

## INDIA AGAINST CORRUPTION

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Dear Sir,

The entire nation is abuzz with a hope that the country may soon get a comprehensive and strong anti-corruption law. This is an opportunity that India simply cannot pass up.

As you are aware, the proceedings of the Joint Drafting Committee to draft the Lokpal Bill were completed on 30<sup>th</sup> June. As the government nominees and the civil society nominees could not agree on several crucial points in the Bill, two drafts have resulted – one each from the government and civil society (both bills are attached).

We are approaching you to seek your valuable views on some of these contentious issues. The attached questionnaire presents our views and the government's views on each of these issues. Against every issue, there is also space for you to write your views. We are also attaching a detailed background note as annexure on each of these issues, which you may like to read before firming up your views.

We feel this is a historic opportunity. Rather than demanding trivial reforms, it is an opportunity to demand comprehensive changes in our anti-corruption systems. But some people are of the opinion that we need to adopt a "give and take" approach. We would like you to guide us on each of these issues. Which of these demands should we, as a nation, be willing to give up at this juncture?

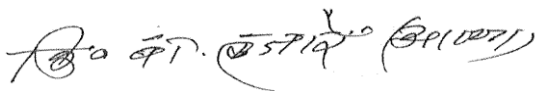
Furthermore, some myths have been spread about our movement and the Jan Lokpal Bill. We are attaching a small note to clarify some of those myths.

We request you to kindly return the filled up forms by July 20<sup>th</sup>. We will compile all the inputs and send them to the Government of India before the Cabinet meets some time before 31<sup>st</sup> July, after which the final bill will be sent to the parliament.

We also seek your active participation in this movement. If you have any ideas or suggestions, please do not hesitate to contact us. You can also talk to Arvind Kejriwal at 9891148748.

Thanking you and awaiting your response,

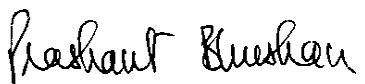
Warmly Yours,



(K B Hazare)



(Shanti Bhushan)



(Prashant Bhushan)



(Arvind Kejriwal)

## **Jan Lokpal is a “Frankenstein monster”**

**Myth:** Jan Lokpal is a “Frankenstein monster”. At some places, it has been suggested that strong Lokpal is a threat to democracy. It has also been alleged that Lokpal will come and sit over everyone.

**Our response:** It is also being alleged that Jan Lokpal is a Frankenstein monster. Barring powers to recommend dismissal of a corrupt officer, no other power has been suggested for Lokpal which is not already vested in CBI. Lokpal would obviously need these powers, if Lokpal were to do any worthwhile investigations. In lighter vein, we can't expect Lokpal members to bow with folded hands before the likes of Raja, Kalmadi and Yedyurappa and pray to them to disclose their corrupt practices. Should we have a weak and ineffective Lokpal? Vested interests want precisely that. We should demand a strong Lokpal but with adequate checks and balances. In contracts, the government is giving us a lame and ineffective Lokpal with no checks and balances.

Should Lokpal have power to dismiss a corrupt officer? After completion of investigations by the investigation wing of Jan Lokpal, we have suggested that a three member bench of Jan Lokpal would hold open hearings and pass orders whether the officer ought to be removed. If dissatisfied, the officer could challenge that order in High Court. In sharp contrast, Government's Lokpal proposes that the minister of that department should have the power to dismiss a corrupt officer. Experience shows that ministers are direct or indirect beneficiaries in most of the corruption at high places. Rather than punish corrupt people, they have been brazenly rewarded. An additional secretary level officer in National Highways Authority of India was caught with huge unaccounted cash by CBI in a raid. The concerned minister refused to permit CBI to even register an FIR. Do we really think that such ministers would even order dismissal of corrupt officers? Even today, the ministers enjoy the powers to dismiss corrupt officers. But no senior officer has ever been dismissed in the last 62 years by any minister for corruption. The government's Lokpal Bill proposes to maintain status quo.

It is being alleged that if Lokpal has jurisdiction over PM, judges, MPs and officers, it will become a superpower. It will sit over everyone's head. This is a completely wrong. No one is sitting on anyone's head. An Income Tax Officer has powers to scrutinize the income tax returns of Chief justice of India, the Prime Minister, the President, all ministers, MPs etc. he even has powers to impose taxes and penalties on them. Does an income tax officer become a superpower? Does he sit on the heads of all these authorities? No. The income tax officer is just doing his job – looking into income tax affairs of all these authorities. Likewise, an investigative officer in Lokpal would only and only investigate any allegation of corruption against these authorities. Unlike income tax officer, Lokpal would not have powers to impose any taxes or penalties also on any of these authorities. Lokpal would only do investigations. The punishment would be awarded by the courts.

The corrupt people want a weak Lokpal Bill. Quite inadvertently, many of these authors, though well meaning and well intentioned, would end up serving the interests of corrupt people by supporting a weak Lokpal Bill. We must have a strong Lokpal Bill though with adequate checks and balances to prevent misuse of these powers by the Lokpal.

### **Lokpal will become a parallel government**

**Myth:** It is being alleged that the institution of Lokpal will become a parallel government unaccountable to none.

**Our response:** A wrong impression is being created that if any institution is not under the government, it is a parallel government and threat to parliamentary democracy. This is completely wrong. The government is all powerful. In order to keep a check on the government from becoming arbitrary, unjust and corrupt, several independent institutions have been created like Supreme Court, CAG, CEC, CVC, NHRC, CIC etc. Some of these institutions have been created through law and some of them have been created through constitution. Are they all parallel governments? Are they threat to democracy? Jan Lokpal would similarly be an independent institution. Rather than being a threat to democracy, Jan Lokpal is a threat to the corrupt.

Who would Jan Lokpal be accountable to? This is an important question. Let us see who are the existing independent institutions in our democracy accountable to? What can an ordinary citizen do if a judge or CAG or CEC or CIC or CVC turns corrupt? A citizen cannot do anything whatsoever. In some cases, impeachment by Parliament has been provided. Despite strong and credible evidence of corruption in so many cases, no one has been impeached in the last 62 years.

Compare this with the accountability provided in Jan Lokpal Bill. Jan Lokpal is directly accountable to the citizens. An ordinary citizen can directly complain against a Jan Lokpal member to the Supreme Court. And the court can order removal of the member if found guilty. On the other hand, Supreme Court would have the power to punish people, who make frivolous or malicious complaints.

We are not aware of any other institution or authority in this country which has been made so directly accountable to the people. Unfortunately, the government has rejected this proposal. According to Government Lokpal Bill, Lokpal would be accountable to the government only. Only government could approach the Supreme Court for Lokpal's removal. This means that the moment any Lokpal member becomes inconvenient to the government, it would move the Supreme Court for his removal, thus seriously eroding Lokpal's independence.

What if Jan Lokpal staff becomes corrupt? We had suggested several measures to address this issue like complete transparency in Lokpal's functioning, independent complaints authority to receive complaints against Lokpal staff, time bound investigation of complaints against staff and their summary removal if found guilty, social audits, annual financial and performance audits by CAG, annual performance appraisal by Parliamentary committee. Government has rejected all these proposals, thus ensuring that there are very high chances of government's Lokpal turning corrupt. A corrupt Lokpal serves vested interests within the government. This is what the government has been doing with CBI also. Recently, by taking CBI out of RTI, these vested interests increased the scope of corruption within CBI and also the possibilities of its misuse.