

From: kshirod rout <kshirodroutadv@gmail.com>
To: indiaagainstcorruption.2010@gmail.com; Chitta Behera <chittabehera1@yahoo.co.in>; pradippradhan63@gmail.com; mohanty53biranchi@gmail.com; gopal_mohanty08@rediff.com; subhabikash@rediffmail.com; bibhutripathy@gmail.com; basundhara@sify.com
Sent: Thu, 21 April, 2011 3:18:10 AM
Subject: Request for amending the defective and ineffective draft Jan Lokpal Bill

Forwarded conversation

Subject: **Request for amending the defective and ineffective draft Jan Lokpal Bill**

From: **kshirod rout** <kshirodroutadv@gmail.com>
Date: Thu, Apr 21, 2011 at 3:06 AM
To: info@annahazare.org, annahazare@hotmail.com

To,
Mr. Anna Hazare,
Ralegan Siddhi,
Tal -Parner,
Ahmednagar,
Maharashtra, India.
Ph- 91-02488-240401, 91 - 02488 - 240581
info@annahazare.org, annahazare@hotmail.com

Esteemed Annaji,

We express our solidarity with your campaign for a strong and effective Jan Lokpal Act for the whole country But we felt dismayed at numerous errors of language and law that afflict the Draft Jan Lokpal Bill dished out by the India Against Corruption website <http://www.indiaagainstcorruption.org>. On behalf of Progressive Lawyers Association a meeting of Advocates of Orissa High Court was held on 18th April 2011 at Cuttack, where the the said Bill in its version-2 was analysed. While placing the detail proceedings of the Seminar below, we would like to request you to take note of several omissions and commissions of both serious and silly nature and take early steps to remedy them, so that we shall have a really effective foolproof Draft Jan Lokpal Bill at the end of the day. In our view the present draft is even weaker than the Government draft and goes against your proclaimed goals behind Jan Lokpal Bill. Specifically please go through Section 18, which not only provides blanket exemption to the Prime Minister from investigation by the Lokpal, but also provides discretion to the public authorities to reject the Lokpal's

recommendation for action against a public servant proved guilty and corrupt prima facie.

Looking forward to your comments on our review of Jan Lokpal Bill.

With regards,

Kshirod Kumar Rout, Dt 21.4.2011

President, Progressive Lawyers Association

D/917, Sector-6, CDA, Cuttack-14, Orissa

Email: kshirodroutadv@gmail.com

Minutes of Seminar on Legal Aspects of Jan Lokpal Bill

orgd. at Basundhara, Bidanasi, Cuttack, Orissa on 18th April 2011

by Progressive Lawyers' Association

(Unanimous call for revamping the defective and ineffective Jan Lokpal Bill)

Convened by Progressive Lawyers' Association, the Seminar on Legal Aspects of Jan Lokpal Bill was held from 6pm to 8pm in the auditorium of Basundhara at Bidanasi, Cuttack, attended by lawyers, NGO functionaries and social activists. At the outset, Mr.Khirood Rout President of the Association who chaired the Seminar, spoke about the objectives of the occasion. He said that Anna Hazare's successful campaign for legislating a strong anti-corruption law for the country has galvanised the whole nation for building up a corruption free India. Under the mounting pressure of public opinion that was built up around his campaign, the Union Government in an unprecedented move agreed to constitute the Joint Drafting Panel for giving final shape to the draft of a Lokpal Bill. The spontaneous upsurge of the people across the country showing solidarity with Anna Hajare's fast-unto-death indicated how the people everywhere are fed up with the entrenched corruption plaguing every sphere of our polity and their strong aspiration for an effective anti-graft law in the shape of Jan Lokpal Bill to be put in place as a deterrent against corruption by public servants, be they Ministers, bureaucrats or judges. It is therefore urgently necessary that the common people, especially the law knowing segment among them exercise themselves so as to examine whether and to what extent the provisions made in Anna proposed Draft Jan Lokpal Bill are in correspondence with his clarion call to root out corruption indulged in by public servants manning different pillars of the state, executive, judiciary or legislative. Mr.Rout further observed that in view of the above the present Seminar has been convened, where the lawyers and law knowing citizens should deliberate on the omissions and commissions, if any in the draft Jan Lokpal Bill with a view to

render it more effective and fool-proof. He assured that the deliberations of this house would be shared with the 'indiaagainstcorruption' team at national level so as to enable them to work out a better draft law in collaboration with official members of Joint Panel in days to come.

