

TO BE INTRODUCED BEFORE STANDING COMMITTEE

ON

**THE BAHUJAN LOKPAL BILL,2011**

**STATEMENT OF OBJECTS AND REASONS**

Dr. Bhim Rao Ambedkar, the architect of the Indian Constitution has understood that Indian Dalits' plight, full of intense inequality and deprivation due to caste system and institution of untouchability, required urgent need to correct and redeem these inequalities which prevailed in Indian society and the purpose of establishing a vibrant participative democracy would be a futile exercise unless explicit use of corrective measures was not taken against discrimination (in the form of reservation policy and other legal measures) to eradicate discrimination in employment, education, political and civil spheres. This policy, however, has not been implemented in the true letter and spirit and hence requires lot of reforms and remedial measures to be initiated by the Government of India.

In the back drop of the ongoing agitation against the Government for a powerful and effective Lokpal Bill, the interest of the marginalized people be kept in proper view and under the public pressure highly hyped by the media they can't be subjected to new laws and rules oppressive and discriminatory, instead of those that are in place thanks to years of struggle of our valiant leader Baba Sahib Bhim Rao Ambedkar and others. The interest of the Dalits, tribals and the marginalized sections of the society is threatened on every little pretext and therefore needs to be guarded against such unfortunate and unforeseen contingences per se. No act, laws or rule governing the rights, privileges and opportunities achieved through hard struggles for ages by means be allowed to be compromised by the castiest campaigners.

That the various Acts, laws and rules besides institutions created by constitutionals means i.e. National Commission for Scheduled Castes, National Commission for Scheduled Tribes, National Commission for Backward Classes and National Commission for Minorities, should not be undermined or downgraded by any manner in the face of vociferous agitationists.

That there are innumerable institutions/organizations( Boards, councils, financial institutions, etc) under the ambit of the Government that engage manpower

in various capacities. Regrettably, the SC / ST community are rarely considered when such decisions are taken. This shows how prejudices and biases against these communities are playing out unabated despite the Government's laudable inclusive action policy and orientations.

Though we are not completely agreeing with the Jan Lokpal Bill but we are in demand of a strong and effective Lokpal Bill which can be instrumental in eradicating corruption from public life and caste discrimination from public offices and places. Social discrimination is more poisonous and injurious to a civil society as compared to corruption in public offices because social discrimination is against humanity and hence it is a social evil ,as Dalits start facing caste discrimination from the time of birth itself and can't be redeemed of its after effect, even after death. So it can't be cured, it can only be compensated by giving equal opportunity and equal participation in functioning of Government. The trauma of social discrimination can only be realized by those who face it at every stage in their day to day life, unlike corruption, so our rights must be secured first before taking any steps further in this regard.

Accordingly, we propose substantial changes in the Lokpal Bill as well as proposed Jan Lokpal Bill as we foresee that Jan Lokpal Bill is an attempt to supersede

existing Constitutional bodies and attempt to create a super institution with sweeping powers which can be dangerous for the benevolent laws enacted by the Indian Parliament favoring Dalit Employees, labourers, workers and citizens who are facing the arrogant and biased attitude of the non Dalits towards Dalits in different spheres of life and employment. If proposed Jan Lokpal Bill, in its present form is passed by Parliament, it would inflict double injury on the Dalits and further aggravate our problems.

## **PROPOSED AMENDMENTS**

In this context, one important aspect that has to be remembered is that the worst sufferers of the many ramifications of corruption including mis-governance, misconduct, maladministration, improper discrimination, etc. are

- (1) Scheduled Castes (SCs),
- (2) Scheduled Tribes (STs),
- (3) Socially and Educationally Backward Classes, also referred to as Other Backward Classes, or as Backward Classes (BCs), especially the More,

Most and Extremely Backward Castes / Communities of BCs

(4) Religious Minorities

(5) Women and Children of (1) to (4) above.

All the above mentioned five categories are herein after referred to as oppressed sections of the society.

