

## FREQUENTLY ASKED QUESTIONS

### **Q. What is the National Campaign for Peoples' Right to Information (NCPRI)?**

The NCPRI was formed in 1996, essentially to fight for greater transparency in governance by getting state and national RTI laws enacted. It was involved in the drafting and passing of various state RTI laws and in the national RTI Act. Its founding members included Aruna Roy, Prabhash Joshi, Ajit Bhattacharjea, Prashant Bhushan, S.R. Sankaran, Prakash Kardaley, Shekhar Singh, K. G. Kannabiran, Bharat Dogra. For more details see [www.righttoninformation.info](http://www.righttoninformation.info).

### **Q. What is the NCPRI's approach to fighting corruption?**

The NCPRI feels that every public servant including the Prime Minister, all ministers, elected representatives, judges etc. should be covered by strong anti-corruption laws. In order to ensure that no one institution is overwhelmed by numbers, becomes unmanageably large, and uncomfortably powerful, the NCPRI believes that there should be 3 different institutions at the central level and **corresponding appropriate institutions at the state level.**

a. A **Rashtriya Bhrashtachar Nivaran Lokpal** (National Anti-corruption Commission), to tackle corruption of all elected representatives- Prime Minister (with some safeguards), Ministers and Members of Parliament, and senior bureaucrats (Group 'A' officers), and all other co-accused. **Please see note no. 1 for detailed suggestions made by NCPRI to strengthen the Lokpal bill that is currently before the Parliament.**

b. The strengthening of the **Kendriya Satarkta Lokpal** (Central Vigilance Commission), to be an investigative, prosecution and appellate authority for the remaining categories of civil servants. **Please see note no. 2 for detailed suggestions made by NCPRI to appropriately amend the Central Vigilance Act.**

c. The setting up of a **NyayapalikaLokpal** (Judicial Accountability Commission) by strengthening the Judicial Accountability and Standards Bill that is currently before the Parliament, to investigate charges of corruption and misconduct against sitting judges. **Please see note no. 3 for detailed suggestions made by NCPRI to strengthen the Judicial Accountability and Standards Bill.**

In addition, the NCPRI also believes that there should be a strong **Whistleblower's Protection** bill applicable to these and all other institutions. **Please see note no. 5 for detailed suggestions made by NCPRI to strengthen the Whistleblower's Protection bill that is currently before the Parliament.**

For more details see <http://righttoinformation.info/ncpri-public-consultations-on-the-lok-pal-bill/public-consultations-on-collective-and-concurrent-lokpal-anti-corruption-and-grievance-redress-measures-by-the-ncpri-nehru-memorial-museum-and-library-and-inclusive-media-4-change-csds/>

### **Q. Why should the anti-corruption Lokpal not be involved in grievance redress?**

The NCPRI feels this is undesirable and impractical, especially given the numbers that would be involved and the need to tackle grievances in a decentralised manner. It, therefore, suggests the setting up of an independent, specialised and professional Shikayat Nivaran Lokpal (Grievance Redress Commission) to effectively redress grievances in a decentralized and time-bound manner. This commission would have representatives at the rural block and urban ward level and could also become a single-window gateway for grievance redress for various central and centrally sponsored schemes like the MGNREGS, NRHM, RTE, etc. **Please see note no. 4 for details of the grievance redress mechanism being suggested by NCPRI.**

**Q. Why is the Judiciary not included in your anti-corruption Lokpal?**

The NCPRI is of the view that the judiciary should be made accountable through an institution set up under the Judicial Standards and Accountability Bill. This bill is already pending in Parliament but needs to be improved and strengthened. The Judiciary should be accountable to an independent institution as:

1. There is a widespread view among many experts that the inclusion of the higher judiciary within the purview of the anti-corruption Lokpal would require a Constitutional amendment, as it goes against the basic tenets of the independence of judiciary enshrined in the Indian Constitution. There is a further view that even if it was decided that it is worth amending the Constitution, that might be easier said than done. It has been argued that such an amendment would amount to changing the basic structure of the Constitution, and the Supreme Court has held that the legislature does not have the power to do so (*KesavanandaBharati v. State of Kerala, AIR 1973 SC 1461*).
2. There is also the problem that as the Supreme Court is the authority to hear complaints against the members of the Lokpals, it would be undesirable to have the Lokpals hear complaints against Supreme Court judges.
3. Also, it is likely that if the higher judiciary was included, the bill might itself be challenged in a high court or in the Supreme Court and might get stuck for a long period of time.

