

AN ANALYSIS OF LOKPAL BILL - AS A TOOL TO MAKE INDIA FREE FROM CORRUPTION

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Abstract: Ever since independence in 1947 India has moved far ahead and have shown considerable progress in all spheres of economy be it development of infrastructure, industrial growth, agricultural production (being struggling to produce enough food grains to feed the population and ultimately to depend on huge food grain imports to be converted into not only self-sufficient but also became an exporter of food grains), growth of service sector, engineering, communication and allied sectors and ultimately to be recognized as nation to define the future economic growth story for world economy. However, the greatest curse faced by the Indian economy which is taking a big bite from of its development strategy is the wide spread corruption from top to bottom and in all sectors be it public, private or joint sector. This corruption has been talked at all levels, in all years, at all forums, by all governments but the fact is that the country has failed to find a way out to arrest the corruption prevailing in the economy. India was at 95th rank with a score of 31 on 100 scale among the 182 nations as per Transparency International's 2011 Corruption Perceptions Index (CPI) - the world's most credible measure of domestic, public sector corruption. In this direction Sri Anna Hazare launched a massive movement in 2011 and sat on hunger strike demanding passing of Jan Lokpal Bill in the parliament and focusing on political corruption, kleptocracy, and other forms of corruption. The paper tries to analyze to what extent the Jan Lokpal Bill which was modified and passed by politicians as Lokpall Bill 2013 have been able to control corruption activities and cleaning of economy, what are the hurdles which come across in dealing with corruption. The paper relies on secondary source of information gathered from government and international websites, journals, research papers and newspapers to mention a few.

Keywords: Economic Growth, Corruption, Jan Lokpal Bill, Development.

INTRODUCTION

We all are aware of the fact that the our country has been controlled by corruption, which works as a virus, and takes away all the gains which are expected from any policy. For almost each and every failure the mail culprit has been prevailing high level of corruption. Every developmental project and the defense deals and policies been implemented for the betterment of citizens the outcomes are not as desired the reason being the outcomes are reduced by the corrupt practices of officials engaged. Corruption has even entered into armed forces. Corruption in political circles is most common where the political leaders twist the laws to their need to seek personal and political gains. Bribery, extortion, cronyism, nepotism, favoritism etc are the various forms which constitute the part of corruption activities and deprive the most eligible contender form his rights. Corruption may facilitate criminal enterprise such as drug

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trafficking, money laundering, and human trafficking. To check on these activities the demand for introduction of Lokpal Bill, which was put aside for years, was raised once again by Anna Hazare in 2011, but this time it was in the form of huge public movement which swept the entire nation and came as a shock for all the political parties which found themselves under the pressure of passing Lokpal bill in the parliament.

REVIEW OF LITERATURE

Vyas, S, Rajesh.(2013) in the paper "Need of Lokpal Bill in Present Democratic System: A Present Need," focused the departure of Lokpal Bill from the original Jan Lokpal Bill and brought into light the fact that recently passed the new Lokpal has lot of lacunas. The major conflict between Sarkari Lokpal and Jan Lokpal Bill relates to the transparency in whole system of government in which Administration, Judiciary including CBI and other all bodies of government should come under the Lokpal bill so there is a need to pass the present time Jan Lokpal Bill through the parliament which will be most reliable and acceptable by the people of India.

Chaubey, Ranu (2014) in his paper titled "Corruption in India and Fight against Corruption; Lokpal Bill," stated highlighted on the prevailing corruption as the main cause of failure of various projects and schemes in India and supported the necessity of Lokpal Bill to fight the corrupt practices that have become the part of day to day life.

Kumar, Ashwani. (2017) in his paper "Lokpal Bill A Path of Corruption free Society in India," illustrates that unless those who are the office-bearers are nailed down for their involvement in corrupt activities the corruption free society can never be thought of. In this regard Lokpal Bill is necessary and a correct move in the right direction. The paper also focused on the causes of corruption and highlighted the important features of Lokpal Bill.

OBJECTIVE

The paper has been initiated with following objectives:

- To know the rank of India on corruption index.
- To have an insight of important corruption instances taking place in 21st century.
- To understand the objective of Jan Lokpal Bill/Lokpal Bill.
- To find the difference between Anna Hazare's Jan Lokpal Bill and Lokpal Bill passed in parliament making Lokpal Bill ineffective to curb corruption.

