

**27<sup>th</sup> December 2011**

**“Who loses if India wins”**

***Lok Satta’s plea for resolute action on Lokpal***

The Lokpal / Lokayukta debate has reached the final stage, with the Parliament due to vote on the Bill by December 29.

Anna’s leadership has galvanized the middle classes and youth across the country, and sensitized the political parties and government to the urgent need for resolute action. The Lokpal, Lokayuktas Bill presented to Parliament is a vast improvement on the past Bills, and is directly a product of civil society involvement and public pressure.

However, this Bill has serious lacunae which need to be addressed before the law is enacted.

1. The Lokpal / Lokayuktas have no powers of suo-motu enquiry. Such powers are vital to enhance the efficacy of these ombudsmen, and ability to gather intelligence, particularly about

collusive corruption. If a complaint of a citizen is mandatory, many cases of gross corruption may escape attention as false, frivolous or vexatious complaints will invite penalties (Section 46 of the Bill). In many cases, there can only be grave suspicion and circumstantial evidence, and direct evidence of corruption will not be forthcoming. Absence of powers of suo-motu enquiry will convert Lokpal/ Lokayukta into a reactive, passive post-office. We need pro-active, innovative ombudsman.

**The earlier Bill provided for suo-motu enquiry.**

**There is no rational explanation for its deletion in the Bill now, and this omission should be rectified.**

2. Lokayukta should be part of the central law as envisaged in the present Bill. Article 253 clearly gives parliament the power to make legislation since the United Nations Convention Against Corruption has been ratified by India on May 1, 2011. **The argument that such a provision in a central law is against federalism is disingenuous.**

We cannot have a movement in every state to create Lokayukta. In any case, this Bill is a part of procedural law dealing with investigations and prosecution of corruption offences. This is entirely within the Parliament's jurisdiction. The power of appoint the Lokayukta and other related matters vest in the States. Creation of Lokayuktas is the need of the hour, and **any efforts to delete Lokayukta provisions from the central law should be firmly resisted and rebuffed.**

3. It is vital to have Local Ombudsmen in States under Lokayukta's control and supervision. These local ombudsmen, one per district, can deal with lower bureaucracy, and will report to Lokayukta. Thus, jurisdiction over local bureaucracy will vest in Lokayukta even as the institution is not swamped by cases of petty corruption.

4. Anti-Corruption Bureaux (ACB) at State level are completely untouched by the present Bill. Unless they are directly under Lokayukta's superintendence, status quo will continue and **they will be politically manipulated.**

Unlike in case of the CBI, the appointments of ACB director and senior officials are completely under political control in states. The appointment of director of CBI by a collegiums of PM, Leader of Opposition and Chief Justice of India is a vast improvement. Officials of CBI are appointed under CVC Act by a collegiums headed by full CVC.

**In states no such provisions exist. It is vital that ACB is brought under Lokayukta's superintendence.**

5. Section 6A of the Delhi Police Special Establishment Act, Section 19 of Prevention of Corruption Act, and Section 197 of CrPC continue unchanged, and only cases referred by Lokpal / Lokayukta are exempted from these legal impediments. **CBI and ACB are rendered ineffective to act independently in respect of cases directly taken up by them.**

This is a travesty of rule of law, and makes these agencies helpless in combating corruption. These three provisions should be completely repealed. If any prior sanction of prosecution is deemed necessary, such powers should be vested in the Lokpal / Lokayukta.

Written by Maharashtra Administrator  
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**All these improvements are rational, balanced, and in public interest. There is no case to deny these amendments. Until these changes are incorporated, the Bill before Parliament continues to be defective. Therefore, Anna is right in arguing for improvements in the law before enactment.**

We have come a long distance over the past few months – thanks to public pressure and enlightened political response. Both people and Parliament are partners, not adversaries. We now need wisdom and foresight to do the right thing and inspire confidence in the nation that public interest is fully protected. In pursuit of this goal, we are all one – there is no distinction of party, creed, region or language. **There is no civil society – politician divide. We all stand together for this common cause.**

We earnestly appeal to all the political parties and Members of Parliament to set aside their differences and act in concert decisively to create a durable, strong, independent machinery all across the nation to exercise the canker of corruption from our body politic. This is a priceless opportunity to move India into a higher orbit, and it should not be squandered.

As Jawaharlal Nehru admonished us wisely, “Who loses if India wins; And who gains if India loses!”

**Dr Jayaprakash Narayan**

## Lokpal Bill: "Who loses if India wins" - Lok Satta's plea for resolute action on Lokpal - to parliament

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