declared corrupt by the courts. Janlokal Act will ensure that investigation of corruption charges and prosecution is done under fast track conditions within 6 months. If found guilty the corrupt official shall serve appropriate jail time from 1 year to life, depending on the severity of the case, his or her property will be seized and he or she will be dismissed from job.

When a common man goes to an office, he is asked for a bribe. Under Janlokal, every function of a government officer, the officer responsible and the time limit within which the work must be completed will be clearly defined. If the concerned officer doesn't do the work within the stipulated time, Lokpal will penalize such officer, compensate the sufferer and get the work done in 30 days.

One of the criticisms of the Jan Lok Pal bill is that it centralizes too much power into one institution and that things could go awry if members of the Lok Pal are found wanting in certain set standards. This is addressed by providing for removal of members in the bill itself. The Chairperson or any member can be removed from office by an order of the President on one or more of the following grounds:

- Proven misbehavior
- Professional, mental or physical incapacity
- Insolvency
- Being charged of an offence which involves moral turpitude
- Engaging in any paid employment while holding such office
- Acquiring financial or other interests, which are likely to affect his functions as member or Chairperson prejudicially
- Being guided by considerations extraneous to the merits of the case under his consideration with a view to favoring someone or implicating someone through any act of omission or commission
- Unduly influencing or attempting to influence any Government functionary
- Committing any act of omission or commission which is punishable under the Prevention of Corruption Act or is a misconduct

Additionally, if a member or the Chairperson in any way, concerned or interested in any contract or agreement made by or on behalf of any public authority in the Government of India or Government of any State or participates in any way in the profit thereof or in any benefit or employment arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall be deemed to be guilty of misbehavior.

Legal experts have also opined that instead of such procedures for removal, one could also contemplate whether the Jan Lok Pal bill be made into a constitutional bill and make the removal process only by impeachment proceedings. While this could protect the office of the Lok Pal from frivolous charges, it does bring in a very complicated system of removal. The experience of the country in impeaching judges is not worth mentioning and it usually ends up being long drawn with no results to show.

Bringing in a strong Lok Pal bill at the Center by itself may not be enough to arm the common citizenry in their fight against corruption. One also needs to understand that apart from the postman or the passport office, the man on the street may not have many interactions with the public functionaries of the Central Government. Having an equally powerful LokAyukta Act is what will make a huge difference to him. Experts feel that there should be a single law to provide for identical LokAyuktas in states (similar to the Right to Information Act). This would ensure that the whole country would benefit from the attempt to bring in strong legislation.

In conclusion, we also need to understand that mere laws may not be enough to impact the entire eco-system of corruption in this country. We need to put in place police reforms, judicial reforms, electoral reforms, prevent dilution of the RTI act, bring in laws to address corruption in the private and NGO sectors along with building the moral fibre of the citizenry. Only then will a noticeable and meaningful attempt at providing good governance emerge. Till then, we should continue the struggle and not be satisfied with the passage of one bill alone.

Fighting corruption needs a law with clear, visible and timely punishments prescribed depending on the extent and scale of corruption. With the amounts involved touching unbelievable and astronomical levels, the punishment also needs to be relatively proportional.

The **Lok Pal** bill 2010 of the Government does not talk of increasing punishment that is mentioned under the Prevention of Corruption Act. It also does not expand or enlarge the definition of corruption. It neither permits confiscation of the properties of public servants nor allows for sanction of the prosecution of officials. There is also no mention of establishing special courts whenever the Lok Pal feels that it is needed.

One can easily see through the intent of the Government in having such a weak law. How could anyone imagine that a law with such weak processes of punishment ever be a deterrent to corruption by public officials? This is sought to be addressed comprehensively by the Jan Lok Pal. It talks of the punishment being not less than 2 years of rigorous imprisonment and may extend up to life imprisonment. If the accused is an officer of the rank of Joint Secretary or above or a Minister, a member or Chairperson of the Lok Pal, the punishment shall not be less than ten years of imprisonment. Provided further that if the offence is deemed a case of 'corruption' and if the beneficiary is a business entity, in addition to other punishments mentioned in this Act and under the Prevention of Corruption Act, a fine amounting to five times the loss caused to the public shall be recovered from the accused and the recovery may be done from the assets of the business entity and from the personal assets of all its Directors, if the assets of the accused are inadequate.

The **Jan Lok Pal** bill also permits the properties obtained by a public servant through corrupt means to be confiscated by the Lok Pal. No prior sanction under is also needed for prosecution of officials.

The Jan Lok Pal bill also allows for establishment of special courts. On an annual basis, the Lok Pal shall make an assessment of the number of special judges required under Sec 4 of the Prevention of Corruption Act, 1988 in each area and the Government shall appoint such number of judges within three months of the receipt of such recommendation.

As one can observe, the Jan Lok Pal seeks to serve as a strong deterrent and create the fear of law and punishment in the mind of the officials who could be potentially corrupt. Some human rights activists have pointed out that such a strong Act could become draconian in the hands of a perverted few and seek softer and more lenient punishment. This will not be entirely acceptable as the present context and reality of India clearly demonstrates the need for a strong law to make a visible impact.

