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Jan Lokpal Bill – A Primer

The Jan LokPal Bill is the solution to India's widespread and endemic corruption which surfaces daily in the form of a new scam or scandal. The government has proven to be woefully ineffective in dealing with the corrupt politicians, bureaucrats and businessmen. The nexus of the rich and powerful to exploit the country's resources for their personal gains has not only ceased the faith of common man in the system, but defamed the nation globally with international agencies such as Wikileaks exposing the Cash for Vote scam and the world watching the horrible pictures of underprepared sports village for CWG.

The Indian administration has shamefully failed to take action and been a mere spectator to one scam after the other. The Indian Judiciary has also castigated the government numerous times for its abject failure in the 2G Telecom Scam, Hasan Ali Scandal etc. However the government instead of strengthening anti-corruption measures has only put obstacles in the way. The most disappointing fact is that the entire machinery including the media forms a link in the nexus for the sake of their vested interests, as was exposed through Nira Radia's tapes. Anna Hazare, well known social activist, has held a fast unto death to put pressure on the government to appoint a committee consisting of 50% members from the civil society to draft a Lokpal Bill incorporating the provisions of the Jan Lokpal Bill to be presented and passed in Parliament. Here is a short summary and guide to the main points of the Jan LokPal Bill, which Rakshak Foundation believes, deserves the support of the whole Indian civil society.

What is the Jan Lok Pal Bill

Jan Lokpal Bill is designed to create an effective anti-corruption and grievance redressal systems at centre and to assure that effective deterrence is created against corruption and to provide effective protection to whistle blowers. This has been done after the government of India has repeatedly failed to pass the Lokpal Bill for 42 years reflecting the systemic corruption as the members of the legislature don't want their powers to be curbed and their actions made accountable. The bill proposes institution of the office of Lokpal at the federal level and Lok Ayukta at the state level. The bill has been drafted by eminent members of the civil society like Prashant Bhusan, Kiran Bedi, J M Lyngdoh, Arvind Kejriwal and the likes.

Main Points:

1) **There shall be an institution known as Lokpal** which shall consist of one Chairperson and ten members along with its officers and employees. The Lokpal shall be headed by its Chairperson. The Government will appoint the members of the Lokpal though Chairperson and members of Lokpal shall not be serving or former member of either the Parliament or the Legislature of any State and shall not hold any office or trust of profit.

2) **Funding**
There shall be a separate fund by the name of "Lokpal fund" in which penalties/fines imposed by the Lokpal shall be deposited and in which 10% of the loss of Public Money detected/prevented on account of investigations by Lokpal shall also be deposited by the Government. The administrative

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expenses of the office of the Lokpal including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged to the Consolidated Fund of India.

3) **Appointment of the Lokpal**
A committee consisting of the highly competent individuals, all non-political, from different walks of life would form the core of the Lokpal. This committee shall have representatives from the government, judiciary and civil society. The members shall have unimpeachable integrity with 4 members from the legal background.

4) **Powers of Lokpal**
a) Initiate prosecution against public servants as well as private entities
b) Order cancellation or modification of a license or lease or permission or contract
c) Blacklist the concerned firm or company or contractor
d) Take necessary action to provide protection to a whistleblower
e) Suo moto initiate appropriate action under this Act
f) Power to Issue Search Warrants
g) For the purpose of any such investigation (including the preliminary inquiry) the Lokpal shall have all the powers of a civil court
h) **Lokpal to be a deemed police officer**
i) Lokpal may decide to impose a fine on the officials responsible for the non-compliance of its orders
j) Assess Number of Special Judges for Corruption in an Area
k) Power to issue Letter of Rogatory

Key features of proposed Jan Lokpal Bill

1. A central government anti-corruption instituion called "Lokpal", supported by state institutions called "Lokayukta" will be set up
2. Like the Supreme Court and the Election Commission, they will be completely independent of the governments. No minister or bureaucrat will be able to influence their investigations.
3. Members will be appointed by judges, private citizens, and constitutional authorities through a transparent and participatory process.
4. Investigations in each case will have to be completed in one year. Trials should be completed in the following year, meaning the total process will take place within two years.
5. Any loss that a corrupt person caused to the government will be recovered at the time of conviction.
6. Help to 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.
7. Any complaint against any officer of Lokpal shall be investigated and, if found to be substantive, will result in the the officer being dismissed within two months.
8. The existing anti-corruption agencies (CVC, departmental vigilance and the anti-corruption branch of CBI) will be merged into Lokpal. Lokpal will have complete powers and authority to independently investigate and prosecute any officer, judge or politician.
9. The agency will also provide protection to whistleblowers who alert it of potential corruption cases.

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Key Differences between Government's bill and Anna Hazare's proposal

Draft LokPal Bill 2010	Jan LokPal Bill
Lokpal will have no power to initiate suo moto action or receive complaints of corruption from the general public. It can only probe complaints forwarded by LS Speaker or RS Chairman.	Lokpal will have powers to initiate suo moto action or receive complaints of corruption from the general public.
Lokpal will only be an Advisory Body. Its part is only limited to forwarding its report to the "Competent Authority."	Lokpal will be much more than an Advisory Body. It should be granted powers to initiate Prosecution against anyone found guilty.
Lokpal will not have any police powers. It cannot register FIRs or proceed with criminal investigations.	Lokpal will have police powers. To say that it will be able to register FIRs.
CBI and Lokpal will have no connection with each other.	Lokpal and anti corruption wing of CBI will be one Independent body.
Punishment for corruption will be minimum 6 months and maximum up-to 7 years.	The punishment should be minimum 5 years and maximum up-to life imprisonment.

5) **Functioning of Lokpal**
Lokpal shall function in benches of three or more members. Chairperson shall be responsible for overall administration and supervision of the institution of Lokpal.

6) **Punishments for offences**
For offences mentioned in Chapter III of Prevention of Corruption Act, punishment shall not be less than five years which may extend up to life imprisonment. Provided that if the accused is any officer of the rank of Joint Secretary in the state or above or a Minister, the punishment shall not be less than ten years.

Summary

The Jan LokPal is a stringent law against corruption and will to strict and hard punishment for corruption doers while protecting whistle-blowers. This Law will be opposed tooth and nail by the executive and the legislature as it meant to punish wrong doers amongst them mainly.