The Jan Lokpal Bill

Issues for Consideration and
Recommendations for Improvement

A Revised Note

Prepared by

Justice A P Shah & Venkatesh Nayak

April 2011
## Contents

**Introduction**  ...  3  

**Theme 1**  
• **Coverage**  
  5 Issues  ...  4  

**Theme 2**  
• **Establishment, Selection, Appointment and Removal Procedures**  
  6 Issues  ...  8  

**Theme 3**  
• **Functions**  
  3 Issues  ...  12  

**Theme 4**  
• **Powers**  
  8 Issues  ...  15  

**Theme 5**  
• **Financial Matters**  
  2 Issues  ...  21  

**Theme 6**  
• **Penalties**  
  2 Issues  ...  22  

**Theme 7**  
• **Drafting Errors**  
  6 Issues  ...  23
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Introduction:
It is heartening to note that public pressure has influenced the Government of India to constitute a committee comprising of senior Cabinet Ministers and prominent civil society actors to draft a law for creating an anti-corruption agency for India. The Government is also reported to have accepted the Jan Lokpal Bill (the Draft Bill) drafted by civil society actors as the basis for discussions. The Draft Bill has been widely talked about and debated through the media and in public consultations held across the country with varying degrees of understanding about its complexity. The willingness of the civil society members of the drafting committee to pay heed to diverse opinion and voices expressed about the contents of the Draft Bill is welcome and augurs well for the consultation process. This note identifies major and minor issues of concern that need to be addressed in the Draft Bill if it is to live up to its intended purpose- namely the creation of strong mechanisms to combat corruption in the country. This note also takes into account current legislative proposals dealing with some of the themes covered by the Draft Bill which are pending in Parliament. This analysis of key themes and underlying issues is supported by recommendations for improvement in the contents of the Draft Bill.

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**Theme 1: Coverage**

**Issue 1: Shedding the excessive burden – grievance redress, citizen charters and assets statement verification:**

Until 2010 the debate about the establishment of a Lokpal at the level of the Centre focused entirely on the creation of an institutional mechanism that would investigate the political establishment for corruption-related offences. This included the Prime Minister, all Ministers in the Union Government and Members of Parliament. This indeed was the focus of recommendations made by the National Commission to Review the Working of the Constitution (NCRWC) and the Second Administrative Reforms Commission. Consequently the Draft Lokpal Bill 2010 that was under the examination of the Group of Ministers was applicable to acts of corruption committed by members of the political executive and Parliament. However the Jan Lokpal Bill seeks to expand the scope and ambit of the proposed statute to include matters such as citizen charters, grievance redress, and verification of statements of assets and liabilities furnished by electoral candidates to the Election Commission within the job description of the proposed Lokpal. While there is no gainsaying the importance of these concerns, placing such a heavy burden on the Lokpal will only make it collapse under its own weight.

The sheer burden of Vigilance administration contemplated under Clause 22 will divert the energies and attention of the Lokpal from corruption related matters. Giving effect to this clause will require appointment of Chief Vigilance Officers (CVOs) in all public authorities who will be compelled to work full time only on grievance redress if the experience of the implementation of the *Right to Information Act* is taken into account. The volume of grievances will only increase day by day given the popularity of the term ‘Lokpal’. This amounts to creation of thousands of new posts, imposing a burden on the exchequer in addition to the financial implications of establishing the institution of the Lokpal. Even though the Lokpal may not handle any vigilance matter the sheer burden of monitoring the performance of CVOs will require a bureaucracy of considerable size. Further without adequate checks and balances the grievance redress officers can become satraps in their public authorities causing more hardship for the common citizen. This is also a major cause for concern as the Draft Bill does not address this issue.

Citizen charters are an important facet of executive functions and are unique to every public authority providing specific services to their clientele. The Lokpal may not have adequate domain expertise to direct public authorities to alter their citizen charters. Acquiring detailed knowledge of the services provided by a public authority under scrutiny and comparing it against norms observed by other similarly placed public authorities is time consuming and will divert attention and resources from the main objective of the Lokpal- namely tackling corruption. Similarly ascertaining the veracity of the statements of assets and liabilities filed by electoral candidates will also require a large number of staff and resources which can be better spent on handling corruption-related matters. Such verification is better left to the Income Tax Department as is the current practice.
If Lokayuktas in the States are also brought under the purview of this law then a serious question about the competence of Parliament to make laws for grievance redress in the States will arise. In our opinion while it is within the competence of Parliament to pass anti-corruption laws that are applicable to the States as well, the Constitution does not vest Parliament with a similar competence to make laws for handling grievances in respect of services provided by the State Governments. Such a law is likely to violate the scheme of division of powers between the States and the Union which is a basic feature of the Constitution.

**Recommendation:**

*The primary purpose of the Lokpal must be to handle complaints of corruption against public servants. Issues such as citizen charters, grievance redress and asset statement verification may be dropped from the Draft Bill. There is a need for more widespread debate about the manner in which such issues must be dealt with.*

**Issue 2: Exclude the judiciary from the scope of the Lokpal:**

The Draft Bill seeks to bring all judges of the Supreme Court of India and the High Courts under the jurisdiction of the proposed Lokpal. The office of the Chairperson of the Lokpal will deal with complaints against judges exclusively and refer it to a member for screening. A full bench of the Lokpal (consisting of seven Members of whom three must have a background in law) will examine the findings of the screening exercise and by majority grant permission for registering a case. The decision to initiate prosecution will be taken by a full bench (seven Members) where a majority of the Members must have a background in law.

It must be pointed out that these provisions stand in violation of the law laid down by the Hon’ble Supreme Court of India in the matter of *K. Veeraswami v Union of India and Ors.* [JT 1991(3) SC198]. The constitutional bench with a majority of 4:1 laid down the principle as to how a matter of corruption involving a judge of the High Court or the Apex Court is to be dealt with. Justice B C Ray ruled as follows:

“In order to adequately protect a Judge from frivolous prosecution and unnecessary harassment the President will consult the Chief Justice of India who will consider all the materials placed before him and tender his advice to the President for giving sanction to launch prosecution or for filing FIR against the Judge concerned after being satisfied in the matter.” [emphasis supplied]

By ignoring this landmark decision the Draft Bill encroaches on the independence of the judiciary which has been recognised as a basic feature of the Constitution in two cases ( *S P Gupta v Union of India*, AIR 1982 SC149 and *Shri Kumar Padma Prasad v Union of India* JT 1992(2) SC247).