Opening the discussion, Mr.Rout observed that the draft Jan Lokpal Bill seems to have been prepared hurriedly, by some non-professional people having scant regard for coherence and legal lexicon. Sooner these are sorted out by the senior lawyers taken into the Joint Panel, better it would be for the final outcome of the drafting process. Then to corroborate his view, Mr.Rout cited the following instances of omissions and commissions the draft Jan Lokpal Bill in its 2.1 version suffers from.

- *Contradiction between Section 3(4) and Section 6(1) in respect of appointment of Lokpal*- While Section 3(4) stipulates that the Government shall appoint the Chairperson and members of the first Lokpal, the Section 6(1) maintains that the Chairperson and members shall be appointed by the President.

- *Incomplete Sentence and undefined Words and Expressions* – The Section 28B(2)(a)&(b) deals with a very important provision i.e. the ultimate decision on the fate of a corrupt Member of Parliament, but carries only an incomplete sentence, without a full stop and conveying no meaning. Further, an important expression like 'Ethics Committee' occurring herein has not been defined anywhere in the Bill. Further the expression 'Trial Court' occurring in Section - 18(v) remains undefined.

- *Section 17(1)(iv) in respect of Matters not subject to Investigation*- Here the sub-sentence used lacks coherence in language with the opening sentence of the Section, leading to conveyance of no meaning.

- *Section 30A (2) in respect of appeal under RTI Act*- Here it is mentioned, "A citizen would have a choice to make an appeal under Section 19(3) of Right to Information Act, either with a member of Lokpal, so appointed for this purpose, or with the Central Information Commission". A member of Lokpal can serve only as a first appellate authority under Section 19(1) of RTI Act 2005. So the wrongly placed expression 'Section 19(3)' should have been substituted by the expression 'Section 19(1)'.

- *Confusion and Contradiction abounding in Section 8(5) and Section 18(vi) in respect of implication of Lokpal's decision on a guilty Government servant*- Whereas Section 8(5) makes the Lokpal's decision on a guilty Govt servant

binding, the Section 18(vi) leaves the option to the concerned public authority to comply with or reject the Lokpal's recommendation.

- Contradiction between Section-13 and Section-18 [sub-sections (iii), (iv), (vi), (vii), (viii)] in respect of Lokpal's powers in the event of non-compliance of its orders – Whereas the Section-13 empowers Lokpal to impose punishment including invocation of the provisions of Contempt of Courts Act 1971 for non-compliance of its orders, the Section-18, especially its sub-sections as referred to don't provide the Lokpal with any power to punish, rather provides the discretion to the concerned public authority to reject the recommendation of Lokpal.

- Contradiction between Section 15 and Section 21-A in respect of access of common complainant to Lokpal- Whereas enables any person to make a complaint directly to the Lokpal, the Section-21A is absolutely silent about access of any sort by an aggrieved person to Lokpal, rather, it compels a person if aggrieved by the action/inaction of a public authority, to approach its Public Grievance Redressal Officer. Then, if further aggrieved by the action/inaction of the PGRO, he may lodge a complaint against him before the Appellate Grievance Officer. And there is no provision to approach Lokpal against the Appellate Grievance Officer, if the concerned complainant is dissatisfied with action/inaction of the latter.

- No provision for receiving complaints against MPs, Ministers and Judges under Section-8(1)- Whereas the Lokpal is supposed to receive and dispose of the complaints against all categories of public servants as defined under Section 2(12) such as Prime Minister, Minister, Member of Parliament, Judges of High Courts and Supreme Court, the Section 8(1) dealing with Functions of Lokpal omits reference to any Minister or Judge against whom Lokpal shall receive the complaint.

Contradiction between Section-8(1)(b) and Section-21B in respect of receipt of allegations on misconduct of Government servants- Whereas the Section 8(1) provides that Lokpal shall be receiving the complaints on misconduct by a government servant, the Section-21B maintains that such allegations shall be received and enquired by vigilance officers.

- Faulty construction of the 2nd proviso of Section 31- The sentence runs like this- 'Provided further that merely because a case could not be proved under this Act after investigation shall not be held against a complainant for the purposes of this

section'. It seems there is an omission in the sentence, which needs to be correctly filled up so that the intended meaning could be conveyed.

- ***Deficient in lexicon of law-*** The Section 32 (4) states, "Lokpal shall strictly adhere to the time limits. . .". The use of the word 'strictly' seems to be redundant here. Again, throughout Section 18, a queer expression, never noticed in inventory of laws, is found to be repeatedly used, such as 'Lokpal, if it feels important, may approach appropriate High Court . . .'.