JOURNEY OF LOKPAL BILL

The term Lokpal was coined by Dr L.M. Singhvi in 1963. The concept of a constitutional ombudsman was first proposed in parliament by Law Minister Ashok Kumar Sen in the early 1960s. The first Jan Lokpal Bill was proposed by Shanti Bhushan in 1968 and

passed in the 4th Lok Sabha in 1969, but did not pass through the Rajya Sabha. Subsequently, 'lokpal bills' were introduced in 1971, 1977, 1985, again by Ashok Kumar Sen, while serving as Law Minister in the Rajiv Gandhi cabinet, and again in 1989, 1996, 1998, 2001, 2005 and in 2008, yet they were never passed.

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. Anna Hazare, anti-corruption crusader, went on a fast-unto-death in April, demanding that this Bill, drafted by the civil society, be adopted. Four days into his fast, the government agreed to set up a joint committee with an equal number of members from the government and civil society side to draft the Lokpal Bill together. The two sides met several times but could not agree on fundamental elements like including the PM under the purview of the Lokpal. Eventually, both sides drafted their own version of the Bill. Fifty two years after its first introduction, the Lokpal Bill was finally enacted in India on 18 December 2013. The Bill was tabled in the Lok Sabha on 22 December 2011 and was passed by the House on 27 December as The Lokpal and Lokayuktas Bill, 2011. It was subsequently tabled in the Rajya Sabha on 29 December. After a marathon debate that stretched until midnight of the following day, the vote failed to take place for lack of time. On 21 May 2012, it was referred to a Select Committee of the Rajya Sabha for consideration. It was passed in the Rajya Sabha on 17 December 2013 after making certain amendments to the earlier Bill and in the Lok Sabha the next day. It received assent from President Pranab Mukherjee on 1 January 2014 and came into force from 16 January 2014.

MEANING OF CORRUPTION

Corruption activities can not only be confined to public sector alone but private sector are also part of corrupt activities as such corruption can be defined as "Corruption is the misuse of *entrusted* power (by heritage, education, marriage, election, appointment or whatever else) for private gain". This definition covers not only the politician and the public servant, but also the CEO and CFO of a company, the notary public, the team leader at a workplace, the administrator or admissions-officer to a private school or hospital etc.

A scientific definition for the concept 'corruption' was developed by professor (emeritus) Dr. Petrus van Duyne: "Corruption is an improbity or decay in the decision-making process in which a decision-maker consents to deviate or demands deviation from the criterion which should rule his or her decision-making, in exchange for a reward or for the promise or expectation of a reward, while these motives influencing his or her decision-making cannot be part of the justification of the decision."

Thus corrupt activities relates to not taking the appropriate decision which is right but deviating from just decisions and proper implementations of policies for want of some personal gain, even if it at the cost of disadvantage to the greater part of the society or those affected by the act.

INDIA ON WORLD CORRUPTION INDEX

Table 1
Corruption Perceptions Index 2008-2017

<i>Year</i>	<i>Number of Countries Surveyed</i>	<i>CPI Rank</i>	<i>CPI Score (Scale 0-100 where 0 is very corrupt, 100 is very clean)</i>
2008	180	85	34
2009	180	84	34
2010	178	87	33
2011	183	95	31
2012	176	94	36
2013	177	94	36
2014	175	85	38
2015	168	76	38
2016	176	79	40
2017	180	81	40

Source: Table compiled from various issues of Corruption Perceptions Index Report
www.transparency.org

India is amongst the most corrupt countries of the world with CPI score ranging between 31 – 40 out of 180 odd countries on a scale of 0-100 where 0 indicates most corrupt and 100 indicates very clean. On this parameter we find that in spite of Lokpal Bill movement the situation has not changed to the desired extent but at-least we have moved towards a score of 40 indicating that some control on corruption activities have emerged but still a long way has to be covered as we are placed at 81st rank in terms of corruption. The survey of Transparency International's Corruption Perceptions Index (CPI) - the world's most credible measure of domestic, public sector corruption ranks India worse than China.

IMPORTANT SCAMS THAT ASHAMED INDIA

There is an unending list of scams that shook India since 1975 starting from former Prime Minister Ms Indira Gandhi Election scam to most talk about Bofors Deal scam in 1987 and on and on the scams continued to rock India. The paper brings into light a brief of top five scams that came into light in the 21st century.

