

## JAN LOKPAL BILL

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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.<sup>[1]</sup> This bill also proposes improvements to the Lokpal and Lokayukta Bill 2011, which was to be passed by Lok Sabha in December 2011.<sup>[2]</sup>

"The Rajya Sabha passed the Lokpal Bill on 17 December 2013 and the Lok Sabha passed the Bill on 18 December 2013"

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.<sup>[3]</sup>

The word Lokpal was coined in 1963 by late Mr. L.M. Singhvi, a Member of Parliament during a debate mechanisms. His son Dr. Abhishek Manu Singhvi was head of the Parliament reviewing the bill but later resigned from the post after a sex-tape controversy.<sup>[4]</sup>

In order to draw the attention of the government, a focused campaign "India Against Corruption" (IAC) was started in 2011. Anna Hazare is the head of civil society and the IAC movement. Being a foreground for Jan Lokpal campaign. Through these collaborative efforts till August 2011, IAC was able to upload the 23rd version of the Jan Lokpal Bill draft.<sup>[5]</sup>

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## 1. Lokpal Bill

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

In 2011, during the Parliament's Winter Session, the Lok Sabha passed the controversial Lokpal Bill, but could not be passed by Rajya Sabha due to shortage of time in the winter session of 2011. The Government tabled the Lokpal Bill in the Rajya Sabha on 13 December 2013 and the debate was adjourned till 16 December 2013. The Lokpal Bill was finally passed on 17th December 2013 in the Rajya Sabha..It was passed in the Lok Sabha on 18th December 2013<sup>[6]</sup>.

### 1.1 Timeline and cost

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

- 1968 – ₹ 2 lakh (200,000)
- 1971 – ₹ 20 lakh (2 million)
- 1977 – ₹ 25 lakh (2.5 million)
- 1985 – ₹ 25 lakh
- 1989 – ₹ 35 lakh (3.5 million) – PM under lokpal
- 1996 – ₹ 1 crore (10 million) – PM under lokpal
- 2001 – ₹ 35 crore (350 million) – PM under lokpal
- 2011 – ₹ 1700 crore (17 billion)
- 2012 - ₹ 2050 crore (20 billion)
- 2013 - ₹ 2100 crore (21 billion)
- 2013 - ₹ 2800 crore<sup>[7]</sup> (28 billion)

### 1.2 Current anti-corruption laws and organization

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

### a. Central Vigilance Commission (CVC)

CVC has a staff strength of between 200 and 250 employees. If one went by international standards, India needs 28,500 anti-corruption staff in CVC to check corruption of 57 lakh employees.

There has been considerable delay in many cases for grant of sanction for prosecution against corrupt government officials. The permission to prosecute such officials acts as a deterrent in the drive to eradicate corruption and bring transparency in the system.<sup>[8]</sup>

### b. Central Bureau of Investigation

Independent of the government and free from ministerial influence in its investigations.

## 1.3 Inspiration

The bill was inspired by the Hong Kong Independent Commission Against Corruption (ICAC). In the 1970s, the level of corruption in Hong Kong was seen so high, that the government created the commission with direct powers to investigate and deal with corruption. In the first instance, the ICAC sacked 119 out of 180 police officers.<sup>[9]</sup>

## 2. Key features of proposed bill

Some important features of the proposed bill are: <sup>[1]</sup>

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 Lokayuktaduring 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 by it.

### 3. Campaign for the Jan Lokpal Bill

The first version of the Lokpal Bill drafted by the Government of India headed by United Progressive Alliance in 2010 was considered ineffective by anti-corruption activists from the civil society. These activists, under the banner of IAC, came together to draft a citizen's version of the Lokpal Bill later called the Jan Lokpal. Public awareness drives and protest marches were

carried out to campaign for the bill. However, public support for the Jan Lokpal Bill draft started gathering steam after Anna Hazare, a Gandhian announced that he would hold an indefinite fast from 5 April 2011 for the passing of the Lokpal/ Jan Lokpal bill.<sup>[10]</sup> The government has however accepted it.