Besides the definition of corruption, maladministration and misconduct as given in the Jan Lokpal Bill should be broadened to also include

1. (i) diverting outlays earmarked under Special Component Plan for Scheduled Castes (SCP)\* to any purpose not directly and exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of SCs, or misutilising outlays under SCP to any purpose not directly and

exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of SCs;

(ii) failure to formulate the SCP with specificities required to make it possible to verify actual benefits and whether they have directly or exclusively reached individuals or families or groups or habitations of SCs and failure to put these particulars in the public domain;

(iii) failure to formulate the SCP in a manner which will remove the gap between the SCs and advanced castes / classes in economic, occupational, educational, health and residential and other parameters as directed by and within the time-limit.

(iv) failure to implement the SCP in a manner that intended benefits directly and exclusively and fully reach individuals, or families, or groups, or habitations (including related connectivities) of SCs;

(v) showing, exhibiting or reporting utilisation of funds for purposes other than for benefits directly and exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of SCs as expenditure

incurred under the SCP;

(vi) failure on the part of superior Government servants and public servants to promptly take effective remedial as well as punitive action when any of the above failures or diversions or misutilisations or misreporting are brought to their notice;

(vii) diverting outlays earmarked under Tribal sub-Plan (TsP) to any purpose not directly and exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of STs or tribal areas (but directly and exclusively benefitting STs in the tribal areas), or misutilising outlays under TsP to any purpose not directly and exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of STs or tribal areas (but benefits to tribal areas should directly and exclusively benefit STs in those areas);

(viii) failure to formulate the TSP with specificities required to make it possible to verify actual benefits and whether they have directly and exclusively reached individuals or families or groups or habitations of STs or tribal areas (benefits to tribal areas being such as directly and exclusively benefit STs in those areas) and failure to put these particulars in the public domain;



(ix) failure to formulate the TSP in a manner which will remove the gap between the STs and advanced castes / classes in economic, occupational, educational, health and residential and other parameters as directed by and within the time-limit

(x) failure to implement the TsP in a manner that intended benefits directly and exclusively and fully reach individuals, or families, or groups, or habitations (including related connectivities) of STs or tribal areas (benefits to tribal areas being such as directly and exclusively benefit STs in those areas);

(xi) showing, exhibiting or reporting utilisation of funds for purposes other than for benefits directly and exclusively benefitting individuals, or families, or groups, or habitations (including related connectivities) of STs or tribal areas (but directly and exclusively benefitting STs in the tribal areas) as expenditure incurred under the TsP;

(xii) failure on the part of superior Government servants and public servants to promptly take effective remedial as well as punitive action when any of the above failures or diversions or misutilisations or misreporting are brought to their notice;

(xiii) failure to utilise funds provided and earmarked for BCs and Religious Minorities in such a manner that the intended benefits reach the BCs/minorities in full and failure to place in the public domain particulars and specificities of funds provided for BCs/religious minorities so as to make it possible to verify the benefits and whether they have fully reached the BCs/religious minorities;

(xiv) failure to formulate Plan and development strategy for BCs, especially for More, Most and the Extremely Backward Castes /Communities in a manner which will eliminate the backwardness of BCs and of each caste/community of BCs as recommended by the NCBC in its Annual Report in 1999 and to place it in the public domain;

(xv) failure to utilise funds provided and earmarked for women in such a manner that the intended benefits reach the women in full and failure to place in the public domain particulars and specificities of funds provided for women so as to make it possible to verify the benefits and whether they have fully reached women;

(xvi) failure to formulate Plans for Women in a manner that will remove the disparities in all parameters between women and men, and between SC women, ST women and BC women including SC, ST and BC women of Religious Minorities

and men of advanced castes/classes;

(xvii) failure to utilise funds provided for children in such a manner that the intended benefits reach children in full and failure to place in the public domain particulars and specificities of funds provided for children so as to make it possible to verify the benefits and whether they have fully reached children;

(xviii) failure to formulate Plans for children in a manner that will fulfil the Millennium Development Goals relating to children and to remove the disparities between SC, ST, BC children including SC, ST and BC children of Religious Minorities, on the one hand, and the children of advanced castes/classes, on the other.”