Further the Draft Bill ignores current efforts to tackle corruption in the superior judiciary. *The Judicial Standards and Accountability Bill, 2010* was introduced in the Lok Sabha with the express purpose of establishing mechanisms such as the National Judicial Oversight Committee, Complaints Scrutiny Panels and investigation committees in the Supreme Court and all High
Courts to deal with complaints from individuals and references from Parliament against judges about incapacity or misbehaviour including corruption. The National Judicial Oversight Committee is to have two non-judicial Members one of whom may be an eminent person unassociated with the judiciary and nominated by the President. This Bill could be improved upon if any shortcomings are perceived. There is no need to subject judges to a second statute for similar purposes.

Recommendation:
Clauses 2(11) and 19B may be deleted in order to exclude the judiciary from the purview of the Lokpal. The provisions of The Judicial Standards and Accountability Bill, 2010 may be strengthened where necessary.

Issue 3: Special Procedure for Prime Ministers:
The Draft Bill seeks to bring the Prime Minister under the purview of the proposed Lokpal. The Government draft also seeks to cover the Prime Minister except for matters connected with national security, public order, foreign relations and national defence. However the NCRWC and the Second Administrative Reforms Commission have opposed this idea on the ground that the Prime Minister being the head of Government is accountable to Parliament. If the Prime Minister were made subject to the jurisdiction of the Lokpal it would erode the viability of the Government and jeopardize Parliament’s supremacy.

However as the Prime Minister is also a public servant covered by the Prevention of Corruption Act, there is no reason why a credible mechanism for inquiring into complaints of corruption cannot be evolved without upsetting the constitutional scheme. The proposed Lokpal may be empowered to conduct an inquiry to garner all facts and materials relating to the complaint made against the Prime Minister. An inquiry does not amount to investigation, so there will be no need to interrogate the Prime Minister at this stage. If the inquiry turns up sufficient material supporting the complaint, the Lokpal may forward its findings with all material facts and documents to presiding officers of Parliament with a request to set up a committee to examine the complaint and the materials gathered for taking further action. This mechanism would ensure that the complaint against the Prime Minister is initially inquired into by an independent agency and examined further to the point of logical action by Parliament. This would preserve the sanctity of constitutional arrangements as well.

Recommendation:
The Draft Bill may be amended to provide for a special procedure for dealing with complaints of corruption received against the Prime Minister without compromising the constitutional arrangements.

Issue 4: Jurisdiction – petty or big-ticket corruption
The Draft Bill empowers the proposed Lokpal to receive and inquire or investigate allegations of corruption against all public servants and allegations of misconduct against all government
servants. Theoretically, the Lokpal will be duty bound to investigate such complaints against officials and officers of all ranks from the lowest level of an office assistant to the Prime Minister. There is a danger of the Lokpal being flooded by complaints of petty corruption against the lower rungs of the bureaucracy leaving little time to focus on allegations of big ticket corruption. The purpose of the Lokpal as envisaged by bodies such as the Second Administrative Reforms Commission and the NCRWC is to investigate corruption committed by senior functionaries especially, ministers. By recommending the winding up of the Central Vigilance Commission and absorption of the anti-corruption branch of the Delhi Special Police Establishment, the Draft Bill seeks to create a single institution to tackle corruption at all levels of the Central Government and in public sector enterprises. This is undesirable because the sheer workload will not allow the proposed Lokpal to focus its energies on tackling corruption at the higher levels of government. The Draft Bill also seeks to bring cooperative societies within the ambit of the Lokpal. This will also cause a flood of complaints to the Lokpal rendering it ineffective.

**Recommendation:**

*The Draft Bill may be amended to include a threshold for the kinds of cases that the proposed Lokpal will inquire or investigate. The threshold could be based on monetary value or the specific levels in the bureaucratic hierarchy or some other criteria. Cooperative societies may be dropped from the ambit of the Lokpal.*

**Issue 5: Whistleblower protection:**

The Draft Bill seeks to provide a mechanism for protecting whistleblowers including citizens who are threatened or attacked because of making information requests under the RTI Act. The Draft Bill does not take into account the existence of the *Public Interest Disclosure and Protection to Persons Making the Disclosures Bill* (Whistleblower Bill) introduced in Parliament in 2010. The purpose of this Bill is to enable people, especially public servants, to make protected disclosures of wrong doing including corruption in public authorities. This legislation makes the Central Vigilance Commission the sole authority to receive and inquire into complaints of improprieties and wrong doing as defined in it. It also provides for a mechanism for protecting the whistleblower from physical and/or professional harm. Even though the Whistleblower Bill does not meet international standards it contains more elaborate provisions than those relating to whistleblowers found in the Draft Bill. It is advisable to align the Draft Bill with the provisions of the Whistleblower Bill after strengthening the latter instead of duplicating the protection mechanisms.

**Recommendation:**

*The provisions relating to whistleblower protection may be dropped from the Draft Bill. Instead the Public Interest Disclosure and Protection to Persons Making the Disclosures Bill pending in Parliament may be strengthened further and made to serve the purposes of the Lokpal legislation.*
Theme 2: Establishment, Selection, Appointment and Removal Procedures

Issue 1: Problems with some definitions
a) The Draft Bill defines the proposed Lokpal as including the Chairperson and Members acting collectively as a body, performing specific functions in benches and also all officers exercising Lokpal’s powers and carrying out its Lokpal’s functions and responsibilities as specified in the legislation. Placing the Chairperson and Members on the same footing as other staff and functionaries is hugely problematic. Ordinary functionaries are not selected by the same process as the Members of the Lokpal. Nor do they enjoy the same rank, privilege and immunities as the Members. The Draft Bill must make a difference between the Chairperson and Members on the one hand and the officers, employees and other persons employed by the institution. The usual practice is to vest all powers in the main Members of the statutory body who then delegate some of it to the functionaries for efficient execution of the duties and obligations under the law. The functionaries can only be delegates rather than original authorities vested with statutory powers.

b) The Draft Bill states that ‘misconduct’ carries the same meaning as the similar term found in the Civil Service Conduct Rules (CCS Rules) notified by the Government of India. It may be pointed out that the CCS Rules do not define ‘misconduct’ but describe the parameters of the ‘conduct’ that is expected of government servants. The vesting of powers to investigate complaints about ‘misconduct which has a vigilance angle’ is also problematic. Similarly the term ‘vigilance angle’ is also loosely defined and covers a very broad swathe of executive action. This issue is discussed at Theme #3 under Issue #2 below.

c) The Draft Bill defines a whistleblower as a person who faces the threat of professional harm, physical harm or is actually subjected to such harm. This is a very limited definition of the term and is not in tune with the letter and spirit of the Public Interest Disclosure and Protection to Persons Making the Disclosures Bill (Whistleblower Bill) pending in Parliament. A whistleblower is a person who actually makes a confidential disclosure of wrongdoing and impropriety that has occurred, is occurring or is likely to occur in a public authority. There need not be any threat perception at all. The mere act of blowing the whistle in the manner specified in the Whistleblower Bill is adequate for a person to acquire that status.

