

Comparison of Government's Lokpal Bill with Civil Society's Lokpal Bill

S No	Government's proposal	Civil Society proposal
1.	<p>Lokpal will not have any power to either initiate action suo motu in any case or even receive complaints of corruption from general public. The general public will make complaints to the speaker of Lok Sabha or chairperson of Rajya Sabha. Only those complaints forwarded by Speaker of Lok Sabha/ Chairperson of Rajya Sabha to Lokpal would be investigated by Lokpal. This not only severely restricts the functioning of Lokpal, it also provides a tool in the hands of the ruling party to have only those cases referred to Lokpal which pertain to political opponents (since speaker is always from the ruling party). It will also provide a tool in the hands of the ruling party to protect its own politicians.</p>	<p>Lokpal will have powers to initiate investigations suo moto in any case and also to directly entertain complaints from the public. It will not need reference or permission from anyone to initiate investigation into any case.</p>
2	<p>Lokpal has been proposed to be an advisory body. Lokpal, after enquiry in any case, will forward its report to the competent authority. The competent authority will have final powers to decide whether to take action on Lokpal's report or not. In the case of cabinet ministers, the competent authority is Prime Minister. In the case of PM and MPs the competent authority is Lok Sabha or Rajya Sabha, as the case may be. In the coalition era when the government of the day depends upon the support of its political partners, it will be impossible for the PM to act against any of his cabinet ministers on the basis of Lokpal's report. For instance, if there were such a Lokpal today and if Lokpal made a recommendation to the PM to prosecute A. Raja, obviously the PM will not have the political courage to initiate prosecution against A. Raja. Likewise, if Lokpal made a report against the PM or any MP of the ruling party, will the house ever pass a resolution to prosecute the PM or the ruling party MP? Obviously, they will never do that.</p>	<p>Lokpal is not an advisory body. It will have the powers to initiate prosecution against any one after completion of investigations in any case. It will also have powers to order disciplinary proceedings against any government servant.</p>
3	<p>The bill is legally unsound. Lokpal has not</p>	<p>Lokpal would have police powers. It will be able</p>

	<p>been given police powers. Therefore Lokpal cannot register an FIR. Therefore all the enquiries conducted by Lokpal will tantamount to “preliminary enquiries”. Even if the report of Lokpal is accepted, who will file the chargesheet in the court? Who will initiate prosecution? Who will appoint the prosecution lawyer? The entire bill is silent on that.</p>	<p>to register FIR, proceed with criminal investigations and launch prosecution.</p>
4	<p>The bill does not say what will be the role of CBI after this bill. Can CBI and Lokpal investigate the same case or CBI will lose its powers to investigate politicians? If the latter is true, then this bill is meant to completely insulate politicians from any investigations whatsoever which are possible today through CBI.</p>	<p>That part of CBI, which deals with cases of corruption, will be merged into Lokpal so that there is just one effective and independent body to take action against corruption.</p>
5	<p>There is a strong punishment for “frivolous” complaints. If any complaint is found to be false and frivolous, Lokpal will have the power to send the complainant to jail through summary trial but if the complaint were found to be true, the Lokpal will not have the power to send the corrupt politicians to jail! So the bill appears to be meant to browbeat, threaten and discourage those fighting against corruption.</p>	<p>Deterrence has been provided against frivolous complaints in the form of financial penalties against the complainant, however, Lokayukta is empowered to prosecute the corrupt and take disciplinary action against them.</p>
6	<p>Lokpal will have jurisdiction only on MPs, ministers and PM. It will not have jurisdiction over officers. The officers and politicians do not indulge in corruption separately. In any case of corruption, there is always an involvement of both of them. So according to government’s proposal, every case would need to be investigated by both CVC and Lokpal. So now, in each case, CVC will look into the role of bureaucrats while Lokpal will look into the role of politicians. Obviously the case records will be with one agency and the way government functions it will not share its records with the other agency. It is also possible that in the same case the two agencies arrive at completely opposite conclusions. Therefore it appears to be a sure way of killing any case.</p>	<p>Lokpal will have jurisdiction over politicians, officials and judges. CVC and the entire vigilance machinery of government will be merged into Lokpal.</p>
7	<p>Lokpal will consist of three members, all of them being retired judges. There is no reason why the choice should be restricted to</p>	<p>Lokpal would have ten members and one Chairperson. Out of them four need to have legal background (they need not be judges).</p>

	<p>judiciary. By creating so many post retirement posts for judges, the government will make the retiring judges vulnerable to government influences just before retirement as is already happening in the case of retiring bureaucrats. The retiring judges, in the hope of getting post retirement employment would do the bidding of the government in their last few years.</p>	<p>Others could be from any background.</p>
8	<p>The selection committee consists of Vice President, PM, Leaders of both houses, Leaders of opposition in both houses, Law Minister and Home minister. Barring Vice President, all of them are politicians whose corruption Lokpal is supposed to investigate. So there is a direct conflict of interest. Also selection committee is heavily loaded in favor of the ruling party. Effectively ruling party will make the final selections. And obviously ruling party will never appoint strong and effective Lokpal.</p>	<p>Selection committee consists of members from judicial background, Chief Election Commissioner, Comptroller and Auditor General of India and international awardees (like Nobel prize winners and Magsaysay awardees of Indian origin). A detailed transparent and participatory selection process has been prescribed.</p>
9	<p>Lokpal will not have powers to investigate any case against PM, which deals with foreign affairs, security and defence. This means that corruption in defence deals will be out of any scrutiny whatsoever. It will become impossible to investigate into any Bofors in future.</p>	<p>There is no such bar on Lokpal's powers.</p>
10	<p>Whereas a time limit of six months to one year has been prescribed for Lokpal to enquire, however, subsequently, there is no time limit prescribed for completion of trial.</p>	<p>Investigations should be completed within one year. Trial should get over within the next one year.</p>
11	<p>It does not deal with corruption of Bureaucrats. Corrupt bureaucrats continue in their job without any actions against them.</p>	<p>Lokpal will have power to direct disciplinary action, including dismissal of a corrupt officer from job.</p>
12	<p>It does not talk of investigation of complaints against judges</p>	<p>Lokpal will have powers to initiate investigations on complaints of corruption against judges.</p>
13	<p>Speaker would decide which complaints shall be enquired into by Lokpal.</p>	<p>Lokpal will not be able to dismiss any complaint from public without hearing the complainant.</p>
14	<p>Our entire governance system suffers from inadequate public grievance redressal systems, which force people to pay bribes. Lokpal bill does not address this issue.</p>	<p>Lokpal will have the powers to orders redressal in a time bound manner. It will have powers to impose financial penalties on guilty officers, which would be paid to complainant as compensation.</p>
15	<p>Large number of people raising their voice against political corruption are being</p>	<p>Lokpal will have powers to provide protection against physical and professional victimization</p>

	murdered. Lokpal does not have any powers to provide protection to them.	of whistleblowers.
16	Nothing has been provided in law to recover ill gotten wealth. A corrupt person can come out of jail and enjoy that money.	Loss caused to the government due to corruption will be recovered from all accused.
17	Under the present law, there is Small punishment for corruption- Punishment for corruption is minimum 6 months and maximum 7 years.	Enhanced punishment - The punishment would be minimum 5 years and maximum of life imprisonment.