2. To establish a Central Government anti – corruption and anti-caste discrimination institution called Lokpal, supported by Lokayukt at state level with a proper representation from the disadvantaged/oppressed Sections of the society i.e. Scheduled Castes and Scheduled Tribes, Religious minorities and other backward castes as per the reservation policy of the Government of India, the religion ,caste and Sub caste shall also be taken into consideration at the time of

selection of members of the Lokpal and Lokayukt.

3. The Lokpal and Lokayukt will be supervised by the National Commission for Scheduled Castes, National Commission for Scheduled Tribes, National Commission for Backward classes and National Commission for Minorities besides other institutions, in case the allegations of corruption are against the members of Scheduled castes, Scheduled Tribes Communities and other oppressed Sections of the society. The opinion/ advice of the respective Commission will prevail over the respective Lokpal and Lokayukt and once a case is referred to the Commission, the Lokpal and Lokayukt shall cease to have the power to Act upon further.

4. Before initiating investigation against a member of Scheduled Castes/ Scheduled Tribes and other oppressed Sections of the society, prior approval from the respective Commission should be mandatory and in case approval is granted, the suspect is given a fair hearing before filing the F.I.R. against him to explain as to why an F.I.R. should not be registered against him.

5. Only Lokpal and Lokayukt of Scheduled Caste/ Scheduled tribe and other oppressed Sections of the society shall investigate a case against a SC/ST member and member of other oppressed Sections of the society

6. Members of SC/ST community and the members of other oppressed Sections of the society will be entitled to have advocates from Government, free of cost, to present their cases either before Lokpal and Lokayukt or before Court of law.

7. Special Courts shall be notified, formed and presided by the members of SC/ST judges or the judges of other oppressed Sections of the society, to prosecute the members of Scheduled Castes/ Scheduled Tribes suspects or suspects of other oppressed Sections of the society ,as the case may be.

8. The investigating agency ,be it C.B.I. or any other agency, under the Lokpal and Lokayukt shall be headed by a Scheduled Caste/ Scheduled Tribe officer or officer of other oppressed Sections of the society , in case the suspect is a member of SC/ST community or member of other oppressed Sections of the society as the case may be.

9. At least two members of the SC/ST community, likewise two members from the other oppressed classes shall be there in the search and selection committee formed to appoint Lokpal and Lokayukt. A detailed selection process with public participation of eminent Dalit scholars/ Dalit social activists/ scholars of oppressed sections of the society should be evolved.

10. Enquiry against Lokpal and Lokayukt of Dalit/BC/religious minorities community shall be conducted by the National Commission for Scheduled Castes and Scheduled Tribes and other commissions as the case may be.

11. National Commission for Scheduled Castes and Scheduled Tribes shall investigate the allegations against Dalit Lokpal and Lokayukt and thereafter submit its report to the Government for taking appropriate steps, likewise the National Commission for Backward Classes and National Commission for Minorities shall investigate the allegations against OBC and Minorities Lokpal and Lokayukt and thereafter submit their report to the Government for taking appropriate steps

12. The entire proceeding by Lokpal and Lokayukt against the member of scheduled caste/ scheduled tribe community and other oppressed sections shall be quasi civil and criminal in nature as it would be reformatory/remedial, not punitive.

13. Once the matter is referred to the Court of law to take action upon the report of Lokpal and Lokayukt ,the latter shall cease to have power to act in this regard. The decision of the Court shall be the final verdict.

14. Lokpal and Lokayukt can't take suo motto action on the mere suspicion of corruption against the members of scheduled castes and scheduled Tribes community and in the case of members of other oppressed sections of society.

15. The Dalit Lokpal and Lokayukt and Lokpal and Lokayukt of oppressed sections shall investigate and enquire into all the cases related to caste discrimination and discrimination faced by the other oppressed sections having all the powers vested in him, including the power to award punishment.

## **MISCELLANEOUS**

Besides others provisions incorporated in the other bills introduced by government and others it is also proposed that corporate houses, media(both print and electronic ) and non government organisations( funded by government or businesses houses) shall also come under the jurisdiction of Lokpal and Lokayukta. This draft provides proposed suggestions on behalf of Dalits and members of oppressed sections of the society, the marginalized Sections of the Indian society.