Recommendations:

1. Clause 2(8) may be amended to indicate that the Lokpal means only the Chairperson, Members acting collectively or in benches as may be constituted under various provisions of the Draft Bill. Clause 29 relating to delegation of powers is adequate to empower officers and employees to carry out the functions of the Lokpal.

2. The definition of whistleblower may be amended to mean a person who makes a disclosure about wrongdoing or impropriety that may have occurred or is likely to occur in a public authority under the Whistleblower law.
**Issue 2: Problems in the selection process**

a) The Draft Bill disqualifies any person who has ever been chargesheeted for any offence under the *Indian Penal Code* or the *Prevention of Corruption Act* from being considered for appointment to the Lokpal as the Chairperson or Member. While this is a welcome measure to ensure that persons with tainted background are not picked up, the Draft Bill does not include offences recognised under special laws such as *Prevention of Money laundering Act, Narcotic Drugs and Psychotropic Substances Act, Unlawful Activities (Prevention) Act* etc. Persons committing offences under these laws must also be disqualified from consideration for appointment to the proposed Lokpal.

b) The Draft Bill stipulates “demonstrated resolve to fight corruption in the past” as a qualifying criterion for a candidate to be appointed as the Chairperson or Member of the Lokpal. This loosely worded criterion can be abused in several ways, For example, does mere participation in protests and rallies against corruption demonstrate such resolve? Or does filing a bunch of complaints of corruption against public servants demonstrate such resolve? This vague criterion has the potential for misinterpretation and abuse.

c) The Draft Bill requires the nomination of two youngest judges of the Supreme Court and two youngest of Chief Justices of High Courts to the selection committee. The underlying principle behind such a requirement is unclear. What criteria will be applied in this regard-actual age of the judge or the length of service is also not clear. It is common for the principle of seniority to guide the membership of such committees as it ensures that experience and wisdom is brought to the service of such committees. It makes better sense to have seniormost judges of the Supreme Court and the seniormost Chief Justices on the selection committee.

d) The Draft Bill contemplates a detailed procedure for identifying candidates who may be recommended for appointment to the Lokpal. While periodic vacancies are to be filled up by commencing the selection process three months prior to the arising of such vacancies, emergent vacancies are to be filled up within a month. This time limit is unrealistic given the elaborateness of the selection process specified in the proposed law. The same time limit fixed for filling up routinely arising vacancies may be stipulated for filling up emergent vacancies as well.

e) The Draft Bill includes outgoing Chairperson and Members of the Lokpal in the selection committee. This makes the selection committee too big where consensus may be difficult to achieve. Further if more than six members retire at one go they would outnumber other members of the selection committee which is undesirable. The Draft Bill may only stipulate that the outgoing Chairperson may be consulted by the selection committee over the successor.

f) The Draft Bill does not stipulate adequate objective criteria such as professional competence, and experience for the selection of candidates for appointment to the Lokpal. More
objective criteria may be identified for candidates through a process of public consultation and changes may be incorporated in the Draft Bill.

g) The Draft Bill empowers the selection committee to call for recommendation of candidates from ‘such class of people’ or ‘such individuals’ as it deems fit. This requirement may run foul of Article 14 of the Constitution that guarantees equality for all before the law. All citizens must have equal opportunities for making recommendation of candidates to the selection committee.

**Recommendations:**

1) **Clause 6(2) may be amended to include offences recognised under special criminal laws as well.**

2) **Clause 6(4) may be dropped.**

3) **In Clause 6(5)(c) and (d) the words: “seniormost” may be substituted for the words: “youngest”.**

4) **Clause 3(5)(b) may be dropped.**

5) **Clause 6(5)(g) may be replaced with a requirement to consult the outgoing Chairperson on his or her successor during the selection process.**

6) **More objective criteria may be identified for selection of candidates to the Lokpal after widespread public consultation.**

7) **Clause 6(8)(b) may be amended to ensure that the principle of equal opportunity as understood in Article 14 of the Constitution is observed to while inviting recommendations of candidates for appointment to the Lokpal.**

**Issue 3: Problem with the appointment process**

The Draft Bill gives the status of finality to the list of names recommended by the selection committee for filling up vacancies in the proposed Lokpal. The President is required to only sign on the dotted line. This turns the appointing authority into a rubber stamp. The President must be allowed the space to satisfy himself/herself that the procedure for selection as laid down by the law has indeed been observed and the best candidates have been selected through due process. If these criteria are not fulfilled the President must have the power to request the committee to reconsider its recommendations.

**Recommendation:**

The Draft Bill may be amended to empower the President to request the selection committee to reconsider the names forwarded for appointment on grounds of inadequate or non-adherence to the norms of selection or poor quality of the candidates recommended.
**Issue 4: Problem with the removal process**

The Draft Bill envisages an unprecedented procedure for the removal of the Chairperson and the Members of the proposed Lokpal. The Supreme Court is hidebound to take certain kinds of action in the context of removal. This issue of encroachment of the domain of the judiciary is dealt with separately at Theme #3 under Issue #1. However at no stage of the removal procedure is the offender required to be given a hearing to defend himself or herself. This violates the basic principle of natural justice- *audi alteram partem*. The offender has a right to be heard and defend himself/herself against the charges laid and this must be explicitly mentioned in the law itself. The procedure for removal of a Chairperson or Member of the Lokpal may follow the method of removal of the Members of the Central Vigilance Commission stipulated in the *Central Vigilance Commission Act*.

**Recommendation:**

The Draft Bill may be amended to provide for a procedure of removal of the Chairperson and the Members of the Lokpal that is similar to the procedure for removal of the Members of the Central Vigilance Commission.