Conclusions

Though the concept of Lokpal is not of recent origin, but as it is being discussed on such a large scale for the last two years, it was never before. The concept of 'Lokpal' has been in circulation for more than four decades. Yet it is confined within the bounds of Commission reports, Parliamentary debates, researchers and academicians. However, even after so many hue and cry in the newspapers and television channels, very few would be able to explain the meaning and significance of the office of the Lokpal.

Corruption in public life and administration is fatal to economic growth. Corruption also erodes the authority of the state, promotes crime and violence, and undermines the rule of law and the very foundations of a democratic polity. The issue of corruption in India merits consideration as a national issue at least on a par with secularism, stability, reservation in services, political empowerment of women, etc. The evil of corruption is of recent origin, rather is as old as governance. In fact, when the question of governance comes, the possibilities of misgovernance by the rulers become more visible. Regarding corruption in governance even, Kautilyain his Arthashastra, has described the king as a servant of the state having no personal likes and dislikes and rather following the likes and dislikes of the servants means his people. v

That setting up only one institution is not the answer to the systemic corruption that exists in India today. Because there are about 42 lakhs Central Government employees in contrast as of date and to address the corruption within this one category of government servants itself (excluding judiciary and elected representatives), definitely runs the risk of the Lokpal being burdened with huge backlog of cases.

It also has the disadvantage of placing too many powers in the “supposed infallibility” of one institution. In this context, it is necessary to understand some of the points mentioned in the bill drafted by Aruna Roy led NCPRI (National Campaign for People's Right to Information):- First and foremost, NCPRI focuses on a “Lokpal Basket of Measures” as opposed to one sacrosanct institution that is being proposed by the other bills. The logic of having one powerful institution is borne out of the skepticism that a single institution might become too unwieldy and powerful to tackle corruption effectively at levels of the government. The measures are a mixbag including strengthening of existing institutions as well as building new institutions. On one hand, it supports the Lokpal Bill and the legal creation of an independent body but it purports to do so by equally strong simultaneous measures by strengthening of the already existing institutions.

Corruption as it exists in India today permeates every branch of the government as well as corporate sectors. It is necessary to recognize that the ambit of corruption in India covers the bureaucracy (both State and Central) – at both the higher and lower levels, the judiciary at all levels and the elected representatives of the people (Central, State and District level) and even the private sector.^{vi}

- (a) The Ombudsman is not only an instrument of Parliament for supervising the administration but also a protector of the rights of the individual. The institution not only affords a fulfillment of the sense of justice and fair play inherent in every individual but also provides supervision on behalf of the people of the day-to-day activities of their government even if the government is elected by the people at specified periods.
- (b) There is the principle of impartial investigation by an authority entirely independent of the administration. An investigation can be started by the Ombudsman not only on a complaint by an individual but also on his own initiative as a result of information he might acquire from inspections, press reports or other sources. Courts, on the other hand, are seized of a case only upon complaint by the interested parties.
- (c) The investigation by the Ombudsman is conducted informally. In the investigation of

complaints, the Ombudsman has free access to all the files of the administration and he can demand explanations from the officials or authorities concerned. Administrative tribunals and courts on the other hand are bound by formal rules in hearing cases and have more limited powers of inspection.

- (d) The Ombudsman has considerable flexibility in the form of action which he can take. In a given case various forms of actions are open to him. If after investigation he finds that an official has handled a case wrongly or unjustly or made an erroneous or improper decision, the Ombudsman can recommend that proceedings be instituted against such an official or he may administer a reprimand and include the case in his report to Parliament. His intervention may also take the form of persuasion instead of a critical report.

The Administrative Reforms Commission advanced the following four important reasons for the establishment of Ombudsman:

1. The Ombudsman will help to arrest deterioration in the people's faith and confidence in the administration and in the political executives, by providing independent, impartial and effective channels for redress of citizens' grievances. Such faith and fair amount of satisfaction with the administration are of utmost importance for the success of Indian democracy.
2. The institution of Ombudsman would not only serve as an impartial forum of enquiry against acts of maladministration and corruption, but also ensure speedy and cheap remedy to the aggrieved.
3. The new machinery, by investigating complaints, would help correct the current exaggerated notions of corruption, inefficiency and lack of fair play in higher quarters in government. Allegations without leading to enquiries are distorting the image of administration and political executives. An independent machinery will help to redress the citizens' genuine complaints, to sort out the unjustified complaints and to protect the public officials in the right exercise of discretion.
4. The very existence of the institution would act as a deterrent to acts of maladministration. The new machinery is vital to all other reforms which the Commission may recommend, in as much as it would establish a built-in mechanism to make the administration continuously responsive to the citizens' genuine difficulties and needs. It will release new forces and pressures for reform.

The Lokpal Bill as proposed by the Government only includes the higher bureaucracy and the elected representatives while leaving both the judiciary and the Prime Minister out of the ambit of Lokpal. In contrast the Jan Lokpal proposes to bring all these persons i.e., the judiciary, bureaucracy and elected representatives within the ambit of one overarching body. It also seeks to include grievance redressal and protection to whistleblowers within the same Act.

