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A Light on the Campaign for the Jan Lokpal Bill: 2011 Indian Anti-corruption Movement

Dr. Jugal Kishor Dadhich

The **Jan Lokpal Bill**, also referred as **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, as an independent body to investigate corruption cases, also proposes improvements to the Lokpal and Lokayukta Bill 2011, which was to be passed by Lok Sabha in December 2011. This bill aims to effectively deter corruption, compensate citizen grievances, and protect whistle-blowers. The prefix *Jan* (translation: citizens) signifies that these improvements includes inputs provided by "ordinary citizens" through an activist-driven, non-governmental public consultation. This Lokpal Bill was first of all introduced by Shanti Bhushan in 1968¹ and passed the 4th Lok Sabha in 1969. But before it could be passed by Rajya Sabha, the Lok Sabha was dissolved and the bill lapsed.² Subsequent versions were re-introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and in 2008,³ but none of them were passed. In 2011, during the Parliament's Winter Session, the Lok Sabha passed the controversial Lokpal Bill, but could not be passed by Rajya Sabha due to shortage of time in the winter session of 2011. Government has not put Lokpal bill again in Rajya Sabha.⁴

Campaign for the Jan Lokpal Bill

The first version of the Lokpal Bill drafted by the Government of India headed by United Progressive Alliance in 2010 was considered ineffective by anti-corruption activists from the civil society.⁵ These activists, under the banner of India Against Corruption, came together to draft a citizen's version of the Lokpal Bill later called the Jan

Lokpal.⁵ Public awareness drives⁶ and protest marches⁵ were carried out to campaign for the bill. However, public support for the Jan Lokpal Bill draft started gathering steam after Anna Hazare, a noted Gandhian announced that he would hold an indefinite fast from 5 April 2011 for the passing of the Lokpal/ Jan Lokpal bill.^{[6][7]} The government has however accepted it. To dissuade Hazare from going on an indefinite hunger strike, the Office of the Prime Minister directed the personnel and law ministries to see how the views of social activists can be included in the bill.⁸ On 5 April, the National Advisory Council rejected the Lokpal bill drafted by the government. Union Human Resource Development Minister Kapil Sibal then met social activists Swami Agniwehs and Arvind Kejriwal on 7 April to find ways to bridge differences over the bill.⁹ However, no consensus could be reached on 7 April owing to several differences of opinion between the social activists and the Government.

A light on the Fast & agitation – 1

On 7 April 2011 Anna Hazare called for a *Jail Bharo Andolan* from 13 April to protest against the Government's rejection of their demands.¹⁰ Anna Hazare also claimed that his group had received six crore (60 million) text messages of support¹¹ and that he had further backing from a large number of Internet activists. The outpouring of support was largely free of political overtones; political parties were specifically discouraged from participating in the movement.¹² The fast ended on 9 April, after 98 hours, when the Government accepted most demands due to public pressure. Anna Hazare set an deadline, 15 August, for the passing of the bill in the Parliament,¹³ failing which he would start a hunger strike from 16 August. The fast also led to the Government of India agreeing to

set up a Joint Drafting Committee, which would complete its work by 30 June 2011.¹⁴

The Government's handling of the formation of the draft committee, involving the civil society in preparation of the draft Lokpal bill, was criticized by various political parties including Bhartiya Janata Party, Biju Janata Dal, , Telugu Desam Party, All India Anna Dravida Munnetra Kazhagam, Communist Party of India, Rashtriya Janata Dal, Janata Dal and Samajwadi Party.^{[15][16]}

The committee failed to agree on the terms of a compromise bill and the government introduced its own version of the bill in the Parliament in August 2011.¹⁷

Fast & agitation – 2

According to Anna and his team, the Government's version of the Lokpal bill was weak and would facilitate the corrupt to go free apart from several other differences. To protest against this, Anna Hazare announced an "Indefinite Fast" (not to be confused with "Fast until death"). Anna and his team asked for permission from Delhi Police for their fast and agitation at Jantar Mantar or JP Park. Delhi Police gave its permission with certain conditions which were considered by team Anna as restrictive and against the fundamental constitutional rights and they decided to defy the conditions. Delhi Police imposed Sec 144 CrPC.^{[18][19]}

