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DAHIWADI COLLEGE DAHIWADI

Tal. Man, Dist. Satara : 415 508 (MS)

(Affiliated to Shivaji University, Kolhapur)

Reaccredited 'B' grade (CGPA 2.79)

E-mail dcdprincipal@gmail.com

LOKPAL: A MOVE TOWARDS CURRUPTION FREE INDIA

Dr. Manik Sonawane

Head, Dept. of Pol. Sci. Tilak Maharashtra University, Pune.

“Lokpal” means the institution established under section. The word is derived from the Sanskrit word "lok" (people) and "pala" (protector/caretaker), or ‘caretaker of people.’¹ The standoff between the government and civil society – Anna Hajare, social activist and his team brought the issue of Lokpal Bill in the forefront. The central government was always considering the introduction of Lokpal Bill to put in place a strong time bound mechanism to tackle issues of corruption. This Bill was introduced eight times in Parliament; however it lapsed each time after the dissolution of Parliament. Various Commissions were appointed by Central Government on eradication of corruption. It has been recommended the independent authority of Lokpal.

According to Jainism or Buddhism, “with desire of wealth man creates many sins.” Wealth is not the ultimate achievement of life. But most of the people did not follow and remain greedy all over the life. Due to bad kind of exercise desire in society, State-Nation gets hampered its social political and economic arena. Such activities are common all over the world.

Corruption in the world is not a new one but its size, dimension has changed now. Corruption in India is a consequence of the nexus between bureaucracy, politics and criminals. India is now no longer considered a ‘soft State.’ It has become ‘Consideration State’ where everything can be had for a consideration. Corruption has made a corrosive impact on India’s economy. It has worsened countries image in the international market and leads to loss of overseas opportunities.²

Corruption in India has grown up to highest level. Under the garb of liberalisation and privatization and globalization India has adopted policies by which natural resources and public assets like mineral resources, oil and gas, land, spectrum etc. have been allowed to be privatised without transparency. Under the influence of Multi National Corporations and domestic political pressers hundreds of MOUs have been signed by governments with private corporations, leasing out large tracts of land rich in mineral resources, forests and water. These allow the corporations to take away and sell the resources by paying nominal royalty to the government, which is usually less than 1% of the worth value of the resources.³

According to the Justice Santosh Hegde former Lokayukta of Karnataka, has pointed out in a report on mining in Karnataka that, the profit margins in such ventures are often more than

90% . This leaves huge scope for bribe-giving and creates incentives for corruption. The same thing happened when A. Raja gave away spectrum without a public auction to companies at less than 10 per cent of its market price. Private monopolies in water and electricity distribution, airport development and soon have been allowed to be created, where huge and unconscionable levels of profit can be made by corrupting the regulator and allowing private monopolies to charge predatory prices. Tens of thousands of hectares have been given away to corporations for commercialization in the guise of airport development, construction of highways, creation of Special Economic Zones and so on, at prices that are less than 10% of the worth value of those tracts of land.⁴ It means while adopting such a policies that creates huge incentives for corruption; unfortunately we have not effective institutions to check corruption and investigate.

Several studies have shown that corruption not only stifles growth, it also perpetuates inequalities, deepens poverty, causes human suffering, dilutes the fight against terrorism and organised crime, and tarnished India's global image. The impact of corruption is multi fold, encompassing: political, economic, social and environmental fields and threats to national security.^[3] David Bayley observes that "The presence of corruption is an important hindrance to economic growth and progressive social change"^[4] and India is experiencing the same.

India's National progress and various welfare schemes are becoming ineffective due to large scale of corruption. So today corruption has become a major challenge before Indian society. According to experts, there are many types of corruptions in the society like Bribe - an offer of money to influence a public official. Nepotism - favoritism shown by a public official to relatives, close friends or colleges. Fraud - cheating the government through deceit and Embezzlement - where money or other government properties gets stealed.⁵

To eradicate the evil of corruption, firstly the Central Government has enacted some Laws and institutions to deal with the prevention of corruption and constituted agencies such as Central Vigilance Commission (CVC), Central Bureau of Investigation (CBI) and Anti-Corruption Bureau (ACB) to enforce the Anti-Corruption Laws effectively in the country.