**Q. Is the NCPRI opposed to the Lokpal bill as introduced in Lok Sabha?**

Yes. The NCPRI feels that the government Lokpalbill, as introduced in the Parliament is grossly inadequate in many ways and also draconian in some. Specifically:

1. The draft bill only covers the central government and not the state governments .
2. The draft bill does not indicate how members of the higher judiciary and civil servants other than group A would be dealt with in matters of corruption.
3. It also does not cover the issue of grievance redress.
4. It leaves out the PM who the NCPRI believes should be included, though perhaps with a few safeguards.
5. It has a selection process for the Lokpal which is dominated by the government and does not have a mandatory search committee, which the NCPRI thinks is essential.
6. It undermines the independence of the Lokpal by giving the power to initiate an enquiry against the Chairman or member of the Lokpal to the government.
7. It selectively covers all peoples movements and NGOs, declaring their office bearers as public servants, something that the NCPRI thinks is uncalled for.
8. It has draconian penalty provisions against those who might make false, vexatious or frivolous complaints, threatening them with imprisonment and thereby discouraging complainants.
9. It conveniently leaves out the corporate sector from its purview even though they are perhaps the most imp factors in promoting large scale corruption.

**Q. NCPRI approach requires so many new laws. Even getting one law is so difficult.**

It might seem as if the NCPRI proposal is to set up five new bodies, or have five new laws. In fact, three of the laws are already Bills in parliament- Lokpal bill, Judicial Accountability and Standards bills and Whistleblower protection bill. The fourth, is the Central Vigilance Commission, which is an existing independent body and the Act would require to be amended.

The Grievance Redress Act is the only new law that will be required. This also relies on rationalising the grievance redress mechanisms in various schemes by strengthening it and building a common grievance redress architecture at the sub district level, with grievance redress authorities that can hear appeals, dispose off matters within a fixed time frame , compensate, and penalise at the District and State/Central level.

So, the NCPRI approach required strengthening existing bills which have already been introduced in Parliament, strengthening an existing institution and bringing in one new legislation.

**Q. Are you engaging with the government?**

The NCPRI had written to the chairperson of the Joint Drafting Committee requesting for an opportunity to present their views before the committee. Though the chairperson responded assuring that such an opportunity would be provided it seems that the committee was wound up before this could be done. Subsequently, the NCPRI sent its views to various government ministers and have also had meeting with some of them. The NCPRI will send its recommendation to the Standing Committee, and request a hearing with the Standing Committee.

**Q. How will you ensure accountability of all the proposed institutions?**

Each of the proposed institutions will have in-built accountability measures. For example, complaints against members of the anti-corruption Lokpal would lie with the Chief Justice of India, as would complaints against members of the proposed grievance redress commission. In addition, each of the proposed institutions would function transparently and be concurrently accountable to the people.

**Q. You are proposing multiple institutes, how will a person decide where to file a complaint?**

Ordinarily, where a complainant is making an accusation against a specific public servant, the complaint will lie with the appropriate body. For example, if it is against a group A officer, elected representative or Minister, it would be with the Lokpal at the Centre or Lokayukt in the state. Complaints against other officials would lie with the Central Vigilance Commission and against the higher judiciary with the National Judicial Commission.

Where the complaint is not sure of the identity or the rank of the accused official, the law will provide (similarly to the RTI Act), for the transfer of the complaint by the institute which has received it to the appropriate institution, once that is clear.

**Q. If your institutions are segmented, wont people get excluded?**

The National Anti-Corruption Commission bill (RashtriyaBhrashtacharNivaranLokpal) proposed by the NCPRI provides for simultaneous coverage of all co-accused, even if by themselves they would not have been covered by the institution. So, for instance in a land deal where a member of the cabinet might be involved along with people down the line, right till the patwari at the village level, all the lower functionaries would also be investigated by the National Lokpal as co-accused.

**Q. Where would CBI and similar investigative agencies come under the purview in the proposed model?**

The NCPRI proposes that each of the anti-corruption institutions have the authority and staff to investigate and prosecute complaints. Consequently, they would be expected to set up their investigative wings where personnel could be drawn from the CBI and other existing investigative agencies.

As the CBI has functions other than investigation of corruption cases, for these other functions, it would remain under the government.

**Q. How will speed and correctness of investigation and justice be ensured?**

Each of the proposed institution lays down mandatory timeframes for enquiry, investigation and trial. It is also proposed that a protocol laying down the elements of good and timely investigation be codified and its violation be considered an offence.

**Q. How would the composition of these bodies look like and how would members be selected**

The NCPRI envisages these bodies to have a diversity of expertise including former judges and eminent persons from different walks of life. The identification and selection of members of these bodies would be done by committees which comprise a multiplicity of interests, each balancing the other, in order to achieve objectivity. Therefore, typically there would be representatives of the government, the opposition party, the judiciary, and from among eminent people from various fields.

**Q. Why is the NCPRI proposal such a complex articulation?**

It is true that the formulation- or suggested "collective and concurrent anti-corruption and grievance redress measures" of the NCPRI is more complex than a single institution like the Jan Lokpal that covers all corruption, maladministration, and misgovernance. However, corruption and the arbitrary use of power itself is complex, and misgovernance and grievance redress even more so.