- ***Contradiction between 3rd Proviso to Section-18 (1) and Section 31(1) in respect of implications of a motivated complaint-*** Whereas the 3rd proviso to Section 18(1) says that 'no complaint or allegation shall be rejected on the basis of the motives or intention of the complainant', the Section-31(1) takes an apparently contrarian position- 'if someone makes any complaint under this Act, which lacks any basis or evidence and is held by Lokpal to be meant only to harass certain authorities, Lokpal may impose such fines on that complainant as it deems fit'.

- ***Contradiction between Section 30 and fourth Proviso to Section 18(i) in respect of time limit of preliminary enquiry-*** Whereas Section-30(1) mentions one month as the time-limit for completion of preliminary enquiry and doesn't specify the extent of its further deference, the fourth proviso to Section 18(i) allows the time limit for it upto 3 months at maximum.

After pointing out the above anomalies which are of both structural and syntactic in nature, the President Mr.Rout called upon the members of the house to further critically examine the draft Jan Lokpal Bill (2.1 version) so as to locate its deficiencies and thereby help the Joint Drafting Panel exercise in the direction of framing a strong, coherent and legally sound Jan Lokpal Bill at the end of the day. Then he requested Mr.Subha Bikash Panda, Advocate to present his deliberation on the Jan Lokpal Bill.

Advocate Mr.Subha Bikash Panda, the next speaker, first of all clarified that his observations would be based upon a reading of Jan Lokpal Bill version 1.5, since he couldn't go through its latest version i.e. 2.1. Welcoming the Draft Jan Lokpal Bill as a harbinger of new era of anti-corruption governance, he hoped that the Bill if enacted into a law by the Parliament and then implemented honestly and properly by the State actors, it would surely lead all of us to a corruption free India sooner or later. Commenting on the errors of construction and language that have crept into the draft Bill as pointed out by the President of the Seminar Mr.Khirod Rout, Mr.Panda observed that there was nothing wrong as such in identifying such

and other loopholes that the draft bill might suffer from, since these lapses, mostly inadvertent in nature, can be made good by the legal luminaries that stock the Joint Drafting Panel.

Taking a panoramic view of the Bill's salient provisions, Mr.Panda maintained that the objective of the Bill is to bring all categories of public servants, be he Prime Minister, a Minister, a Member of Parliament, a Judge of a High Court or Supreme Court and so on and so forth as defined under Section 2(12) under the scanner of Lokpal. The procedure for selection of Chairperson and members of Lokpal is not vested with a small coterie of top politicians, but with a larger committee of apex level public functionaries such as Judges of Supreme Court, Speaker, C&AG, Chief Election Commissioner, Chairperson of National Human Rights Commission etc. (Section 6-5). A novel feature of the proposed Bill is to provide protection to the whistleblowers that are presently defenseless even if victimized by the vested interests entrenched in the public authorities across the country (Section 20). Another outstanding issue that the new Bill seeks to address to is the corruption in the judiciary. Lokpal shall have power to enquire into the allegation against corrupt judges and order action against them (Section 19B). As per Section-21 the Lokpal shall also facilitate the redressal of grievances of the members of public who happen to get deprived of their entitlements under any scheme or provision of law. The Lokpal shall also hear complaints against its own officers and staff (Section 26). The Bill provides for time-limits (Section-30), as per which preliminary enquiry into a complaint is to be completed within a month of its receipt, investigation to be completed within 6 months to one year, and trial in any case within one year with adjournments allowed only in rarest circumstances. The Bill also provides for fines against those complainants who might have made the complaint out of an ill-motive to harass certain authorities (Section-31). The Bill provides for transparent and accountable functioning of Lokpal itself by way of disclosure suo motu of list of cases disposed of every month on website (Section 11-2), application of RTI Act to itself (Section 30A), action against its staffs indulging in corruption (Section 26) and also removal of the Chairperson or any member of Lokpal by Supreme Court (Section-7). Unlike so many constitutional and statutory bodies, which have no teeth and are only recommendatory in nature, the Lokpal is deemed to be a Police Officer for the purposes of Section 36 of Cr.PC and as such can receive FIRs and conduct investigations (Section 12). Above all, it is reassuring to learn that the Bill when made into an Act shall have overriding powers over all other laws (Section 35).