1. Telgi Scam (2002)

In 2002, Abdul Karim Telgi was charged for counterfeiting stamp paper in India. He appointed 350 fake agents to sell stamp papers to banks, insurance companies, and stock brokerage firms. The scam spread across 12 States and the amount involved was pegged at Rs.20,000 crore. The investigation revealed that Telgi enjoyed support from various government departments that were involved in the production and sale of high-security stamps. In January 2006, Telgi and several associates were sentenced to 30 years rigorous imprisonment.

2. Coalgate Scam (2004-09)

This scam was termed as the mother of all scams which put our nation to great shame as the black money involved here swallowed all other previous scams. The report on coal scam by CAG India, accused the Government of India for illegally and irregularly providing our nation's coal deposits to private and state run entities instead of auctioning them in the public. And that resulted a loss of a whopping Rs. 1,86,000 crore to our national treasury in the period 2004 – 2009.

3. 2G Spectrum Scam (2009)

This was another scam that tarnished the image of our country. The politicians of Congress led coalition government were accused of under-charging telecom companies and making arbitrary spectrum allocations. The CAG found a difference of Rs.1,76,645 crore between the money collected and the money which should have been collected.

4. Satyam Scam (2009)

It was India's one of the biggest corporate scandal affecting India-based company Satyam Computer Services in 2009. Satyam Company's chairman B. Ramalinga Raju confessed that he manipulated accounts to show increased sales, profits and margins from 2003 to 2008 manipulating accounts to the tune of Rs.9,000 crore. When the case was investigated by CBI, they filed three partial charge sheets over the course of the year and later merged into one. B. Ramalinga Raju and his 9 other aids were arrested.

5. Commonwealth Games Scam (2010)

During 2010 Commonwealth Games, a large scale corruption by the officials of the Games' Organising Committee was reported. Investigations revealed a fraud of Rs.90 crore in the project and the Chairman of the CWG games, Suresh Kalmadi, along with his two aids, were jailed for 10 months for financial irregularities.

6. Adarsh Housing Society Scam (2010)

A posh 31-storey building located in Colaba, Mumbai, was constructed for the welfare of war widows and personnel of Defense ministry. In 2011, the Comptroller and Auditor General of India observed that over a period 10 years the **society flouted various Environment ministry** rules. It was noted that politicians, bureaucrats and military officers bent several rules concerning land ownership, zoning, and floor-space index and membership getting themselves flats allotted in this cooperative society at below-market rates.

GOOD GOVERNANCE, COMMITTED GOVERNMENT & NO MAJOR SCANDALS

During the regime of present government the emphasis has been on promoting transparency and curbing corruption with this in mind the government initiated a

number of hard measures in the form of demonetization of high dimensions currency notes of Rs.500 and Rs.1000, promotion of online payment system in government transfer payments to public in particular and motivation citizens to go for on line transactions in general, restructuring of indirect tax system and the results of such commitment has been that no major scam was unearthed ever since 2014 this has been a remarkable achievement as the government had made it clear to all officials that the guilty will not be spared and also the trails will be on fast track time bound manner.

FEATURES OF LOKPAL BILL - 2013

As per Lokpal Bill 2013, an institution called Lokpal at the centre and Lokayukta in each state will be set up. The Lokpal shall work independently like the Judiciary and no minister or bureaucrat will be able to influence their investigations. The corruption cases shall not linger for years and the investigations shall be completed within one year and the corrupt officer or judge shall be sent to jail within two years. Following are the salient features of Jan Lokpal Bill which aims at combating with corrupt practices and to deal firmly with such unwanted issues thereby improving India's image at the world forum.

1. **Lokayuktas:** The new bill mandates states to set up Lokayuktas within 365 days. States have the freedom to determine the nature and type of Lokayukta.
2. **Constitution of Lokpal:** The Lokpal will consist of a chairperson and a maximum of eight members, of which fifty percent shall be judicial members. Fifty percent members of Lokpal shall be from among SC, ST, OBCs, minorities and women.
3. **Selection of Lokpal:** The selection committee will have prime minister, Lok Sabha speaker, leader of the opposition in Lok Sabha and the Chief Justice of India. A fifth member of the selection committee for selection of Lokpal under the category of "eminent jurist" may be nominated by the president on the basis of recommendation of the first four members of the selection committee.
4. **Religious Bodies and Trust:** The new bill includes societies and trusts that collect public money, receive funding from foreign sources, and have an income level above a certain threshold, it excludes bodies creating endowments for or performing religious or charitable functions.
5. **Prosecution:** In the new version, before taking a decision on filing a charge sheet in a case upon consideration of the investigation report, the Lokpal may authorise its own prosecution wing or the concerned investigating agency to initiate prosecution in special courts.
6. **Central Bureau of Investigation:** For independence of the CBI, in the new bill a directorate of prosecution will be formed. Appointment of the director of prosecution will be on the recommendation of the Central Vigilance Commissioner. Transfer of officers of CBI investigating cases referred by Lokpal

will be only with the approval of Lokpal who will also have superintendence over CBI in relation to Lokpal referred cases.