**Q. Don't you think by presenting a different view point from IAC, you are weakening civil society?**

The problem of corruption is too important to be left to just one group in civil society. Besides, diversity and plurality of viewpoints, are healthy process of discussion and consultation, and are a pre-condition to an effective set of anti-corruption measures. If it wasn't for the unwillingness of the IAC to continue the dialogue with the NCPRI and other civil society groups, it is quite possible that a consensus could have developed after extensive discussions among most, if not all of civil society.

**Q. Why is the NCPRI not working with 'Team Anna'/ India Against Corruption (IAC)?**

The NCPRI had organised various meetings in the last few months to discuss anti-corruption and grievance redress measures, including the proposed Lokpal bill and various members of IAC attended these meetings. This dialogue continued till such point that IAC took a public stand that their version of the Jan Lokpalk bill was final and warranted no change. Statements were made that anybody that disagreed with their bill was either corrupt or supported the corrupt. In the light of this, it was no longer possible to constructively and meaningfully work or interact with IAC. However, more recently, members of the IAC, some of whom are also members of the NCPRI, have again started discussing the different approaches to addressing corruption and grievances.

**Q. Why are you stratifying institutions to look at different levels of corruption? Is this done in any existing institution?**

Currently there are nearly 42 lakh people under regular employment of the Central Government. It would be physically and logistically impossible for one organization like the National Anti-Corruption Commission (RashtriyaBhrashtacharNivaranLokpal) to deal with complaints regarding all these employees. It would also seem to be a misuse of the unique ability and strengths of the Lokpal to divert them to thousands of complaints of routine and petty corruption. Therefore, clearly there is a need to limit the scope of the Lokpal, otherwise it would soon degenerate either into an

organization with backlogs running into millions (like our court system), or become so large and unwieldy that not only would it become impossible to effectively manage and ensure its integrity (like the Income Tax Department), but it would also consume huge public resources without being cost effective.

The main reasons why the National Anti-Corruption Commission (RashtriyaBhrashtacharNivaranLokpal) is being focused on just the political leadership and group A officers (and all co-accused) are:

- a) They are the ones who have, in the current dispensation, the least amount of checks and balances.
- b) Often the scams that they are involved with are very complex and need great effort and ability to unravel, and enormous resources to follow through (like the recent 2G, Karnataka/Andhra Pradesh mining, and the CWG scams, just to name a few). These sorts of abilities and resources would be available with the Lokpal Commission, and it would be a pity, and also not cost effective, to waste them on cases which could easily be investigated by other existing institutions.
- c) These are also the category of people who have vast influence and money power, and an institution with the stature and independence of the proposed Lokpal Commission is essential to neutralize this influence and power and to ensure that a proper investigation is conducted.
- d) Invariably, scams involving senior politicians, ministers and senior civil servants involve huge amounts of public resources and the enormous cost involved in maintaining the Lokpal and its complement of officers can be best justified if they concentrate on these large scams, whose prevention and detection would lead to the saving or recovery of large amounts of public resources that could be given back to the general public, to whom they rightfully belong.
- e) Considering the PM, Ministers and senior civil servants are individually supervisory authorities, and the MPs collectively so, as the corrupt are exposed and weeded out the overall tone of governance is bound to improve, making it more difficult and risky for the subordinate officers to continue to be corrupt. A positive message will also go out that even the most powerful are not beyond the reach of the law. It would also go a long way in removing the widespread cynicism that prevails today about how only the small fry get caught while the big fish always escape!
- f) Undoubtedly, the ideal situation would have been if corruption at all levels could be given the type of attention that the Lokpal promises to give corruption in high places. However, given the size of the problem, that does not seem to be possible at this stage. Any effort to significantly increase the scope of the Lokpal will invariably result in it becoming as ineffective and overburdened as most of our other anti-corruption institutions. Perhaps the correct way is to start small and then to expand in phases, as the capacity of the Lokpal Commission develops, it gains experience, and it succeeds in controlling corruption at high places.

In India atleast 9 State Lokayuktas (out of 12 looked at) have stratified systems, wherein junior public servants are looked at by Up-lokayuktas and senior public servants are investigated by the Lokayuktas.

**Q. Where can I send my comments/suggestions on the NCPRI's proposal?**

Please send all feedback and comments to [ncpri.india@gmail.com](mailto:ncpri.india@gmail.com)

**Q. Can I see the NCPRI draft?**

The NCPRI has suggested detailed amendments to the current Lokpal bill (as introduced in Lok Sabha). These can be seen at [www.righttoinformation.info](http://www.righttoinformation.info)

**Q. Is this not the government's version since it is associated with the NAC, a government body?**

There are 28 members in the NCPRI working committee of which only two (Aruna Roy and Harsh Mander) are members of the NAC. The NCPRI is an independent, autonomous network of transparency and accountability advocates. The NCPRI's involvement with the legislative process to deal with corruption and arbitrary use of power began with the demand for an RTI law in 1996. Some members of NCPRI also happen to be members of the NAC. The NCPRI is not in any manner affiliated to or supported by the NAC.