On 16 August, Anna Hazare was taken into preventive custody by Delhi Police. Senior officers of Delhi Police reached Anna Hazare's flat early in the morning and informed him that he could not leave his home. However, Hazare turned down the request following which he was detained. Anna in his recorded address to the nation before his arrest asked his supporters not

to stop the agitation and urged the protesters to remain peaceful. Other members of "India Against Corruption", Arvind Kejriwal, Kiran Bedi, Kumar Vishwas, and Manish Sisodia were also taken into preventive custody. Kiran Bedi described the situation as resembling a kind of Emergency (referring to the State of Emergency imposed in 1975 by the Indira Gandhi Govt.).²⁰

The arrest resulted in a huge public outcry and under pressure, the government released him in the evening of 16 August. However, Anna Hazare refused to come out of jail, starting his indefinite fast from Jail itself. Manish Sisodia explained his situation as, "Anna said that he left home to go to JP Park to conduct his fast and that is exactly where he would go from here (Tihar Jail). He has refused to be released till he is given a written, unconditional permission". Unwilling to use forces owing to the sensitive nature of the case, the jail authorities had no option but to let Anna spend the night inside Tihar. Later on 17 August, Delhi Police permitted Anna Hazare and team to use the Ramlila Maidan for the proposed fast and agitation, withdrawing most of the contentious provisions they had imposed earlier.²¹ The indefinite fast and agitation began in Ramlila Maidan, New Delhi, and went on for around 288 hours (12 days from 16 August-2011 to 28 August-2011).²¹ Some of the Lokpal drafting committee members became dissatisfied with Hazare's tactics as the hunger strike went on for the 11th day: Santosh Hegde, a member of Hazare team who headed the Karnataka Lokayukta, strongly criticised Hazare for his insistence of "having his way", concluding "I feel I am not in Team Anna any more by the way things are going. These (telling Parliament what to do) are not democratic

things."²² Swami Agnivesh, another central figure in the Hazare group also distanced himself.²³

In addition to the activists responsible for creating and organising support for the bill, a wide variety of other notable individuals have also stated that they support this bill. Spiritual leaders Sri Sri Ravi Shankar²⁴ and Guru Ramdev²⁵ expressed support. Notable politicians who indicated support for the bill include Ajit Singh²⁶ and Manpreet Singh Badal²⁷ as well as the principal opposition party, Bhartiya Janata Party.^{[28][29]} In addition, numerous Bollywood actors, directors, and musicians publicly approved of the bill.^{[30][31][32][33][34][35][36][37]}

Notable opposition to the activists' version of the Bill was expressed by HRD minister Kapil Sibal and other Congress leaders; Chief Minister of West Bengal Mamta Banerjee; Punjab Chief Minister and Akali Dal leader Prakash Singh Badal; Shiv Sena leader Bal Thackeray, and former Chief Justice of the Supreme Court Jagdish Chandra Verma.³⁸ Although BJP showed their support earlier, there were reports that BJP shared Congress's concern "over letting the civil society gain the upper hand over Parliament in lawmaking".³⁹ The All-India Confederation of SC/ST Organisations, representing the Dalits and backward castes, also expressed opposition to the bill proposed by Anna Hazare as well as to the government's version of the bill. The confederation opposed Hazare's proposed bill saying that it will be above the constitution and that proposers of the bill have support from elements who oppose reservation.⁴⁰

Criticisms of the Jan Lokpal Bill

The bill has been criticised as being naïve in its approach to combating corruption.