Under the circumstances, it behoves all of us to stand by Anna Hazare until the Jan Lokpal Bill is finally enacted by the Parliament just as the whole nation did during

his fast-unto-death demanding formation of a joint drafting panel for the Bill to be tabled in Parliament, Mr.Panda observed by way of summing up his talk.

Mr.Dipak Kumar Das, Advocate in his talk raised a point of law as regards the Bill's provision in respect of removal of Chairperson and members of Lokpal. As mentioned by the previous speaker, the Chairman or a member of Lokpal can be removed by the Supreme Court on the basis of hearing and decision on a petition in this regard from any citizen. This provision should be read in juxtaposition to the other important provision made in the Draft Bill, which says that the Lokpal is authorized to receive and dispose of any complaint by a citizen against a Judge of Supreme Court. Under the circumstances, there are grounds to suspect that the Lokpal might not pass any order against a Judge of Supreme Court and vice versa.

Mr.Basudev Samal, an eminent trade unionist and columnist in his brief but poignant talk tendered his suggestion to the house that all the members need to scrutinize minutely the various sections and provisions of the proposed draft bill and suggest correctional measures to the Joint Drafting Panel constituted by the Govt. for giving final shape to the Lokpal bill, so that the nation would be gifted at the end of the day with an effective anti-corruption law, which has been pending over last 42 years due to lack of a political will among our legislators.

Mr. Chittaranjan Mohanty, Adocate and a prominent social activist of the State delivered an emotionally surcharged talk. He observed that poverty and corruption are twins feeding on each other. In order to remove poverty we have to remove corruption. He called upon the house, especially the legal fraternity who were present to come forward and fight against corruption and all kinds of nepotism and favoritism in public life. Admitting that the draft bill seemed to be suffering from a lot of anomalies and contradictions, he observed that it is the duty of all of us to ensure that the draft bill is made as much strong and foolproof as is possible by way of sharing our critical findings with the Joint Drafting Panel.

Mrs.Saila Behera, a noted women leader of the State and Secretary Basundhara in course of her interventions during the seminar proceedings and as well talk she delivered, did raise several questions on the quality of the draft Jan Lokpal Bill. She asked, it is not understandable why the Offices of Chief Minister and Governor of a State are kept outside the purview of Anna's Bill. Then, the selection criteria and procedure in respect of Chairman and other members of Lokpal to be adopted by the selection committee need to be laid down with sufficient clarity so as to ensure full transparency in the entire process and inclusion of persons of impeccable integrity and unblemished past record as the

chairperson and members of the Lokpal. She concluded by saying that she and her organization would extend whatever logistic support possible to promote a public debate on Jan Lokpal Bill in the State involving the legal fraternity.

Mr.Chitta Ranjan Behera, an Advocate who had read the two draft Lokpal Bills prepared separately by the Government and Anna-led civil society group, made a presentation of his reading on Jan Lokpal Bill quoting the relevant excerpts from its text. First of all, he thanked both Advocates Khirod Rout and Subha Bikash Panda who have taken pains to go through the 35-Section long Jan Lokpal Bill before commenting on it. Then Mr.Behera observed as follows.

I fully agree with Advocate Mr.Subha Bikash Panda, who maintained that on an apparent reading of the Jan Lokpal Bill, it seems to have made necessary provisions to fix the corrupt in the three wings of our polity, executive, legislative and judiciary, to redress the citizens' grievances in respect of their due entitlements, and to protect the whistleblowers from the wrath of the vested interests entrenched in different layers of our system of governance. More precisely speaking, these were the noble objectives, with which the civil society's campaign for an alternative, effective Lokpal Bill vis-à-vis toothless draft Bill peddled by the Government at Centre began. But the moot question is, whether the text of the Bill in its latest version (2.1) fulfills the said objectives in letter and spirit. I also fully concur with Advocate and President of this Seminar Mr.Khirod Rout, who has laboriously scanned the words and expressions used in text of the Bill, thereon pointed out several anomalies that stalk it here and there, some being syntactic in nature, while others in the nature of double standards. Unless these anomalies are soon removed and the text of the Bill rendered internally coherent, legally sound and smoothly readable, Jan Lokpal Bill can't attain to that pride of place in the country's inventory of laws, which it aspires to.

