

## **What are Lokpal and Lokayukta?**

### **Why are Lokpal and Lokayukta needed?**

### **How will Lokpal and Lokayukta be different from the prevalent system of fighting corruption?**

We propose that there should be established a 'Lokpal' at the central level and 'Lokayukta' at the state level, both of which will address the inadequacies of the current anti-corruption systems and have the power and independence to investigate and prosecute cases of corruption.

To be established through the enactment of central and state-level laws, Lokpal and Lokayukta will work on behalf of the citizens of India to protect their interests from abuse of public office at the level of the central and state governments, respectively.

These 'people's commissions' will be independent of the government in a manner that politicians and bureaucrats are not able to interfere in their functioning. They will be accountable to the citizens through transparency in their selection and functioning. Lokpal and Lokayukta will also be made accountable to the citizens by giving the latter the right to file complaints against the former at the Supreme Court and the High Court, respectively.

Lokpal and Lokayukta will protect citizens who show the courage to bring to the notice of the authorities any instance of abuse of public office. The people's commissions will also deal with certain kinds of grievances reported by the citizens in respect of any service or office of the central and state governments and provide them redress.

The establishment of Lokpal and Lokayukta will do away with multiplicity of anti-corruption agencies; each of these people's commissions will have 10 members and one chairperson.

|                       | CURRENT SYSTEM  | PROPOSED LOKPAL-LOKAYUKTA SYSTEM   |
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| FUNCTIONING OF LOKPAL | <p>Ordinary citizens complaining against corruption have little trust in the prevailing anti-corruption systems because they believe they will not be listened to or nothing will come out of the registration of their complaints. In the prevailing systems, there is no time limit within which a complaint against corruption is to be investigated. Often, the anti-corruption agencies just close a case without informing the complainant. The investigation into corruption may also turn corrupt, such as when the anti-corruption agencies accept bribes to close a case.</p> | <p>Any ordinary citizen can approach Lokpal and Lokayukta with any complaint of corruption. Lokpal or Lokayukta will have to complete its enquiries or investigations within one year. After investigation, if there is evidence of corruption found against a politician or any official, Lokpal or Lokayukta will have to file a case in appropriate trial court. The trial court will have to complete the trial and announce punishment within a year. Lokpal and Lokayukta will have the powers to get a guilty official dismissed or suspended. They will also have the powers to get an increment of a guilty official withheld or get a guilty official reduced in rank.</p> <p>The Lokpal or Lokayukta will make an annual estimate of the number of special courts required to ensure that the trial in each case is completed within a year. The government will have to set up such number of courts within three months of the Lokpal and Lokayukta making the request. Every complaint shall have to be compulsorily disposed of by Lokpal or Lokayukta. No complaint could be disposed of without giving a hearing to the complainant. If any case is closed, all records related thereto shall be made public.</p> |
| JUDGES – SC & HC      | <p>No FIR can be registered against any Supreme Court or High Court judge without the permission of Chief Justice of India. It has been seen in the past that the Chief Justice of India tries to protect his own brother judges and rarely gives such a permission.</p>  | <p>Under Jan Lokpal Bill, the full bench of Lokpal will give permission to file a case against any judge. No permission will be required from Chief Justice of India.</p>  |
| PROPERTY ATTACHMENT   | <p>In the current anti-corruption systems, there is no provision for attaching the properties of the persons being investigated.</p>  | <p>Lokpal or Lokayukta will have the powers to notify the list of moveable and immoveable assets of the accused to be attached if, during investigations, the people's commissions come to believe that prosecution is likely to be initiated. These assets cannot be transferred after such notification. Loss to exchequer quantified at the time of conviction could be recovered from the sale of these assets.</p>  |

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| RECOVERY OF LOSSES       | Currently, there is no provision in our law to recover the public funds that have been misappropriated or make up for the loss to the exchequer on account of corrupt practices.  | At the time of conviction, the court will make an assessment of the loss caused by the accused, which shall be recovered from them. If the beneficiary of the corrupt practices is a business entity, five times the loss caused to the government will be recovered. The recovery may be done from the assets of that business entity or the personal assets of its directors.   |
| PUNISHMENT               | The quantum of punishment for people convicted of corrupt practices range from six months to seven years of imprisonment, which is inadequate.  | The punishment will range from one year to life imprisonment and will be commensurate with the status or rank of the accused. The quantum of punishment will be higher for a convict who had a higher rank than for a convict with the lower rank.  |
| MINISTERS                | In the current system, ministers continue in their positions despite substantial evidence against them.   | If the allegations against a minister are substantiated through an enquiry or investigation, the Lokpal or Lokayukta will be able to recommend removal of that minister (other than the Prime Minister).  |
| EVIDENCE                 | In the current system, it is difficult to gather evidence of illegal obtainment of a public benefit on payment of bribe.  | If a person obtains any benefit from the government in violation of a law or rules and regulations, that person along with concerned public servants shall be deemed to have indulged in corrupt practices.   |
| WHISTLEBLOWER PROTECTION | Currently, people who report corrupt practices or raise their voice against corruption are being threatened, victimized and even murdered. There is no protection for them.   | Lokpal and Lokayukta will be responsible for providing the whistleblowers, inside or outside the government, with protection from a threat or victimization of a professional or physical kind.   |
| CITIZEN'S CHARTER        | Currently, it is easy for a corrupt public official to compel a citizen to pay a bribe by simply refusing to do the work without a bribe. The citizen's choice is limited to paying a bribe to get the work done or not paying a bribe and not getting the work done. | Every department shall prepare a citizens charter listing all the routine and easily definable works along with the official responsible for a particular work and the time frame in which the work will be done. Each department will also designate its head or a sufficiently senior officer as public grievance officer (PGO). A complaint of non-adherence to the citizen's charter will be dealt by the PGO, who will be required to get the work done in 30 days. If the PGO fails to provide redress, the grievance will go to the vigilance officer (who will be a part of the Lokpal) and the grievance will be deemed to have a vigilance officer. The vigilance officer will get the work done in the next 30 days, impose penalties on the erring officials which will be paid as compensation to the citizen and proceed with enquiries of misconduct against the erring officials. |

