

Govt's Lokpal Bill Vs Jan Lokpal Bill: Comparative Chart

Rather than gunning for the corrupt and corruption, government's Lokpal seems to be gunning for those who complain against corruption.

How will Government's Lokpal work?

Suppose some citizen files a complaint to Lokpal against some corrupt government servant.

Before the investigations actually start, the government servant can file a cross complaint against the citizen straight to the special court, without any preliminary enquiry by any agency, that the complaint is false or frivolous. The government will provide free advocate to the government servant to file this case. The citizen will have to defend himself on his own!

Then there is stiffer punishment for the complainant than the corrupt government servant. If the Special Court concludes that the complaint is frivolous or false, the citizen faces a minimum of two years of punishment. But if the corruption charges against government servant are proved, there is a minimum of six months of punishment for the corrupt government servant!

Government's Lokpal will have jurisdiction over all NGOs in the country but it will have jurisdiction over less than 0.5% of all government employees.

Government argued that the Lokpal would get overwhelmed with too many cases if all public servants were brought under its ambit. So, government has restricted its jurisdiction only to 65,000 Group A officers. Also, state employees will not be covered by Lokpal. There are 4 million central government employees and 8 million state government employees.

In sharp contrast, all NGOs are covered under government's Lokpal, small or big, whether in state or centre. Even unregistered groups of people in remote villages are covered under the ambit of Lokpal. So, in a remote village, if a group of youngsters detect corruption in panchayat works using RTI, the youngsters can be hauled up by Lokpal but Lokpal would not have jurisdiction over Sarpanch, BDO or their corruption.

Whereas Lokpal would not have jurisdiction over Delhi government officials, it would have jurisdiction over all RWAs in Delhi. All small neighborhood groups who raise donations to do Ramlila or Durga Puja would be under Lokpal's scanner.

Lokpal could haul up activists from any of the farmers, labour, anti-corruption, land, tribal or any other movements. All the movements – whether registered or not, are under the jurisdiction of Lokpal.

There are 4.3 lakh registered NGOs. But there would be several million unregistered groups across the country. Lokpal would have jurisdiction over all of them.

No one can dispute the fact that corruption in NGOs needs to be addressed. But how can you leave most public servants out of Lokpal's purview but bring NGOs upto village level within its purview?

Issue	Our view	Government's view	Comments
Prime Minister	Lokpal should have power to investigate allegations of corruption against PM. Special safeguards provided against frivolous and mischievous complaints	PM kept out of Lokpal's purview.	As of today, corruption by PM can be investigated under Prevention of Corruption Act. Government wants investigations to be done by CBI, which comes directly under him, rather than independent Lokpal
Judiciary	Lokpal should have powers to investigate allegation of corruption against judiciary. Special safeguards provided against frivolous and mischievous complaints	Judiciary kept out of Lokpal purview.	Government wants this to be included in Judicial Accountability Bill (JAB). Under JAB, permission to enquire against a judge will be given by a three member committee (two judges from the same court and retd Chief justice of the same court). There are many such flaws in JAB. We have no objections to judiciary being included in JAB if a strong and effective JAB were considered and it were enacted simultaneously.
MPs	Lokpal should be able to investigate allegations that any MP had taken bribe to vote or speak in Parliament.	Government has excluded this from Lokpal's purview.	Taking bribe to vote or speak in Parliament strikes at the foundations of our democracy. Government's refusal to bring it under Lokpal scrutiny virtually gives a license to MPs to take bribes with impunity.
Grievance redressal	Violation of citizen's charter (if an officer does not do a citizen's work in prescribed time) by an officer should be penalized and should be deemed to be corruption.	No penalties proposed. So, this will remain only on paper.	Government had agreed to our demand in the Joint committee meeting on 23 rd May. It is unfortunate they have gone back on this decision.
CBI	Anti-corruption branch of CBI should be merged into Lokpal.	Government wants to retain its hold over CBI.	CBI is misused by governments. Recently, govt has taken CBI out of RTI, thus further increasing the scope for corruption in CBI. CBI will remain corrupt till it remains under government's control
Selection of Lokpal members	1. Broad based selection committee with 2 politicians, four judges and two independent constitutional authorities.	1. With five out of ten members from ruling establishment and six politicians in selection committee, government has	Government's proposal ensures that the government will be able to appoint its own people as Lokpal members and Chairperson. Interestingly, they had agreed to the selection committee

