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# lokpalbattle



## One Bill, three ways to look at it

**VIEWPOINTS** Here's a quick take on the points of disagreement between Team Anna and the government on the Lokpal Bill and Hindustan Times' take on each contentious issue.



Supporters of Anna Hazare brave the rain at Ramliha ground on Tuesday.

SANJEEV VERMA/HT PHOTO

ISSUE	JAN LOKPAL DRAFT	GOVT'S DRAFT	HINDUSTAN TIMES' TAKE
<b>Prime Minister</b>	Lokpal should have power to investigate allegations of corruption against PM. Special safeguards provided against frivolous and mischievous complaints.	Lokpal can act on complaints against the PM after he quits office.	Incumbent PMs should be under the purview of Lok Pal, but there must be safeguards to shield his decisions on national security, defence and foreign policy issues.
<b>Judiciary</b>	Lokpal should have powers to investigate allegation of corruption against judiciary.	Judiciary kept out of Lokpal purview.	Should not be part of the Lok Pal, but the government must acknowledge the fact that there is corruption in judiciary too and bring in a strong Judicial Accountability Bill (JAB). A judge can only be impeached under article 124(4) & 217 and no other mechanism is available other than an extra-constitutional method under practice — of judges inquiring into judges' conduct. A national judicial commission can be created by amending the constitution.
<b>MPs</b>	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.	Article 105(D) of the Constitution gives privilege to MPs from any inquiry into their conduct. Only the House can probe any in-house conduct of a MP. We must trust parliament to do that — it has done so in the past and even dismissed MPs for misconduct.
<b>Grievance redressal</b>	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.	Inefficient delivery of services can be because of corruption, but not necessarily so. Grievance redressal should be through a separate legislation and should not be included in the anti-corruption mechanism of Lokpal.
<b>CBI</b>	Anti-corruption branch of CBI should be merged into Lokpal.	Government wants to retain its hold over CBI.	CBI is misused by governments. It should be brought under Lokpal.
<b>Selection of Lokpal members</b>	1. Broad-based selection committee with 2 politicians, four judges and two independent constitutional authorities. 2. An independent search committee consisting of retired constitutional authorities to prepare first list.	The selection committee to appoint the chairperson and member of the Lokpal will be headed by the Prime Minister. It will also include the Lok Sabha Speaker, leaders of the opposition in both houses of Parliament and a cabinet minister.	The say of the government in the selection procedure must be reduced. A search committee must be independent of the government. The government's selection committee must pick from the list provided by the search committee.
<b>Lower bureaucracy</b>	All those defined as public servants in Prevention of Corruption Act would be covered. This includes the lower bureaucracy.	Only Group A officers will be covered.	While the desire to bring the entire bureaucracy under an omnibus anti-corruption law is understandable, for now the focus must be on the higher bureaucracy. Covering all of about 3.5 crore government employees will make the Lokpal into a giant that may not function well.
<b>Lokayukta</b>	The same bill should provide for Lokpal at the Centre and Lokayuktas in the states.	Only Lokpal at the centre would be created through this bill.	Given the opposition of several chief ministers to the proposal, we must respect the federal character of the country.
<b>Whistleblower protection</b>	Lokpal will be required to provide protection to whistleblowers, witnesses and victims of corruption.	No mention in this law.	The whistleblower protection must be ensured through a separate legislation currently in Parliament. It must be amended and strengthened if necessary.
<b>Punishment for corruption</b>	1. Maximum punishment is 10 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.	Under constitution, irrespective of the status of the accused, the punishment must be same for all.
<b>Phone tapping</b>	Lokpal bench will grant permission to do so.	Home Secretary would grant permission.	Lokpal should not have any powers to tap. Given the controversies surrounding phone tapping, the regime for surveillance should be streamlined and regulated. The country must have a strong privacy law also.
<b>Who will Lokpal be accountable to?</b>	A citizen can complain to the Supreme Court and seek removal of Lokpal.	To the Government; only government can seek removal of Lokpal.	The system of citizens complaining to the SC will work only if the judiciary is not under the Lokpal. Otherwise courts will be reluctant to entertain complaints against the Lokpal.
<b>Integrity of Lokpal staff</b>	Complaint against Lokpal staff will be heard by an independent authority.	Lokpal itself will investigate complaints against its own staff.	Complaints against the staff should be decided by the Lokpal but it should be subject to judicial review.
<b>Method of inquiry</b>	Method would be the same as provided in CrPC like any other criminal case. After preliminary enquiry, an FIR will be registered. After investigation, 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 on why an FIR should not be registered against him.	FIR should be filed after preliminary enquiry; the accused should get an opportunity to explain before filing the chargesheet.
<b>Special benches in HC</b>	High courts will set up special benches to hear appeals in corruption cases to fast track them.	No such provision.	Whether through special benches or otherwise, appeals on corruption cases must be on fast track.
<b>Dismissal of corrupt government servant</b>	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 on whether to remove the government servant from the job.	The minister will decide whether to remove a corrupt officer or not.	Government servants enjoy immunity under Article 311 from summary dismissal for misconduct. Therefore, after the Lokpal recommends dismissal it must be accepted after a judicial review. Minister should not have the powers.
<b>Financial independence</b>	Lokpal (11 members) collectively will decide how much budget they need.	Finance ministry will decide the quantum of budget.	Lokpal must get funds as the SC and Election Commission get it — directly from the consolidated fund of India.
<b>Prevent further loss</b>	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.	Preventive anti-corruption measures will disrupt the executive functioning and should be avoided.
<b>Delegation of powers</b>	Lokpal members will only hear cases against senior officers and politicians or cases involving huge amounts. Rest of the work will be done by officers working under Lokpal.	All work will be done by 11 members of Lokpal. Practically no delegation.	Without any delegation of powers, the Lokpal will be overloaded. The extent of delegation of powers should be built into the law.
<b>NGOs</b>	Only government-funded NGOs covered.	All NGOs, big or small, are covered.	Only government-funded NGOs should be covered.
<b>False, frivolous and vexatious complaints</b>	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.	There should only be fines and the Lokpal must decide whether a complaint is frivolous or not.

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