To make the present draft Lokpal Bill a foolproof instrument worth its original mandate as conceived in the Delhi meeting of 10th Aug 2010 attended by veteran experts including former Judge of Supreme Court and present Lokayukta of Karnataka, I find two types of anomalies deserving to be addressed to at the earliest- negotiable ones, most of which Advocate Mr.Rout has already dealt with at length, and non-negotiable ones, which I am going to deal with now for your consideration. Let me tell you, while dealing with the non-negotiable anomalies in the current version of JLB, I won't be judgmental, in the sense that I won't judge Jan Lokpal Bill by this or that yardstick I may subjectively value as important, but by the very yardsticks the founding fathers of the Bill had initially set forth to inform the alternative Bill.

First of all, in the above said meeting of 10th August 2010, it was clearly recommended that ‘Lokpal at the Centre and Lokayukta at state level should be made the single apex, independent and effective anti-corruption agency’. But the present version of Jan Lokpal Bill, without any rhyme or reason, confines the purview of the proposed Lokpal to Centre only (vide opening line of the Bill). The negative implications of such a truncated purview of Lokpal are succinctly articulated by no less a person than Justice Santosh Hegde himself in the following words, “*The Lokpal (ombudsman) Bill will only help fight corruption at the Centre and not in states where the magnitude of graft is alarming and accounts for almost 90 percent of corruption in the country encountered by common man.*” (vide Page-7, ToI, Bhubaneswar, dated 16.04.2011). Unless and until the purview of the Bill is expanded to cover both Centre and States at one go, there is little justification for the people in the states to stand behind Anna Hazare in getting through a truncated JLB in the Joint Drafting Panel.

Secondly, a brochure ‘Salient Features of Jan Lokpal Bill’ brought out by ‘India against Corruption Team’ (www.indiaagainstcorruption.org), promised as follows: “*If any work of any citizen is not done in prescribed time in any government office, Lokpal will impose financial penalty on guilty officers, which will be given as compensation to the complainant. . . So, you could approach Lokpal if your ration card or passport or voter card is not being made or if police is not registering your case or any other work is not being done in prescribed time. Lokpal will have to get it done in a month’s time*”. It means that every aggrieved citizen shall have a direct access to Lokpal for getting justice within a month’s time. So far, so good. But, is this promise substantiated by the provisions made in the Bill? The answer is a loud no. Section-21(3) says that an aggrieved citizen shall first of all approach the Public Grievance Redressal Officer appointed in the concerned public authority against any violation of entitlement available under Citizens’ Charter. Then Section 21A(2) says, “*If a citizen fails to receive satisfactory redressal to his grievance within a month of making a complaint to Public Grievance Redressal Officer, can make a complaint to Appellate Grievance Officer.*” Then the sub-section (3) says, “*If the complaint doesn’t relate to an issue mentioned in Citizens’ Charter of that authority, the Appellate Grievance Officer, within a month of the receipt of complaint, pass an order either rejecting the grievance or directing the public authority to redress the grievance in the manner and within such time, as is mentioned in the order*”. In cases having vigilance angle, “*the Appellate Grievance Officer shall pass an order fixing responsibility for failure to satisfactorily redress complainant’s grievance in prescribed time and direct the Drawing and Disbursing Officer of that public authority to deduct from the salary of such officials, as mentioned in the order, such penalty amounts as are directed*

by the Appellate Grievance Officer” and “direct the Drawing and Disbursing Officer to compensate the complainant with such amounts as are deducted from the salaries of the said officers”(Section 21A-5) . To sum up the grievance redressal system as proposed in the Jan Lokpal Bill, (i) An aggrieved citizen has no direct access to Lokpal, but to a hierarchy of grievance redressal officers in a public authority appointed for the purpose, (ii) While there is a clear mention of a time limit (a month) within which an aggrieved citizen can lodge a Complaint before the Appellate Grievance Officer, there is no mention of any time limit within which the said officer shall dispose of the complaint so lodged in respect of a grievance arising out of violation of Citizens’ Charter. (iii) There is no provision for approaching Lokpal against the Appellate Grievance Officer, if the complainant is dissatisfied with the inaction or decision of the Appellate Grievance Officer.