	<p>2. An independent search committee consisting of retd constitutional authorities to prepare first list.</p> <p>3. A detailed transparent and participatory selection process.</p>	<p>ensured that only weak, dishonest and pliable people would be selected.</p> <p>2. Search committee to be selected by selection committee, thus making them a pawn of selection committee</p> <p>3. No selection process provided. It will completely depend on selection committee</p>	<p>proposed by us in the meeting held on 7th May. There was also a broad consensus on selection process. However, there was a disagreement on composition of search committee. We are surprised that they have gone back on the decision.</p>
Who will Lokpal be accountable to?	To the people. A citizen can make a complaint to Supreme Court and seek removal.	To the Government. Only government can seek removal of Lokpal	With selection and removal of Lokpal in government's control, it would virtually be a puppet in government's hands, against whose seniormost functionaries it is supposed to investigate, thus causing serious conflict of interest.
Integrity of Lokpal staff	Complaint against Lokpal staff will be heard by an independent authority	Lokpal itself will investigate complaints against its own staff, thus creating serious conflicts of interest	Government's proposal creates a Lokpal, which is accountable either to itself or to the government. We have suggested giving these controls in the hands of the citizens.
Method of enquiry	Method would be the same as provided in CrPC like in any other criminal case. After preliminary enquiry, an FIR will be registered. After investigations, case will be presented before a court, where the trial will take place	CrPC being amended. Special protection being provided to the accused. After preliminary enquiry, all evidence will be provided to the accused and he shall be heard as to why an FIR should not be regd against him. After completion of investigations, again all evidence will be provided to him and he will be given a hearing to explain why a case should not be filed against him in the court. During investigations, if	Investigation process provided by the government would severely compromise all investigations. If evidence were made available to the accused at various stages of investigations, in addition to compromising the investigations, it would also reveal the identity of whistleblowers thus compromising their security. Such a process is unheard of in criminal jurisprudence anywhere in the world. Such process would kill almost every case.

		investigations are to be started against any new persons, they would also be presented with all evidence against them and heard.	
Lower bureaucracy	All those defined as public servants in Prevention of Corruption Act would be covered. This includes lower bureaucracy.	Only Group A officers will be covered.	One fails to understand government's stiff resistance against bringing lower bureaucracy under Lokpal's ambit. This appears to be an excuse to retain control over CBI because if all public servants are brought under Lokpal's jurisdiction, government would have no excuse to keep CBI.
Lokayukta	The same bill should provide for Lokpal at centre and Lokayuktas in states	Only Lokpal at the centre would be created through this Bill.	According to Mr Pranab Mukherjee, some of the CMs have objected to providing Lokayuktas through the same Bill. He was reminded that state Information Commissions were also set up under RTI Act through one Act only.
Whistleblower protection	Lokpal will be required to provide protection to whistleblowers, witnesses and victims of corruption	No mention in this law.	According to govt, protection for whistleblowers is being provided through a separate law. But that law is so bad that it has been badly trashed by standing committee of Parliament last month. The committee was headed by Ms Jayanthi Natrajan. In the Jt committee meeting held on 23 rd May, it was agreed that Lokpal would be given the duty of providing protection to whistleblowers under the other law and that law would also be discussed and improved in joint committee only. However, it did not happen.
Special benches in HC	High Courts will set up special benches to hear appeals in corruption cases to fast track them	No such provision.	One study shows that it takes 25 years at appellate stage in corruption cases. This ought to be addressed.
CrPC	On the basis of past experience on why anti-corruption cases take a long time in courts and	Not included	

	why do our agencies lose them, some amendments to CrPC have been suggested to prevent frequent stay orders.		
Dismissal of corrupt government servant	After completion of investigations, in addition to filing a case in a court for prosecution, a bench of Lokpal will hold open hearings and decide whether to remove the government servant from job.	The minister will decide whether to remove a corrupt officer or not. Often, they are beneficiaries of corruption, especially when senior officer are involved. Experience shows that rather than removing corrupt people, ministers have rewarded them.	Power of removing corrupt people from jobs should be given to independent Lokpal rather than this being decided by the minister in the same department.
Punishment for corruption	<ol style="list-style-type: none"> 1. Maximum punishment is ten years 2. Higher punishment if rank of accused is higher 3. Higher fines if accused are business entities 4. If successfully convicted, a business entity should be blacklisted from future contracts. 	None of these accepted. Only maximum punishment raised to 10 years.	
Financial independence	Lokpal 11 members collectively will decide how much budget do they need	Finance ministry will decide the quantum of budget	This seriously compromises with the financial independence of Lokpal
Prevent further loss	Lokpal will have a duty to take steps to prevent corruption in any ongoing activity, if brought to his notice. If need be, Lokpal will obtain orders from High Court.	No such duties and powers of Lokpal	2G is believed to have come to knowledge while the process was going on. Shouldn't some agency have a duty to take steps to stop further corruption rather than just punish people later?
Tap phones	Lokpal bench will grant permission to do so	Home Secretary would grant permission.	Home Secretary is under the control of precisely those who would be under scanner. It would kill investigations.
Delegation of powers	Lokpal members will only hear cases against senior officers and	All work will be done by 11 members of Lokpal. Practically no	This is a sure way to kill Lokpal. The members will not be able to handle all cases. Within no time,

	politicians or cases involving huge amounts. Rest of the work will be done by officers working under Lokpal	delegation.	they would be overwhelmed.
NGOs	Only government funded NGOs covered	All NGOs, big or small, are covered.	A method to arm twist NGOs
False, Frivolous and vexatious complaints	No imprisonment. Only fines on complainants. Lokpal would decide whether a complaint is frivolous or vexatious or false.	Two to five years of imprisonment and fine. The accused can file complaint against complainant in a court. Interestingly, prosecutor and all expenses of this case will be provided by the government to the accused. The complainant will also have to pay a compensation to the accused.	This will give a handle to every accused to browbeat complainants. Often corrupt people are rich. They will file cases against complainants and no one will dare file any complaint. Interestingly, minimum punishment for corruption is six months but for filing false complaint is two years.