To dissuade Hazare from going on an indefinite hunger strike, the Office of the Prime Minister directed the personnel and law ministries to see how the views of social activists can be included in the bill. On 5 April, the National Advisory Council rejected the Lokpal bill drafted by the government. Union Human Resource Development Minister Kapil Sibal then met social activists Swami Agnivesh and Arvind Kejriwal on 7 April to find ways to bridge differences over the bill.<sup>[11]</sup> However, no consensus could be reached on 7 April owing to several differences of opinion between the social activists and the Government.

### 3.1 Fast & agitation – Phase 1

On 7 April 2011 Anna Hazare called for a *Jail Bharo Andolan* (translation: Fill jail movement) from 13 April to protest against the Government's rejection of their demands. Anna Hazare also claimed that his group had received six crore (60 million) text messages of support and that he had further backing from a large number of Internet activists. The outpouring of support was largely free of political overtones; political parties were specifically discouraged from participating in the movement. The fast ended on 9 April, after 98 hours, when the Government accepted most demands due to public pressure. Anna Hazare set a deadline, 15 August, for the passing of the bill in the Parliament, failing which he would start a hunger strike from 16 August. The fast also led to the Government of India agreeing to set up a Joint Drafting Committee, which would complete its work by 30 June 2011.<sup>[12]</sup>

### 3.2 Drafting committee

The drafting committee was officially formed on 8 April 2011. It consisted of the following ten members, including five from the government and five drawn from the civil society. The former Minister of the Law and Justice is part of the drafting committee.

Members	Qualifications and status
<i>P.Chidambaram</i>	<i>Finance Minister</i>
<i>Shanti Bhushan</i>	<i>Former Minister of law and Justice, Co-Chairman</i>
<i>Sushilkumar Shinde</i>	<i>Minister of Home Affairs</i>
<i>Veerappa Moli</i>	<i>Minister for Corporation Affairs</i>
<i>Kapil Sibal</i>	<i>Minister for Human Resource Development</i>
<i>Salman Khursid</i>	<i>Minister of Law</i>
<i>Anna Hazare</i>	<i>Social Activist</i>
<i>Prashant Bhushan</i>	<i>Lawyer</i>
<i>N. Santosh Hegde</i>	<i>Former Lokayukta(karnataka)and Suprem Court Justice</i>
<i>Arvind Kejriwal</i>	<i>RTI Activist</i>

The Government's handling of the formation of the draft committee, involving the civil society in preparation of the draft Lokpal bill, was criticized by various political parties including Bharatiya Janata Party, Biju Janata Dal, Telugu Desam Party, All India Anna Dravida Munnetra Kazhagam, Communist Party of India (Marxist), Rashtriya Janata Dal, Janata Dal (U) and Samajwadi Party.

The committee failed to agree on the terms of a compromise bill and the government introduced its own version of the bill in the Parliament in August 2011.<sup>[13]</sup>

### 3.3 Fast & agitation – Phase 2

According to Anna and his team, the Government's version of the Lokpal bill was weak and would facilitate the corrupt to go free apart from several other differences. To protest against this, Anna Hazare announced an "Indefinite Fast" (not to be confused with "Fast until death"). Anna and his team asked for permission from Delhi Police for their fast and agitation at Jantar Manter or JP Park. Delhi Police gave its permission with certain conditions. These conditions were considered by team Anna as restrictive and against the fundamental constitutional rights and they decided to defy the conditions. Delhi Police imposed Sec 144 CrPC.<sup>[14]</sup>

On 16 August, Anna Hazare was taken into preventive custody by Delhi Police. Senior officers of Delhi Police reached Anna Hazare's flat early in the morning and informed him that he could not leave his home. However, Hazare turned down the request following which he was detained. Anna in his recorded address to the nation before his arrest asked his supporters not to stop the agitation and urged the protesters to remain peaceful. Other members of IAC - Arvind Kejriwal, Kiran Bedi, Kumar Vishwas and Manish Sisodia - were also taken into preventive custody. Kiran Bedi described the situation as resembling a kind of Emergency (referring to the State of Emergency imposed in 1975 by the Indira Gandhi Govt.).<sup>[15]</sup>