**Issue 5: Problem of disenfranchisement of retired Members**

The Draft Bill disqualifies retired Chairpersons and Members of the proposed Lokpal from accepting any posts in Government. While this is desirable such persons are also to be barred from contesting elections to Parliament, State legislatures or other local bodies for life. This amounts to disenfranchisement of citizens which is undesirable. The right to contest elections is a right protected by the Constitution. It is also a basic human right recognised the world over and this right cannot be taken away from adults except on grounds of insolvency or mental instability.

**Recommendation:**

In Clause 5(6) the words: “or for contesting elections to Parliament, State legislatures or local bodies” may be dropped.

**Issue 6: Reducing the size of the Lokpal**

The Draft Bill proposes an 11-member Lokpal. This number appears to be too large especially considering the requirement of several decisions to be taken on the basis of consensus as stipulated in several provisions. Consideration may be given to reducing the membership of the Lokpal to between 5-7 including the Chairperson.

**Recommendation:**

Clause 3(1) may be amended to reduce the number of Members of the Lokpal from 10 to five or six.
**Theme 3: Functions**

**Issue 1: Encroachment of the domain of the judiciary**
The Draft Bill encroaches upon the domain of the judiciary in four contexts.

a) The first context is the Clause relating to the procedure for removal of the Chairperson or a Member of the proposed Lokpal. Clause 7(3)(b) makes it compulsory for the Supreme Court of India to admit and hear a petition seeking removal. It also bars the Apex Court from dismissing such a petition in limine. Further its requires that a panel of five seniormost judges decide the composition of a bench that will hear such petitions. These are clear instances of encroachment on the powers of the Apex Court. The power to dismiss a petition in limine is an inseparable facet of the independence of the judiciary guaranteed by the Constitution and cannot be taken away by an ordinary statute. Further under Order VII of the *Supreme Court Rules, 1966* the Chief Justice is the designated authority for nominating judges to a bench that will hear any cause, appeal or matter. These Rules have been made by virtue of the powers delegated to the Supreme Court under Article 145 of the Constitution. These Rules cannot be overridden by an ordinary statute. However these anomalies will disappear if our earlier recommendation about amending the removal procedure along the lines of the procedure for removal of the members of the Central Vigilance Commission is acted upon.

b) The second instance of encroachment occurs in Clause 13B where the Lokpal is sought to be empowered to issue letters rogatory. Letters rogatory are generally understood as requests for some form of judicial assistance made by one court to another court operating in a foreign jurisdiction. These powers are exercised for the purpose of obtaining evidence from a witness or disclosure of documents that are available in another country. Matters relating to issue of letters rogatory in criminal cases are governed by Section 166A of the *Criminal Procedure Code, 1973*. Such request for judicial assistance can be issued only by a criminal court. Further, according to the Hague Evidence Convention of 1970 only a judicial authority may issue a letter rogatory. India ratified this Convention in 2007. Clause 13B is clearly an encroachment of the domain of the judiciary.

c) The third instance of encroachment occurs in Clause 9(1)(b) where the Lokpal is sought to be vested with the power to issue search warrants. Under Section 93 of the CrPC the power to issue search warrants has been given to a Court, namely a judicial body. Even District Magistrates being part of the executive cannot issue search warrants. The purpose of vesting powers to issue search warrants in a court is to ensure that it is not abused by the investigating authorities. This is an important civil liberties safeguard and cannot be allowed to be diluted. The special courts designated under the *Prevention of Corruption Act* should continue to issue search warrants upon the request of the Lokpal.

d) The fourth instance of encroachment occurs in Clause 17(1)(ii) where the Lokpal is empowered to inquire or investigate into any action taken by a judicial body if a complainant alleges malafides. The effect of this provision is that any interim or final order or decision or judgement of a court may be challenged before the Lokpal on the basis of a
mere allegation of *mala fide*. As we have recommended above that the judiciary may be kept out of the purview of the Lokpal this provision may also be removed from the Draft Bill.

**Recommendations:**

1) The Draft Bill may be amended to provide for a procedure of removal of the Chairperson and the Members of the Lokpal that is similar to the procedure for removal of the Members of the Central Vigilance Commission.

2) Clause 13B may be dropped. There is no need to replace this provision as Clause 12 seeks to make the Lokpal a deemed police officer who can then approach the appropriate court for issue of letters rogatory under Section 166A, CrPC.

3) Clause 9(1)(b) may be amended to the effect that the Lokpal be required to approach the designated court for issue of warrants for the purpose of conducting search and seizure operations..

4) Clause 17(1)(ii) may be dropped.

**Issue 2: Encroachment of the domain of the executive**

The Draft Bill encroaches upon the domain of the executive in three contexts.

a) Paras (d) and (e) under Clause 8(2) empower the proposed Lokpal to order cancellation or modification of a license or lease or permission or contract or agreement or blacklist a firm or company or contractor or any other entity involved in a case under investigation. When read in combination with Clause 8(5) which make such orders binding on the Government the orders become mandatory. These actions are strictly speaking in the domain of the executive and require special knowledge, experience and skills that are unique to the concerned public authority which may not be available with the Lokpal. So the Lokpal may only recommend such measures to the Government.

b) Clause 8(1)(b) read with Clause 2(9) empowers the Lokpal to receive and investigate complaints against government servants where there are allegations of misconduct with a vigilance angle. Para (c) under Clause 8(2) empowers the Lokpal to recommend imposition of appropriate penalties under the relevant Civil Service Conduct Rules (CCS Rules). When read in combination with Clause 8(5) which make such orders binding on the Government the orders become mandatory. This function is strictly speaking in the domain of the executive. Several actions described under the definition of the phrase ‘vigilance angle’ [esp. 2(12)(b),(d), (f) and (g)] are matters that are best left to the disciplining authority to tackle. There is no need to burden the Draft Bill with such provisions as they are not directly linked to the functions of the Lokpal.

c) Clause 13A requires that the Lokpal make an assessment of the number of judges required for trying cases under the *Prevention of Corruption Act* and recommend the requirements
to the Government. Such recommendations are made binding on the Government and subject to compliance within three months. This provision is clearly in conflict with Section 3 of the Prevention of Corruption Act which vests this responsibility with the Government. This is also a case of encroachment of the domain of the executive.