Secondly, the central government has passed acts such as The Prevention of Corruption Act, 1947, Sections 161 to 165A of the Indian Penal Code, The Prevention of Corruption Act, 1988, Prevention of Money Laundering Act, 2002, and Right to Information Act, 2005 to provide support system for the eradication of corruption. The Independent Commission against Corruption (ICAC) was also established on 15 February 1974, by virtue

of Section 3 of the ICAC Ordinance as the primary body for combating corruption with the three-pronged approach of prevention, investigation and public education.

And thirdly various administrative reforms commissions were formed and with commission's recommendations the government tries to transform administrative machinery into accountable, responsible and transparent government.

To achieve it various rules and laws were drafted and implemented. Lokpal is one of the most debatable bill, which control the corruption at the root and top level.

After the independence of India many scams, illegal activities came in to light and their detail reports was shocking one. To control this type of scams and scandals, the concept of Constitutional Ombudsman (Legal Representative) was first proposed in parliament by Law Minister Ashok Kumar Sen in the early 1960s. The word 'lokpal' was coined by Dr L.M.Singhvi in 1963. The first Jan Lokpal Bill was proposed by Shanti Bhushan in 1968 and passed in the 4th Lok Sabha in 1969, but did not pass through the Rajya Sabha. Subsequently, 'lokpal bills' were introduced in 1971, 1977, 1985, again in 1989, 1996, 1998, 2001, 2005 and in 2008, The Bill was never passed.⁶ Fifty two years after its first introduction, the Lokpal Bill is still not enacted in India, is the sad story of its passage.

The Lokpal Bill has been introduced in the Parliament a total of eight times since 1968. And upto today corers' were spend for the process of bill and putting forward before Parliament for law making process such as 1968 -3 lakh^[11] (300,000), 1971- 20 lakh (2 million), 1977 - 25 lakh (2.5 million), 1985 - 25 lakh, 1989 - 35 lakh (3.5 million), 1996 - 1 crore (10 million), 2001 - 35 crore (350 million) 2011 - 700 crore (17 billion)⁷ and 2012 - 2000 crore^[13] (20 billion) This proves how much exchequer has been burdened by this Bill.

The Jan Lokpal Bill, also referred to as the Citizen's Ombudsman Bill, is an anti-corruption bill drafted and drawn up by civil society activists in India seeking the appointment of a Jan Lokpal, an independent body to investigate corruption cases.⁸

The Jan Lokpal Bill was inspired by the Hong Kong 'Independent Commission Against Corruption' (ICAC)⁹ In the 1970s, the level of corruption in Hong Kong was seen so high, that the government created the commission with direct powers to investigate and deal with corruption. In the first instance, the ICAC sacked 119 out of 180 police officers.¹⁰ And Hong-Conge government was able to control corruption in subsequent years. Under the Lokpal Bill, components of corruption against Prime Minister or Ministers or Member of Parliament can be filled with the Constitutional Ombudsman appoint under the Act.

The bill was revived several times to accommodate objections raised in the house in subsequent years, including in 2011. Each time, after the bill was introduced to the House, it was referred to a committee for improvements, to a joint committee of parliament, or to a departmental standing committee of the Home Ministry. Before the government could take a final stand on the issue, the house was dissolved, and the Bill remained pending. Several conspicuous flaws were found in the 2008 draft of the Lokpal Bill, and subsequently are corrected with Anna Hazare and his Team's present efforts. The Bill got passed on Dec 27, 2011, with some modifications as proposed in the Jan Lokpal Bill. However, Hazare and his team, as well as other political parties, claimed that the Lokpal Bill passed was weak, and would not serve its intended purpose. So the proposed bill was accepted by Congress Party and Lok Sabha has yet to be Rajyasabha as on Dec 29, 2011, the bill has been deferred to the next parliamentary session, amid much controversy and disruption raised by the LJP, RJD and SP parties. The media at large, and the opposition parties claimed the situation had been staged.¹¹

A Jan Lokpal Bill was Drafted by Justice Santosh Hegde (a former Supreme Court Judge and former Lokayukta of Karnataka), Prashant Bhushan (a Supreme Court Lawyer) and Arvind Kejriwal (an RTI activist), the draft Bill envisaged a system in which a corrupt person found guilty would go to jail within two years of the complaint being made and his ill-gotten wealth confiscated. It also sought power for the Jan Lokpal to prosecute politicians and bureaucrats without any permission from government authorities.