The arrest resulted in a huge public outcry and under pressure, the government released him in the evening of 16 August. However, Anna Hazare refused to come out of jail, starting his indefinite fast from Jail itself. Manish Sisodia explained his situation as, "Anna said that he left home to go to JP Park to conduct his fast and that is exactly where he would go from here (Tihar Jail). He has refused to be released till he is given a written, unconditional permission". Unwilling to use forces owing to the sensitive nature of the case, the jail authorities had no option but to let Anna spend the night inside Tihar. Later on 17 August, Delhi Police permitted Anna Hazare and team to use the Ramlila Maidan for the proposed fast and agitation, withdrawing most of the contentious provisions they had imposed earlier. The indefinite fast and agitation began in Ramlila Maidan, New Delhi, and went on for around 288 hours (12 days from 16 August-2011 to 28 August-2011).<sup>[16]</sup> Some of the Lokpal drafting committee members became dissatisfied with Hazare's tactics as the hunger strike went on for the 11th day: Santosh Hegde, a member of Hazare team who headed the Karnataka Lokayukta, strongly criticised Hazare for his insistence of "having his way", concluding "I feel I am not in Team Anna any more by the way things are going. These (telling Parliament what to do) are not democratic things." Swami Agnivesh, another central figure in the Hazare group also distanced himself.<sup>[17]</sup>

### 3.4 Notable supporters and opposition

In addition to the activists responsible for creating and organising support for the bill, a wide variety of other notable individuals have also stated that they support this bill. Spiritual leaders Sri Sri Ravi Shankar<sup>[49]</sup> and Yog Guru Ramdev expressed support. Notable politicians who indicated support for the bill include Ajit Singh and Manpreet Singh Badal as well as the

principal opposition party, Bharatiya Janta Party. In addition, numerous Bollywood actors, directors, and musicians publicly **approved** of the bill.<sup>[18]</sup>

Notable opposition to the activists' version of the Bill was expressed by HRD minister Kapil Sibal and other Congress leaders; Chief Minister of West Bengal Mamata Banerjee; Punjab Chief Minister and Akali Dal leader Prakash Singh Badal; Shiv Sena leader Bal Thackeray, and former Chief Justice of the Supreme Court Jagdish Sharan Verma. Although Bharatiya Janata Party (BJP) showed their support earlier, there were reports that BJP shared Congress's concern "over letting the civil society gain the upper hand over Parliament in lawmaking". The All-India Confederation of SC/ST Organisations, representing the Dalits and backward castes, also expressed opposition to the bill proposed by Anna Hazare as well as to the government's version of the bill. The confederation opposed Hazare's proposed bill saying that it will be above the constitution and that proposers of the bill have support from elements who oppose reservation.<sup>[19]</sup>

### 3.5 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, 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.<sup>[20]</sup> The key notes Team Anna made about rejection were:

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



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

Team Anna was also disappointed over following inherent exclusions with in tabled government bill.<sup>[21]</sup>

- 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.<sup>[22]</sup>

#### 4.Parliamentary actions on the proposed legislation

On 27 August 2011, a special and all exclusive session of Parliament was conducted and a resolution was unanimously passed after deliberations in both the houses of Indian Parliament by sense of the house.<sup>[23]</sup>

The resolution, in principle, agreed on the following subjects and forwarded the Bill to a related standing committee for structure and finalise a report:

- A citizen charter on the bill
- An appropriate mechanism to subject lower bureaucracy to Lokpal
- The establishment of Lokayuktas (ombudsmen at state level) in states

Hazare welcomed this development, terming it as a battle "half won" while ending the protest.<sup>[24]</sup>

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