**Recommendations:**

1) **Clauses 8(2)(c), (d) and 8(5) may be amended to ensure that the Lokpal issues only recommendations. However if the public authority neither challenges the order nor gives it effect the Lokpal must have the option of approaching the appropriate High Court to get an enforcement order in the manner provided in Clauses 18(iv) and (vi).**

2) **The Draft Bill may be amended to omit matters relating to misconduct of officials.**

3) **Clause 13A may be amended to ensure that the Lokpal is consulted on matters such as designation of the number of courts and appointment of special judges for trying offences under the Prevention of Corruption Act. The provision should not impose the views of the Lokpal on the Government.**

**Issue 3: Encroachment of the domain of Parliament**

The Draft Bill encroaches upon the domain of Parliament in two contexts.

a) Clauses 15(2A) requires the Comptroller and Auditor General (C&AG) to forward to the proposed Lokpal all such cases that constitute an allegation under this law. This provision is problematic for two reasons. The report of the C&AG is presented to the President who will cause it to be tabled in Parliament. In effect Parliament’s claim over the C&AG’s reports is protected by parliamentary privilege. The Public Accounts Committee has the privilege, authority and duty to examine the report and hold the errant departments and/or public authorities accountable for their actions. No other authority may interfere with this process. The Lokpal will have to come in only at a later stage. What this process should be needs to be debated more widely. Further the powers and functions of the C&AG are governed by the Constitution and delineated in The Comptroller And Auditor-General’s (Duties, Powers And Conditions Of Service) Act, 1971. It will be necessary to amend this law in order to enable the C&AG to link up with the Lokpal without encroaching upon the domain of Parliament.

b) Clause 28B of the Draft Bill provides for an incomplete procedure for dealing with MPs who take bribes. However this does not take into account the constitutionally guaranteed immunity for MPs for anything they do or speak on the floor of Parliament. The Supreme Court recognized and stated this position in the matter of *P V Narasimha Rao v State (CBI/SPE)* [AIR 1998 SC2120] albeit with a deep sense of dissatisfaction. While there is no denying that corruption indulged in by MPs should also be punished, the Draft Bill is not the appropriate law for dealing with such matters. Existing parliamentary procedures need to be strengthened for this purpose and this also requires a larger debate.
**Recommendations:**

1) Clause 15(2A) may be suitably amended to ensure respect for the parliamentary process of scrutinizing the C&AG’s reports.

2) Clause 28(2) may be dropped.

**Theme 4: Powers**

**Issue 1: Need for clarity on procedures for inquiry and investigation**

The Draft Bill uses the terms ‘inquiry’ and ‘investigation’ interchangeably in several places and in a few as two separate actions. These terms have specific meaning in criminal law and the Draft Bill must recognize them as such. There is no clarity on the scope of actions that constitute an inquiry process that is different from an investigation process. It is also not clear as to when a complaint will be recorded as a First Information Report (FIR) or when *suo motu* cognizance of a matter by the Lokpal will be converted into an FIR. No investigation may be conducted without an FIR being registered under the existing criminal law procedure. Will this be done in a police station or will the Lokpal itself be a police station for the purpose of the CrPC? Also, there is little clarity in the Draft Bill about the exercise of powers relating to arrest, bail, summoning witnesses for interrogation etc. which are all part and parcel of the criminal law procedure. Provisions clearly spelling out these matters need to be incorporated in the draft Bill.

**Recommendation:**

*The Draft Bill must clarify the scope of actions in an ‘inquiry’ process as well as the procedure that will be adopted in the lead up to the investigation of an offence covered by this law.*

**Issue 2: Powers of civil court vis-à-vis investigation**

Clause 12 seeks to make the proposed Lokpal a deemed police officer as understood in Section 36 of the CrPC. Clause 10(3) states that any proceeding before the Lokpal will be deemed to be a judicial proceeding within the meaning of Section 193 of the *Indian Penal Code*. Clause 10(2) seeks to give the powers of a civil court to the Lokpal for the purpose of conducting any investigation including preliminary inquiry. These powers include examining any person on oath. This combination of powers is hugely problematic for the following reasons:

a) an inquiry or investigation launched into a criminal offence is not a judicial proceeding under criminal law.

b) Statements made to an Investigating Officer (IO) under Section 161 cannot be adduced as substantive evidence during a trial. Under Section 162 the IO cannot require a witness making such a statement to sign it nor can it be used in a court of law for any purpose except for the purpose of cross examination.
c) However if statements are collected on oath they will be in the nature of confessions or statements made under Section 164 of the CrPC. These statements have substantive evidentiary value as they are made before a Magistrate. Under this procedure the Magistrate is required to inform the witness that he or she is not bound to make such a statement [this is the fundamental right of non-self incrimination guaranteed under Article 20(3) of the Constitution] and that any statement made by him or her may be used against him or her. The combination of powers enables the Lokpal to act as a police officer and compel a witness to make a statement on oath which can then be used as substantive evidence in a trial. Important safeguards under the criminal law procedure will come to naught under the scheme of powers proposed in the Draft Bill. It is not advisable to give the powers of a civil court to the Lokpal for the purpose of investigating or inquiring into any matter. The powers available to the Lokpal on account of being a deemed police officer under the CrPC and the ability to approach the designated courts for the purpose of conducting search and seizures appear to be adequate.

**Recommendation:**

*Sub-clauses (2) and (3) of Clause 10 may be dropped.*

**Issue 3: Power to punish for contempt**

Clause 13(4) of the Draft Bill empowers the proposed Lokpal to punish any person as it were a court exercising contempt powers under the *Contempt of Courts Act, 1971.* This is also hugely problematic because powers to punish for one’s contempt are given only to the High Courts and the Supreme Court which have the power to impose punishments and fines. The Lokpal is not a court of record nor are its proceedings judicial in nature as has been argued above. However a way must be found to ensure that the Lokpal is able to do its work without hindrance and its directions and orders are complied with. This can be accomplished by permitting the Lokpal to move the High Court to get an enforcement order in the manner described in Clauses 18(iv) and (vi).