Many renowned personalities are the members of the movement, called 'India Against Corruption'. Such as retired IPS officer Kiran Bedi, Anna Hazare, Swami Agnivesh, Sri Sri Ravi Shankar, and Mallika Sarabhai and many more.

"India against Corruption" (IAC) was started campaign in 2011 to draw the attention of the government. Anna Hazare is the head of civil society and the IAC movement. Through these collaborative efforts till August 2011, IAC was able to upload the 23rd version of the Jan Lokpal Bill draft.¹²

The Lokpal will be a three-member body with a chairperson who is or was a chief justice or Supreme Court judge, and two members who are or have been high court judges or chief justices.

The important features of the proposed bill are:

1. To establish a central government anti-corruption institution called Lokpal, supported by Lokayukta at the state level.

2. As a result, it will be completely independent of the government interference and free from ministerial influence in its investigations.
3. Members will be appointed from judges, Indian Administrative Service officers with a clean record, private citizens and constitutional authorities through a transparent and participatory process.
4. A selection committee will invite short-listed candidates for interviews, the video recordings of which will thereafter be made public.
5. Every month on its website, the Lokayukta will publish a list of cases dealt with, brief details of each, their outcome and any action taken or proposed. It will also publish lists of all cases received by the Lokayukta during the previous month, cases dealt with and those which are pending.
6. Investigations of each case must be completed within one year. Any resulting trials should be concluded in the following year, giving a total maximum process time of two years.
7. Losses to the government by a corrupt individual will be recovered from the confiscated property of corrupt one at the time of conviction.
8. Government office-work required by a citizen that is not completed within a prescribed time period will result in Lokpal imposing financial penalties on those responsible, which will then be given as compensation to the complainant.
9. Complaints against any officer of Lokpal will be investigated and completed within one month and, if found to be substantive, will result in the officer being dismissed within two months.
10. The existing anti-corruption agencies [CVC], departmental vigilance and the anti-corruption branch of the [CBI] will be merged into Lokpal which will have complete power authority to independently investigate and prosecute any officer, judge or politician.
11. Whistle-blowers who alert the agency to potential corruption cases will be provided with proper protection.

Fundamental duties of Lokpal:

To judge the cases and make jurisdictions against corruption cases (with the Lokpal), to judge whether a case is genuine or whether a fake complaint has been made, to potentially impose fines on a fake complaint, or even a short span of jail time, if the case is not proved to be legally true, or made with malicious intention

Drafting committee - Salman Khurshid, the former Minister of the Law and Justice was part of the drafting committee. The drafting committee was officially formed on 8 April 2011. It consisted of the following ten members, including five from the government and five drawn from the civil society. P. Chidambaram the Finance Minister, Shanti Bhushan –former Minister of Law and Justice and co-Chairman, Shushilkumar Shinde – Ministers of Home Affairs, Veerappa Moily – Minister of Corporate Affairs, Kapil Sibal –Minister of Human Resource Development, Salman Khurshid- Minister of Law, Anna Hazare- Social Activist, Prashant Bhushan-Lawyer, N.Santosh Hegde- Former Lokayukta Karnataka and Supreme Court Justice and Arvind Kejariwal – RTI Activist.

The Government's formation of the draft committee, involving the civil society members excluding other political parties, was criticized by various political parties including Bharatiya Janata Party, Biju Janata Dal, Telugu Desam Party, All India Anna Dravida Munnetra Kazhagam, Communist Party of India (Marxist), Rashtriya Janata Dal, Janata Dal (U) and Samajwadi Party, and this resulted in stalemate¹³.