According to Pratap Bhanu Mehta, President of the Center for Policy Research Delhi,⁴¹ the bill “is premised on an institutional imagination that is at best naïve; at worst subversive of representative democracy”. The very concept of a Lokpal concept has received criticism from Human Resource Development minister Kapil Sibal in that it will lack accountability be oppressive and undemocratic.⁴²

The pro-bill activist Arvind Kejriwal rejects the claim of Lokpal being extra-constitutional with the explanation that the body will only investigate corruption offences and submit a charge sheet which would then be tried and prosecuted through trial courts and higher courts, and that other bodies with equivalent powers in other matters exist. The proposed bill also lists clear provisions for the Supreme Court to abolish the Lokpal.⁴³

Despite these clarifications, critics feel that the exact judicial powers of Lokpal are rather unclear in comparison with its investigative powers. The bill⁴⁴ requires “...members of Lokpal and the officers in investigation wing of Lokpal shall be deemed to be police officers”. Although some supporters have denied any judicial powers of Lokpal,⁴⁵ the government and some critics have recognised Lokpal to have quasi-judicial powers.⁴⁶

The bill also states that “Lokpal shall have, and exercise the same jurisdiction powers and authority in respect of contempt of itself as a High court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (Central Act 70 of 1971) shall have the effect subject to the modification that the references therein to the High Court shall be construed as including a reference to the Lokpal.”⁴⁷[48][49] Review of proceedings and decisions by Lokpal is prevented in the bill by

the statement “...no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question in any court of ordinary Civil Jurisdiction.”. As a result, how the trials will be conducted is unclear in the bill, although the bill outlines requiring judges for special courts, presumably to conduct trial that should be completed within one year. The critics hence express concern that, without judicial review, Lokpal could potentially become an extra-constitutional body with investigative and judicial powers whose decisions cannot be reviewed in regular courts.⁵⁰ The matter of whether the Indian Prime Minister and higher judiciary should or should not be prosecutable by the Lokpal remains as one of the major issues of dispute. Anna’s own nominee for co-chairing the joint panel Justice Verma, the former Chief Justice of the Supreme Court, has expressed his constitutional objections for including the Prime Minister and higher judiciary under Lokpal.⁵¹ According to him, “this would foul with the basic structure of the constitution”.⁵²

Ramon Magsaysay Award winner Aruna Roy who has said “Vesting jurisdiction over the length and breadth of the government machinery in one institution will concentrate too much power in the institution, while the volume of work will make it difficult to carry out its tasks”. She and her colleagues at the National Campaign for People’s Right to Information (NCPRI) have proposed an alternative mechanism consisting of five institutions.⁵³ Noted author and social activist Arundhati Roy was highly critical of Lokpal, stating “you could say that the Maoists and the Jan Lokpal Bill have one thing in common – they both seek the overthrow of the Indian State”, and “While his means may be Gandhian, Anna Hazare’s demands are certainly not. Contrary to Gandhiji’s ideas about the

decentralisation of power, the Jan Lokpal Bill is a draconian, anti-corruption law, in which a panel of carefully chosen people will administer a giant bureaucracy...^{[54][55][56]}

The CBI in a presentation before the Standing Committee of the Parliament, has strongly argued against the vivisection of the CBI and merger of its anticorruption wing with the Lokpal, noting that this would seriously cripple the core functioning of the CBI and reduce it to irrelevance. An organization built over last 60 years comprising competent professionals should not be subsumed under Lokpal. CBI officers concede that in some sensitive political cases there is of course interference from the government, but in respect of an overwhelming majority of cases CBI functions, unfettered and uninfluenced by extraneous considerations. For this reason there is an ever increasing demand for CBI investigation from all-over the country in respect of important cases.⁵⁷

However, in a contradictory TOI article in August 2011, it has been revealed that one its own report says that the CBI is still finding itself waiting for a go-ahead from central agencies so that it can initiate criminal proceedings against high-ranking officials.⁵⁸

Use of Social media: An emerging medium of interaction

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 mentions through status updates and comments across top social networking sites, including Facebook and Twitter in the country. Two days later, the number had shot up to 9 million. On Youtube, over 40,000 people watched the video shot by Kiran Bedi inside Tihar Jail in which Anna

has addressed his supporters. Facebook has 542 fan pages by Anna's name.^{[59][60]} 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.

According to the 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.⁶¹

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.⁶²

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