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| MULTIPLICITY OF<br>A.C. AGENCIES | Currently, there are multiple anti-corruption agencies that are ineffective on their own and together. These multiple agencies often waste their effort on the same case or work at cross purposes. The net result is a very weak check on corruption and the corrupt. | All existing anti-corruption agencies will be merged into Lokpal. The anti-corruption wing of CBI, the CVC and the vigilance wings of all departments will be merged into Lokpal. |
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### Other features

1. Upon non-compliance with its orders, the Lokpal or Lokayukta will have the powers to impose financial penalties and also initiate contempt proceedings against the guilty officials.
2. Each bureaucrat, politician and judge would be required to submit his/her statement of moveable and immoveable assets on an annual basis, which will be put on the official website. If an asset of substantial value is subsequently found to be owned by a public servant, it would be deemed to have been obtained through corrupt means.
3. After each election, the Lokpal will verify the assets declared by each candidate from his/her declared sources of income in his/her tax returns. If undeclared assets are found, they will become the subject of investigation.
4. All records of Lokpal will be open barring the following:
  - a. Such portions of any records which, if released during any ongoing investigation, could impede the process of investigation. However, after completion of investigation, they would be disclosed.
  - b. Such records which could affect national security or
  - c. Such records which would disclose the identity of a whistleblower and could compromise his/her security.
5. Lokpal will publish every month on its website the status of cases received, disposed, closed, reasons for closure and the list of cases pending.
6. So that the government may not be influence their functioning or they may not get aligned to any political party, the Chairperson and members will not be eligible for appointment to any position in the government or for contesting elections after they leave office.
7. Selection of members and Chairperson of Lokpal and Lokayukta:
  - a) The ten members and the chairperson of Lokpal are appointed by a *Selection Committee* that comprises of the Prime Minister, Leader of the opposition in Lok Sabha, two youngest judges of Supreme Court (SC), two youngest Chief Justices of High Courts, Comptroller and Auditor General (CAG), Chief Election Commissioner (CEC) and the immediately outgoing members of Lokpal.
  - b) The *Selection Committee* makes the above appointment from a pool of shortlisted candidates that has been identified by a "*Search Committee*".
  - c) The "*Search Committee*" is a 10-member committee formed as follows. First, the *Selection Committee* selects five members from ex-CECs and ex-CAGs who have unimpeachable integrity, no connection with government or political parties. These five members then select another five members from the civil society. This completes the 10-member *SearchCommittee*.
  - d) The *Search Committee* will choose from the people of India, three times the number of vacancies to be filled for the position of Lokpal member and chairperson. Such selection will

be based on strict criteria to filter out people with any doubtful integrity or connections with any government body or political party. This list is then forwarded to the *Selection Committee* which then makes the selection from this pool.

- e) After the selection, the names are forwarded to the President of India, who will then immediately appoint the recommended Lokpal members.
- f) The entire process of selection of Lokpal is publicly transparent via website. All the meetings of the *Search Committee* and *Selection Committee* shall be video recorded that will be made public.

8. Removal of members and Chairperson of Lokpal and Lokayukta:

Lokpal members and/or chairperson may be removed on misconduct or corruption charges *only* by a ruling of a bench of the Supreme Court (SC) comprising of the 5 senior-most judges. Any person may move a petition before the SC seeking such removal. After hearing the matter, SC may order the formation of a Special Investigation Team that will conduct an inquiry and submit a report within 3 months, and/or order the withdrawal of partial or complete work from that Lokpal member.

**Some people believe that:**

- 1. Prime Minister should not be covered under Lokpal.
- 2. Judiciary should not be covered under Lokpal.
- 3. People's Grievances should not be covered under Lokpal, else Lokpal will get burdened
- 4. Lokpal should not be given the responsibility of providing protection to whistleblowers.
- 5. Lokpal should only investigate a few high profile cases of corruption.
- 6. CBI, CVC and departmental vigilance should not be merged into Lokpal. Let Lokpal be a small body and let the existing anti-corruption bodies keep functioning in the manner that they have been functioning.

Please offer your suggestions and express your views on Lokpal and Lokayukta on [www.lokpalbillconsultation.org](http://www.lokpalbillconsultation.org)

Or email us your suggestions at [lokpalbillcomments@gmail.com](mailto:lokpalbillcomments@gmail.com)