Surveys : IAC conducted a survey on the draft Lokpal Bill presented by the Indian Government in Parliament. It showed that 85% of the participants were opposed to the government's bill. According to a nationwide survey conducted by CNN-IBN & CNBC-TV18 and was published in early August 2011, only a shade over a one third of respondents have heard of Lokpal. 34% of all respondents said they have heard of the ombudsman and only 24% knew what it actually meant, which shows ignorance among the common man¹⁴.

Realising the massive support to Anna Hazare's movement, several MPs across party lines have come out in support to the Jan Lokpal Bill. Most notable are Congress MPs from Maharashtra, Priya Dutt and Datta Meghe. Datta Meghe also demanded that his party spokesperson Manish Tiwari should apologise to Anna Hazare for his uncharitable comments.

This support started coming as over 150 MPs and Ministers from different states were forced to remain confined to their houses as Anna supporters protested outside their houses. Protests were also seen outside the residence of Sheila Dixit CM of Delhi, Kapil Sibal, Pranab Mukherjee and others.¹⁶

Social media: As per reports, Anna Hazare's fast was successful in mobilising the support of thousands in the virtual world of social media. On Independence Day, Anna had over 500,000 commented through status updates and comments across top social networking

sites, including Face book and Twitter in the country. Two days later, the number had shot up to 9 million. Facebook has 542 fan pages with Anna's name. A portal www.iacbranding.org has also been launched by the IAC activists to provide design logistics for movement's publicity as banner, poster, handbill to be used by the IAC Activists all over India and abroad.¹⁷

Online surveys: Survey conducted by STAR News and Nielsen, 87% of the 8900 respondents of the survey supported the Jan Lokpal Bill. The survey conducted in 28 cities across the country, including all four metros mainly dealt with three important points: public's knowledge about the Lokpal Bill; awareness about Anna's campaign; and the perceived problems with the Jan Lokpal Bill.¹⁸

Over a million people joined the Times of India online anti-graft campaign, in one of the biggest ever voting exercises in the virtual world. The news analysis points that citizens want to make their voices heard and have found the platform offered by the campaign a viable one to do so.¹⁹

Suggestion of Anna Hazare on Lokpal -

The social activist Anna Hazare, wanted to have a strong Lokpal that will help the people of this democratic country to put a check on the working of the leaders and the government machinery. He suggested following acts:-

- The government has to establish an anti corruption institution called the Lokpal at the centre which will be supported by the Lokayukt at the state level.
- The functioning of the court and the cabinet should be made independent of the rule of the government.
- The cases dealt at the state level by the appointed Lokayukts be made public so that the people should know about it.
- The investigation of the cases should be completed within one year of registration and no pending cases are entertained thereafter.
- In the government offices, it should be made compulsory that the work should be completed within the prescribed time period or else the concerned office will come under the jurisdiction of the Lokpal and will have to pay financial penalties.

Parliamentary actions on the proposed legislation

On 27 August 2011, a special and all exclusive session of Parliament was conducted and a resolution was unanimously passed after deliberations in both the houses of Indian

Parliament. The resolution, in principle, agreed on the following subjects and forwarded the Bill to a related standing committee for structure and finalise a report: ²⁰

- A citizen charter on the bill,
- An appropriate mechanism to subject lower bureaucracy to Lokpal,
- The establishment of Lokayuktas (Ombudsmen at state level) in States.
- Anna Hazare welcomed this development, terming it as a battle "half won" while ending the protest and fast.²¹

The fight against pervasive, institutionalized corruption is a daunting task, yet it is as necessary as breathing for the survival of government, a state or a civilized society. This fight needs to be systematic, incremental and collective, guided by a national anticorruption strategy that anticipates structural reforms to minimize the opportunities for corruption in institutions, establishes ethical codes of conduct and strategies that stigmatize corrupt behavior, and uses the power of punishment to effectively deter corrupt activities. While certain Asian countries are achieving success in combating corruption, India despite its long cherished glorious cultural heritage and customs still is facing the problems of corruption precariously. It is a fact that Indian Constitution provides laws to fight-against corruption and anti-corruption agencies have been established, the obstacles created by undue interference of politicians are dealing the effective implementation of those laws and working off agencies. Ultimately this precarious prevalence of cancerous corruption has contaminated the whole society and shows its adverse impact on the democratic system of the nation victimizing the weaker sections of the society. There is a need of a powerful institution to be constituted to eradicate the evil of corruption similar to "Independent Commission against Corruption" in Hong Kong.