At the outset, it is high time to discuss the problems regarding the practical difficulties to be faced by the institution:

1. That setting up only one institution is not the answer to the systemic corruption that exists in India today. Because there are about 42 lakhs Central Government employees in contrast as of

date and to address the corruption within this one category of government servants itself (excluding judiciary and elected representatives), definitely runs the risk of the Lokpal being burdened with huge backlog of cases.

2. It also has the disadvantage of placing too many powers in the “supposed infallibility” of one institution.

In this context, it is necessary to understand some of the points mentioned in the bill drafted by Aruna Roy led NCPRI (National Campaign for People's Right to Information):- First and foremost, NCPRI focuses on a “Lokpal Basket of Measures” as opposed to one sacrosanct institution that is being proposed by the other bills. The logic of having one powerful institution is borne out of the skepticism that a single institution might become too unwieldy and powerful to tackle corruption effectively at levels of the government. The measures are a mixbag including strengthening of existing institutions as well as building new institutions. On one hand, it supports the Lokpal Bill and the legal creation of an independent body but it purports to do so by equally strong simultaneous measures by strengthening of the already existing institutions.

Corruption as it exists in India today permeates every branch of the government as well as corporate sectors. It is necessary to recognize that the ambit of corruption in India covers the bureaucracy (both State and Central) – at both the higher and lower levels, the judiciary at all levels and the elected representatives of the people (Central, State and District level) and even the private sector. It is through this prism that the measures proposed by the NCPRI should be perceived which recognizes that corruption as it exists in India today cannot be solved by a single approach and requires a multi-pronged strategy at different levels of the government.

It envisages strengthening of the Central Vigilance Commission as well as the State Vigilance Commission to tackle corruption in the middle level and lower bureaucracy. The Central Vigilance Commission as of date lacks the adequate power to investigate cases of corruption and it is proposed that the CVC Act be amended to give the body a separate prosecution and investigative wing. It will co-exist with the proposed Lokpal Body as proposed by the Jan Lokpal Bill whose primary focus will be handling corruption cases of elected representatives and “Group A” officials of the Central Government.

So far as judiciary is concerned, the NCPRI bill leaves the judiciary out of the ambit of the Lokpal, and focuses instead on strengthening the Judicial Accountability and Standards Bill which is pending in Parliament, as the bill will cover both professional misconduct and corruption simultaneously. In fact, this will have a dual impact i.e. preserving the independence of the judiciary by keeping it separate from the legislature and the executive and also ensuring that corruption at all levels of the judiciary is tackled effectively. This provision addresses the concerns voiced by both the proponents of the Government sponsored bill as well as the Jan Lokpal Bill.

Benefits of Jan Lokpal

1. Every month on its website the Lokpal will publish a list of cases dealt.
2. So, you could approach Lokpal if your ration card or passport or voter card is not being made or if police is not registering your case or any other work is not being done in prescribed time. Lokpal will have to get it done in a month's time. You could also report

any case of corruption to Lokpal like ration being siphoned off, poor quality roads been constructed or panchayat funds being siphoned off. Lokpal will have to complete its investigations in a year, trial will be over in next one year and the guilty will go to jail within two years.

3. Investigations in any case will have to be completed in one year. Trial should be completed in next one year so that the corrupt politician, officer or judge is sent to jail within two years Losses will be reimbursed from the guilty at the time of conviction.
4. The loss that a corrupt person caused to the government will be recovered at the time of conviction.
5. The existing anti- corruption agencies will be merged in to lokpal.
6. Govt offices work required by a citizen that is not completed within prescribed time will be punished by financial means If any work of any citizen is not done in prescribed time in any government office, Lokpal will impose financial penalty on guilty officers, which will be given as compensation to the complainant.
7. That won't be possible because its members will be selected by judges, citizens and constitutional authorities and not by politicians, through a completely transparent and participatory process.
8. The entire functioning of Lokpal/ Lokayukta will be completely transparent. Any complaint against any officer of Lokpal shall be investigated and the officer dismissed within two months.
9. CVC, 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.
10. It will be the duty of the Lokpal to provide protection to those who are being victimized for raising their voice against corruption.

Such more feathers are there in course of action of janlokpal . It will prove itself for better tool for public grievances redressal.Like Supreme Court and Election Commission, they will be completely independent of the governments. No minister or bureaucrat will be able to influence their investigations. The people's version of this bill, Jan Lokpal Bill, gives more power to fight corruption effectively. Salient features of this bill include central and state level independent bodies Lokpal and Lokayukta respectively, having power to:

1. Complete any investigation and trial within two years so the corrupt can be brought to justice immediately
2. Order dismissal of a corrupt officer,
3. Investigate and prosecute any judge,
4. Enquire into and hear every complaint and prosecution against any officer or politician without needing any sort of permission.

These features are most attractive and fascinating to the people of India. More over the name of **Jan lokpalis** more close their feeling and hearts. They will accept it easily and support for purpose it is established.

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