

National Anti-corruption Lokpal
*Rashtriya/Rajya Bhrashtachar
Nivaran Lokpal)*

An Element of the Concurrent and
Collective Anti Corruption and
Grievance Redress Measures

BASIC APPROACHES

- Strengthen and support democratic processes and institutions rather than bypass them.
- Bypass democratic institutions for:
 - implementation
 - regulation
 - Legislation
- Perhaps the first charge for preventing corruption and grievances must always be with democratic institutions.

BASIC APPROACHES

- What are the main constraints in fighting corruption and preventing grievances?
- Lack of strong laws ? Or lack of implementation?
- Lack of institutions? Or an inability to make them perform?
- Though we might need some new laws and institutions, they would also go the same way as the old ones, unless we concurrently tackled implementation problems.

SCOPE AND COVERAGE

- Investigate and prosecute (though preferably through an independent agency, finally)
- Investigate and prosecute the Prime Minister
 - After clearance from SC full bench;
 - After giving notice to ruling party/coalition;
 - Not for vicarious responsibility.
- I & P ministers, MPs, senior officers etc.
- All co-accused, including officials, NGOs and corporates.

SCOPE AND COVERAGE

- Exclude higher judiciary – but cover them in a revised “Judicial Standards and Accountability Lokpal”.
- Exclude grievances – to be dealt with by the Public Grievances Lokpal
- Exclude middle level bureaucracy – covered under a strengthened/new CVC/SVC.
- Cover lower bureaucracy by strengthening departmental enquiry processes.

SCOPE AND COVERAGE

- Need to amend PCA to cover corporates - entity that receives from public authority any order, contract, license, clearance, etc. in violation of law/rules - deemed to have indulged in corrupt practices.
- Should take cognisance of complaints under PCA, Chapter IX of the Indian Penal Code, Prevention of Money laundering Act, etc.

PROBLEMS WITH THE OFFICIAL BILL

- Selection committee:
 - Replace Science Academy head/national Professor with two central university VCs – scientist and social scientist/humanities.
 - Cabinet secretary not member.
- Mandatory search committee (poor past experience)
 - Putting the shortlist in the public domain.
 - Inviting and considering public comments.
 - Making basis of final shortlist public

PROBLEMS WITH THE OFFICIAL BILL

- No elevation of Lokpal member as chair
- Stronger financial autonomy (sections 16, 43, 44 and 46)
- Section 38(2) – not desirable that all trials must be completed within two years – what happens if they are not?
- Not desirable that government (through the President) decides to initiate enquiry against Lokpal member, and decides penalty (s. 40)

PROBLEMS WITH THE OFFICIAL BILL

- Should not be sole authority to decide complaints against own officers – ombudsman.
- No penalty for false and frivolous/vexatious complaints – cannot define or objectively determine. Only for false and proven malafide intent – and then only a reasonable fine (s. 50).
- Complaints that are cognizable under Lokpal should not be cognisable under any other act.
- NGOs?