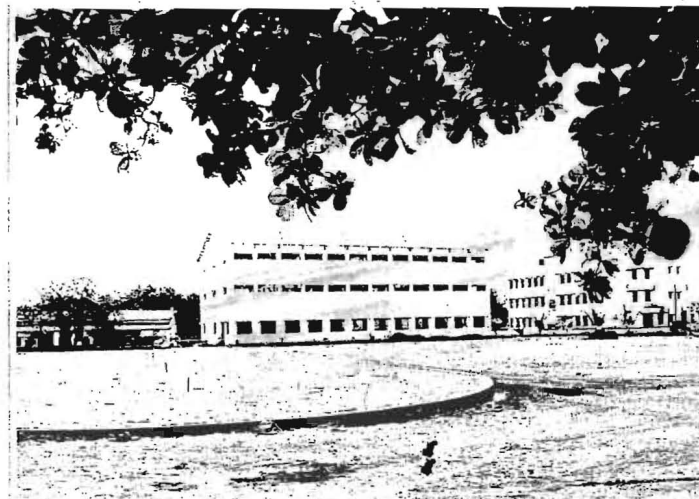
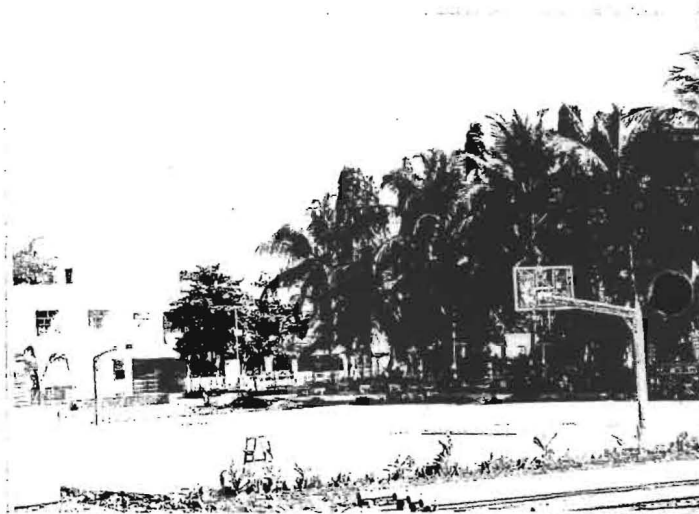
There is a demand for incorporation of the Prime Minister's office under the Lokpal Jurisdiction, We must think that, the Prime Minister is the first among equals in conception; the Prime Minister is the leader of the Executive branch of the government. He is the head of Government and also he is representing the State at International canvas. It is the function of the Prime Minister to lead and to coordinate in framing of policies, decision making and execution of those policies and decisions. The Prime Minister's unchallenged authority and leadership are critical to ensure cohesion and sense of purpose in government, and to make our Constitutional scheme function in letter and spirit. The Prime Minister is accountable to the Parliament, and on his survival depend the survival of the government. The Prime Minister is appointed by the President's on the basis of majority. All Ministers are then

appointed only on the advice of the Prime Minister. The President cannot ordinarily dismiss the Prime Minister as long as he enjoys the majority support in the House of the People. We should consider all this eventualities before bringing Prime Minister's office under Lokpal. We should note that, there is no provision to impose President's rule in the Union. In case of states, Article 356 provides for a mechanism to ward off instability or collapse in a state. But in the Union, we always need a strong and viable Council of Ministers headed by Prime Minister. Therefore, any roving enquiry by a Lokpal into the conduct of Prime Minister himself will leave the country vulnerable, and may even jeopardize national security and bring instability in our governance and security.

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