**Recommendation:**

*Clause 13(4) may be replaced with provisions for enforcement contained in Clauses 18(iv) and (vi).*

**Issue 4: Powers of message interception and eavesdropping**

Clause 13C of the Draft Bill seeks to make the proposed Lokpal the deemed designated authority for the purpose of intercepting and monitoring messages or data or voice transmitted through telephones or any other medium under the *Indian Telegraph Act, 1885.* This proviso is to be read with the provisions of the *Information Technology Act* which permits the interception of message transmitted through the Internet. Under the *Indian Telegraph Act*
telephone tapping is permissible only in the event of occurrence of any public emergency or in the interest of public safety. The Hon’ble Supreme Court of India explained these grounds in the matter of *People’s Union for Civil Liberties v Union of India and Anr.* [JT1997(1)SC288] as follows:

“Section 5(1) if properly construed, does not confer unguided and unbridled power on the Central Government/State Government specially authorised officer to take possession of any telegraph. Firstly, the occurrence of a “public emergency” is the sine qua non for the exercise of power under this section. As a preliminary step to the exercise of further jurisdiction under this section the Government or the authority concerned must record its satisfaction as to existence of such an emergency. Further, the existence of the emergency which is a pre-requisite for the exercise of power under this section, must be a ‘public emergency’ and not any other kind of emergency. The expression ‘public emergency’ has not been defined in the statute, but contours broadly delineating its scope and features are discernible from the section which as to be read as a whole. In Sub-section (1) the phrase ‘occurrence of any public emergency is connected with and is immediately followed by the phrase “or in the interests of the public safety”. These two phrases appear to take colour from each other. In the first part of Sub-section (2) those two phrases again occur in association with each other, and the context further clarifies with amplification that a ‘public emergency’ within the contemplation of this section is one which raises problems concerning the interest of the public safety, the sovereignty and integrity or India, the security of the State, friendly relations with foreign States of public order or the prevention of incitement to the commission of an offence. It is in the context of these matters that the appropriate authority has to form an opinion with regard to the occurrence of a ‘public emergency’ with a view to taking further action under this section. Economic emergency is not one of those matters expressly mentioned in the statute. Mere ‘economic emergency’—as the High Court calls it—may not necessarily amount to a ‘public emergency’ and justify action under this section unless it raises problems relating to the matters indicated in the section.”

The Apex Court observed further as follows:

“Section 5(2) of the Act permits the interception of messages in accordance with the provisions of the said Section. "Occurrence of any public emergency" or "in the interest of public safety" are the sine qua non for the application of the provisions of Section 5(2) of the Act. Unless a public emergency has occurred or the interest of public safety demands, the authorities have no jurisdiction to exercise the powers under the said Section. Public emergency would mean the prevailing of a sudden condition or state of affairs affecting the people at large calling for immediate action. The expression "public safety" means the state or condition of freedom from danger or risk for the people at large. When either of these two conditions are not in existence, the Central Government or a State Government or the authorised officer cannot resort to telephone tapping even though there is satisfaction that it is necessary or expedient so to do in the interests of sovereignty and integrity of India etc. In other words, even if the Central Government is satisfied that it is necessary or expedient so to do in the interest of the sovereignty and
integrity of India or the security of the State or friendly relations with sovereign States or public order or for preventing incitement to the commission of an offence, it cannot intercept the messages or resort to telephone tapping unless a public emergency has occurred or the interest of public safety or the existence of the interest of public safety requires. Neither the occurrence of public emergency nor the interest of public safety are secretive conditions or situations. Either of the situations would be apparent to a reasonable person.

This judgement makes it abundantly clear that the powers to intercept messages and eavesdrop on conversations are ordinarily not required for the performance of the functions and duties of the Lokpal. There is no reason why this power should be vested in the Lokpal.

**Recommendation:**

*Clause 13C may be dropped.*

**Issue 5: Conducting investigations in public and the disclosure of information**

Clause 18 of the Draft Bill deals with provisions relating to investigations of complaints received by the Lokpal. All hearings are to be videographed and made available to any member of the public. Except for rare circumstances, all hearings during an investigation process where a public servant rebuts the allegations contained in a complaint against him or her are to be held in public [Clause 18(ii)]. If a case is closed all documents relating to the case are to be treated as public [first proviso under Clause 18(1)]. Clause 30A states that once an investigation or inquiry is complete in any case all records shall be posted by the Lokpal on a website. Information may be withheld only if disclosure will involve the identity of a person who has requested anonymity or if the disclosure is likely to threaten the internal and external security of India. It is laudable that the draft Bill places a lot of emphasis on transparency in the proceedings of the Lokpal. However the draft Bill fails to balance this public interest with other important public interests such as the right to privacy and the right to one’s reputation. In our society it is not uncommon for persons accused of offences to be stigmatised even though they may eventually be acquitted by a court of law. It is important to ensure adequate balance between the need for transparency and the need to protect privacy and reputation of individuals. The RTI Act provides adequate procedures and protection for protecting important public interests. The Draft Bill may be aligned with the provisions of this Act. This would also ensure that the Central Information Commission will be able to adjudicate over access disputes instead of the Lokpal which will become an interested party in such matters.

**Recommendation:**

*The Draft Bill may be amended in the appropriate places to ensure that access to information may be provided by the Lokpal in accordance with the procedures and provisions of the RTI Act.*
**Issue 6: Hiring private agencies for investigation**

Clause 23(4)(c) of the Draft Bill seeks to empower the proposed Lokpal to utilize the services of any person including private persons or any other agency for the purpose of conducting investigations. This is also a problematic provision as investigations must be conducted by government servants only as they are accountable to the law. Private agencies cannot be held accountable in a similar manner as they do not fall within the meaning of the term ‘State’ as defined in Article 12 of the Constitution. Private agencies may be hired only for the purpose of providing specialised services such as forensics.

**Recommendation:**

*Clause 23(4)(c) may be amended to ensure that private persons or agencies may be hired only for the purposes of highly specialized or skilled services which may otherwise not be available to the Lokpal from the government sector.*

**Issue 7: Maintaining independence of the prosecuting agency**

The Draft Bill seeks to empower the proposed Lokpal with the powers to both investigate and prosecute cases of corruption. This provision is contradictory to the principle of separation of powers of investigation and prosecution. Until the CrPC’s thorough revamp in 1973 criminal investigation and prosecution were handled by a single agency namely, the police. The Law Commission in its 14th report argued for their separation on the following grounds:

1) There was too much control of the police department over the prosecution despite the latter being a function organically linked but theoretically independent of the former.

2) The Police Dept. had neither the legal know how to conduct a criminal prosecution nor the high degree of objectivity and detachment that is necessary for a prosecutor in the case. High degree of subjectivity and attachment with the case implies that the prosecutor will be more biased towards securing a conviction.

3) A prosecutor is an agent of justice and an officer of the trial court. He/she must have the independence to function in an unbiased manner. If not the basic principle of the criminal justice system – “the accused is to be presumed innocent until proven guilty” will be compromised.