7. **Hearing:** The new bill says a government servant will get a hearing before a decision is taken by the Lokpal.
8. **Prime Minister:** The prime minister will be under the purview of the Lokpal with subject matter exclusions and specific process for handling complaints against the prime minister.
9. **Investigation:** 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. Inquiry against the prime minister has to be held in-camera and approved by two-thirds of the full bench of the Lokpal.
10. **Penalty:** False and frivolous complaints - imprisonment up to one year and a fine of up to Rs.1 lakh. Public servants - imprisonment up to seven years. Criminal misconduct and habitually abetting corruption - jail term up to 10 years.

LOKPAL BILL LOSES ITS TEETH TO CURB CORRUPTION

Some of the provisions in the Jan Lokpal Bill, such as time-bound investigations, are not included in the national-level Lokpal and Lokayuktas Bill, which undermine its effectiveness. The following are the important provisions of Jan Lokpal Bill which have not been incorporated in the Lokpal Bill 2013 implemented by the government making it ineffective to handle corrupt mal practices.

1. Investigations can be extended indefinitely

Under the bill passed by Parliament, the Lokpal can direct an investigative agency to complete an investigation as expeditiously as possible, provided that there is, prima facie, evidence of corruption against an official. This investigation should be completed within six months, failing which the investigative agency can ask for extensions, which should be for no more than six months at a time.

The original bill as introduced in the Parliament in 2011 stipulated that an investigation had to be closed a year after it started. The draft prepared by Anna Hazare and civil society organizations had suggested that investigations be completed within 18 months but that investigations involving whistleblowers should be finished within three months.

As the Lokpal Bill currently stands, investigations can be extended indefinitely, whether whistleblowers are involved or not. This is not uncommon in India. In the Adarsh tower scam in Mumbai, for instance, the Bombay High Court criticized the Central Bureau of Investigation for its slow investigation, which delayed justice.

2. States can determine the nature of Lokayukta Bill

The Lokpal and Lokayuktas Bill directs every state to establish a Lokayukta within one year of the legislation being passed, though it gives them the freedom to decide the nature and type of the Lokayukta Bill that they pass.

Anna Hazare's group and the National Campaign for People's Right to Information had recommended that provisions be made for a body similar to the Lokpal in all states, called the Lokayukta. But if states are given the freedom to determine the nature and type of the Lokayukta Bill, they are likely to weaken the powers of the Lokayukta.

3. Religious bodies and charities are excluded from the ambit of the Lokpal

This can have disturbing consequences, considering the number of quasi-spiritual and religious organizations that have been involved in scandals. In 2011, for example, Tehelka magazine reported financial irregularities in trusts controlled by yoga guru Baba Ramdev. Having religious bodies under the ambit of an independent body like the Lokpal, could ensure that the millions who put their faith in such institutions have recourse to the law. According to an estimate 70% of the 4.3 lakh non-governmental organizations working in the country are of a religious nature. As for charities, the Board of Control for Cricket in India, which has faced several accusations of corruption, is registered as one.

CONCLUSION

Corruption in India has been the main obstacle which has affected adversely each and every one. The fruits of development do not reach the actual beneficiary just because of corruption. There is wide spread dissatisfaction among people as they find difficult to get their rightful share to which they are qualified for without bribing the concerned officials be it for job, education or dealing with government departments. Corruption is so deep rooted that people get frustrated and sometimes even leave hope for their rights. Even the present government in spite of the fact being so committed to throw out corruption from day to day life is finding it an almost impossible task. The point to be taken care is that unless we develop a system, as was advocated in the Anna Hazare's Jan Lokpal Bill, which talked about stern and time bound action against the guilty irrespective of the position enjoyed by the culprit we cannot think of corruption free India. It seems that the Lokpal Bill 2013 had been eyewash with compromising on the main points on the original Jan Lokpal Bill.

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