The Law Commission’s recommendations were accepted and several States set up independent criminal prosecution directorates detaching the prosecution service from the police department. There is no reason why corruption cases cannot be investigated by the Lokpal and the prosecution be carried out by prosecutors selected from a panel of lawyers who are not on the payrolls of the Lokpal. Some have argued that the Central Bureau of Investigation (CBI) undertakes both investigation and prosecution of corruption cases. This is indeed true. However this mechanism appears to be different from the guidelines laid down by the Hon’ble Supreme Court in the matter of *Vineet Narain and Ors v Union of India and Ors* [JT 1997(10)
SC247] Chief Justice J S Verma laid down guiding principles for the Prosecution Agency of the CBI as follows:

“1. A panel of competent lawyers of experience and impeccable reputation shall be prepared with the advice of the Attorney General. Their services shall be utilised as Prosecuting Counsel in cases of significance. Even during the course of investigation of an offence, the advice of a lawyer chosen from the panel should be taken by the CBI/Enforcement Directorate.

2. Every prosecution which results in the discharge or acquittal of the accused must be reviewed by a lawyer on the panel and, on the basis of the opinion given, responsibility should be fixed for dereliction of duty, if any, of the concerned officer. In such cases, strict action should be taken against the officer found guilty of dereliction of duty.

3. The preparation of the panel of lawyers with the approval of the Attorney General shall be completed within three months.

4. Steps shall be taken immediately for the Constitution of an able and impartial agency comprising persons of unimpeachable integrity to perform functions akin to those of the Director of Prosecutions in U.K. On the Constitution of such a body, the task of supervising prosecutions launched by the CBI/Enforcement Directorate shall be entrusted to it.

The aforementioned guidelines make it clear that the prosecution agency was never intended to be a part of the CBI. Its members were to be able to supervise the prosecutions launched by the CBI. However today the Directorate of Prosecution (Legal Division) is one of the seven divisions of the CBI under the overall supervision of the CBI Director.² This appears to be the second instance of skirting around the letter and spirit of the guidelines laid down by the Apex Court in this case.³ The scheme proposed by the Apex Court for the CBI appears to be appropriate for the Lokpal as well. The Lokpal could draw up a panel of lawyers in consultation with the Attorney General for the purpose of conducting prosecutions. They could be remunerated for their services instead of putting them on the payrolls of the Lokpal.

**Recommendation:**

The Draft Bill may be amended to provide for prosecution of corruption cases in a manner comparable to that stipulated by the Hon’ble Supreme Court in the matter of Vineet Narain and Ors v Union of India and Ors.

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³ The second instance is the Central Government’s persistence with the single directive despite it being struck down by the Apex Court in the same judgement.
**Issue 8: Assigning work within the Lokpal**
Clause 14(4) of the Draft Bill provides for the random assignment of members to benches using a computer. This is a strange provision given the fact that computers have not yet advanced to the stage where they will function without human intercession. A human being will still need to work the computer. It is commonplace for the head of such institutions to be given the responsibility for its general administration and superintendence including the constitution of benches. The Chairperson of the Lokpal must be empowered to constitute benches based on the principles laid down in the Draft Bill.

**Recommendation:**
Clause 14(4) may be substituted with a provision that empowers the Chairperson of the Lokpal to constitute benches for the purpose of performing various functions under the law.

**Theme 5: Financial Matters**

**Issue 1: Financing the Lokpal**
The Draft Bill seeks to provide the proposed Lokpal with three sources of funding. Clause 4(4) provides for the charging of all administrative expenses of the Lokpal including salaries, allowances and pensions on the Consolidated Fund of India. According to Clause 14(3) the monies required for meeting the financial and human resource expenses will be decided in a meeting between the Lokpal and the Prime Minister. The Government will be duty bound to provide these resources. Clause 4(5) provides for the creation of a separate Lokpal Fund in which penalties and fines imposed by the Lokpal will be deposited. 10% of the loss of public money recovered under Clause 19 will also be deposited under this fund. According to Clause 28A 50% of the proceeds from the auction of the property of public servants forfeited to the Lokpal will be deposited in this fund and can be used for its administrative expenses. Some of these principles of funding are questionable for the following reasons:

a) While it is good practice to create a separate fund into which monies will be deposited for use by the Lokpal, limiting the discussions on the budget to the Prime Minister is undesirable. The Lokpal is currently envisaged as a statutory authority created by Parliament. Logically, the Lokpal should be made answerable to Parliament for its performance. So Parliament should have a role to play in assessing the performance of the Lokpal. The Draft Bill should provide for a clear procedure for Parliament to scrutinize the performance of the Lokpal.

b) Under the *General Financial Rules* (GFR) applicable to the Government of India all fines levied and collected and the proceeds of auctioning forfeited properties must be deposited in the treasury (Rule 16). Similarly the proceeds of an auction will have to be deposited with the public exchequer. The absorption of funds in the manner provided in the Draft Bill will require amendment to the GFR. However this practice is not advisable as it amounts to
financing the Lokpal with monies not sanctioned by Parliament. This is contradictory to the principle of financial accountability of all public authorities to Parliament.

It is advisable that the manner of funding the Lokpal be debated more widely and solutions be found to ensure that the autonomy of the Lokpal is protected while at the same time making it accountable to Parliament for every paisa spent.

**Recommendation:**

*The Draft Bill may be suitably amended after a wider debate on the manner in which the Lokpal must be funded.*

**Issue 2: Remuneration for Lokpal staff**

According to Clause 23(7) of the Draft Bill the staff and officers of the Lokpal will be entitled to such pay and allowances which may be different and more than the ordinary pay scales in the Central Government as may be decided by the Lokpal in consultation with the Prime Minister. While the intention of this provision is to ensure that the Lokpal staff are not corrupted by extraneous influences the formulation of this provision may fall foul of Article 14 of the Constitution which mandates equality for every person before the law. Instead the existing Clause 23(3) is adequate for the purpose of deciding the pay structure for the staff of the Lokpal.

**Recommendation:**

*Clause 23(7) may be dropped.*

**Theme 6: Penalties**

**Issue 1: Providing limits to fines**

Clause 7(g) of the Draft Bill empowers the Supreme Court to impose an unlimited fine on complainants who make frivolous petitions seeking the removal of a Chairperson or Member of the proposed Lokpal. Similarly Clauses 13(2) and (3) also do not stipulate any maximum limit for fines that may be imposed by the Lokpal on officers for non-compliance of their orders. Unlimited fines violate the principle of proportionality that must guide the imposition of penalties and punishments. We have already recommended replacement of the procedure for removal of Members of the Lokpal. So Clause 7(g) will have to be dropped. In Clause 13 a maximum limit on the fines that can be imposed by the Lokpal may be stipulated.

**Recommendation:**

*A maximum limit for the fines may be stipulated in Clauses 13(2) and (3).*
**Issue 2: Enhancement of penalties contained in other laws**

Clause 19A of the Draft Bill seeks to enhance the term of imprisonment for offences recognised under the *Prevention of Corruption Act*. This is not in tune with proper legislative practice. Punishments may be enhanced only by amending the parent law. Further, the first proviso to this Clause stipulates that the severity of the punishment will be in accordance with the rank of the accused officer – higher the rank, more severe the punishment. The second proviso stipulates that a fine amounting to five times the loss caused to the public exchequer may be imposed on a business entity that may have benefited from the act of corruption. These provisos violate Article 14 of the Constitution as they violate the principle of equal treatment of all persons before the law. If necessary, punishments may be enhanced by amending the *Prevention of Corruption Act*. However sentencing a person to prison for life or realizing five times the loss caused in addition to other punishments may violate the principle of proportionality in stipulating punishments in the law. Such exemplary punishments will only make the task of obtaining a conviction harder.

**Recommendation:**

Clause 19A may be dropped.

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**Theme 7: Drafting Errors**

**Issue 1: No ouster clause attached to Clause 28(4)**

Clause 28(4) in the Draft Bill seeks to make submission of property statements a statutory obligation for all government servants. It also seeks to empower the proposed Lokpal to initiate prosecution against errant public servants in the event of non-compliance. While this is a welcome measure this provision is not linked to an ouster clause that bars the operation of Section 197 of the CrPC. Under Section 197 no court may take cognizance of an offence without the previous sanction of the appropriate Government. The ouster clause contained in Clause 8(7) earlier in the text states that it is applicable to all proceedings initiated under the Act. However that Clause ought to have been placed in the last part of the Draft Bill under the chapter relating to Miscellaneous provisions. This would ensure that arguments about general law and special law and earlier law and later law are not launched in a bid to scuttle the intent of Clause 8(7) vis-à-vis Clause 28(4).

**Recommendation:**

The ouster clause contained in Clause 8(7) may be placed in the Chapter on Miscellaneous provisions to avoid unnecessary confusion.
**Issue 2: Exercise of the powers of delegated legislation**

Clause 32 empowers the Central Government to make Rules to carry out the provisions of this Act when adopted. However the Rules can be made only after obtaining the approval of the proposed Lokpal. This requirement is contrary to principles of delegated legislation. A Government’s power to make Rules under an Act cannot be fettered in this manner. However there is no harm in requiring the Central Government to consult with the Lokpal prior to notifying the final version of the Rules. This is in fact desirable. The Judicial Standards and Accountability Bill, 2010 requires the Central Government to consult with the Chief Justice of India before making Rules under its provisions. The making of Rules is not contingent upon securing the approval of the Chief Justice.

**Recommendation:**

*In the proviso under Clause 32(1) of the Draft Bill, the words: “and” and “approval of” occurring after the words: “made only in consultation” may be dropped.*

**Issue 3: Make Rules and Regulations after prior publication**

The Draft Bill does not contain any requirement for consulting the people while making Rules and Regulations. This is contrary to the very process that has informed the drafting of the Bill itself. When the main law is drafted in consultation with people, there is no reason why subsidiary legislation must not involve public consultations. Section 23 of the General Clauses Act contains a procedure for notifying Rules and Regulations after prior publication. This procedure enables people to participate in the rule making process and ensures that people exercise oversight over excessive use of delegated powers to the detriment of the letter and spirit of the principal Act. Under this procedure people will have the opportunity for suggesting amendments to the draft rules and regulations before they are operationalised.

**Recommendation:**

*Clauses 32 and 34 may be amended to require prior publication of the Rules and Regulations notified under the law.*

**Issue 4: Absence of laying requirements for Rules, Regulations and Orders**

The Draft Bill does not require that the Rules, Regulations and Clarificatory orders notified by the Government or the proposed Lokpal to be tabled in Parliament for modification, if necessary. Laying of subsidiary legislation in both Houses of Parliament is essential for Parliament to exercise oversight on the actions of delegatees. If enabling provisions are not incorporated in a Bill delegated legislation will escape parliamentary scrutiny and deprive Parliament of an opportunity to annul or modify Rules and Regulations that are contrary to the spirit of the principal Act.
**Recommendation:**

*Clauses 32, 33 and 34 may be amended to include laying provisions for Rules, Regulations and Clarificatory orders using the standard formula. (See Section 29 of the RTI Act)*

**Issue 5: Overriding effect of the law**

Clause 35 of the Draft Bill states that it will override all other laws in their entirety. This is contrary to established practice. As it deals with a specific category of criminal offences this law must be subject to the safeguards in the CrPC. Therefore it is advisable to give this law an overriding effect on other laws only to the extent of inconsistency.

**Recommendation:**

*Clause 35 may be substituted with the following:*

“The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

**Issue 6: Minor drafting errors need to be ironed out**

There are several drafting errors in the Draft Bill. Some glaring examples are as follows:

a) Clause 6(1) states that the President shall appoint the Chairperson and the Members of the Lokpal. However earlier in the Draft Bill Clause 3(4) states that the Government shall appoint the Chairperson and members of the first Lokpal within six months of enactment. This amounts to contradiction as to who will appoint the first Lokpal.

b) Clause 3 does not differentiate between the ‘establishment’ and the ‘constitution’ of the Lokpal. The Government will have to first create the institution of the Lokpal through a gazette notification. Then the members will have to be appointed. These sub-clauses need to be differently worded. Sections 12 and 15 of the RTI Act can provide guidance in this regard.

c) Clause 6(8)(a) states that the selection committee will select a five member search committee comprising of former C&AGs and Chief Election Commissioners (CEC). At any given point of time only one person will be functioning as the CEC. This clause needs to be amended to include the term ‘former’ before the words: “Chief Election Commissioners.”

d) Clause 6(8)(d) makes for convoluted reading. The ostensible purpose of this Clause is to provide for situations such as the appointment of a person as Chairperson of the National Human Rights Commission. The eligible candidate must have served as the Chief Justice of India. However this sense is not properly conveyed by this Clause in its current formulation.
e) The Draft Bill’s provisions are loosely worded in several places. For example Clause 31(2) states as follows: “Such fines shall be recoverable as dues under Land Revenue Act.” Laws relating to land revenue differ from State to State and have different names. This clause may be redrafted to state as follows: “Fines imposed under this section shall be recovered in the manner of arrears of land revenue.”

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