Again, Section-17 (Matters not subject to investigation) is a queer formulation smacking of double standards pure and simple. Though its sub-section (3) says that ‘nothing in this section shall bar Lokpal from entertaining a complaint making an allegation of misconduct or corruption, or a complaint from a whistleblower seeking protection’, the sub-section (1) debars Lokpal from directly taking up a citizen’s grievance for enquiry, citing several grounds. Such grounds are (i) *‘if the complainant has or had, any remedy by way of appeal, revision, review or any other recourse before any authority provided in any other law and he has not availed of the same’*, (ii) *if the action complained against ‘has been taken by a judicial or quasi-judicial body, unless the complainant alleges malafides’*, (iii) *‘if the substance of the entire grievance is pending before any court or quasi-judicial body of competent jurisdiction’*, (iv) *‘any grievance where there is inordinate and inexplicable delay in agitating it’* (as already mentioned by Advocate Khirod Rout, the last ground is incomprehensible owing to its awkward construction). It seems, there is no ground left on the basis of which Lokpal can directly take up the case of an aggrieved citizen for enquiry or investigation. Then Section-17(2) debars Lokpal from enquiring into *‘any action which is taken by or with approval of the Presiding Officer of either House of Parliament’*. Thus, Section-17 virtually sterilizes Lokpal against any initiative to enquire into any complaint, except perhaps those relating to whistleblower protection. The big question arises, if a body has no power to enquire into a complaint, what is the use of the said body entertaining a complaint.

Thus the claim that the Lokpal of the present Bill shall get anything and everything done within a month’s time – be it ration card, voter card, registration of an FIR in

the police station, etc. besides penalty on guilty official and compensation to the aggrieved citizen- is a loudmouthed one.

Thirdly, the tallest claim boasted by the brochure of the India against Corruption Team is that *'the investigations in any case will have to be completed in one year. Trial should be completed in next year so that the corrupt politician, officer or judge is sent to jail within two years'*. Let us judge the genuineness of this claim in the light of the provisions made in the draft Jan Lokpal Bill. It is worthwhile to note that the definition of 'Public Servant' in Section-2 (12) omits President, Vice-President and Speaker from its purview, as if these offices are absolutely free from corruption and misfeasance. Then, the Section-18 (Provisions relating to complaints and investigations) has been framed in such a complicated and round-about manner that the Lokpal of the present Bill shall command no power to dislodge any public servant from his position even if the complaint of corruption or grievance against the latter be proved genuine prima facie, not to talk of any final action likely to be taken by Lokpal against him. A proviso to Section 18(viii) exempts Prime Minister from the purview of any further investigation by Lokpal even after an allegation is substantiated prima facie. Further the Section 18(viii) shamefacedly says, even after the allegation is substantiated prima facie, *"In case of public servant being a Minister or a Member of Parliament, Lokpal shall make such recommendation to the President, who shall decide either to accept such recommendation or reject it within a month of its receipt"*. Again, one encounters an equally impotent provision in Section-18(vii), which is applicable to all categories of public servants, be they politicians, bureaucrats or judges. It says, *"The Lokpal may, at any stage of enquiry or investigation under this Act, direct through an Interim order, appropriate authorities to take such action as is necessary, pending enquiry or investigation. . . . The public authority shall either comply with or reject the recommendation of Lokpal under this sub-section within 15 days of receipt of such an order. Lokpal, if it feels important, may approach High appropriate High Court for seeking directions to the public authority"*. Then, under Section 18(vi) it is nefariously held that even if Lokpal feels that the continuance of a public servant in his present position could adversely affect the course of investigation and accordingly issues directions to the appropriate authorities for the transfer or suspension of that public servant, *"the public authority shall either comply with reject the recommendations of Lokpal"* and *Lokpal, if it feels important, may approach appropriate High Court for seeking appropriate directions to the public authority."* In a similar vein the Section-18 (iv) says that where there is a prima facie proof of the allegation made against a public authority, Lokpal may recommend some corrective or preventive action to be taken by the concerned public authority to avoid 'further harm from taking

place’, but “*the public authority shall either comply with or reject the recommendations of Lokpal . . . and Lokpal, if it feels important, may approach appropriate High Court for seeking appropriate directions to the public authority*”. The most shameless provision, which turns the high-profile Lokpal into a paper tiger is inscribed in Section-18(iii) that says, “*The conduct of an investigation under this Act against a public servant in respect of any action shall not affect such action, or any power or duty of any other public servant to take further action with respect to any matter subject to investigation*”. Given this provision, is there any doubt that a corrupt politician, bureaucrat or judge would be able to continue his acts of corruption besides tampering with evidences whatsoever of allegation against him available in his office.

Coming back to the promise of Jan Lokpal Bill to send any corrupt politician, judge or bureaucrat to jail within two years of the complaint received against him, a proviso to sub-section (i) of Section-18 stipulates that “*the preliminary enquiry should be completed . . . within one month of receipt of any complaint, and positively within three months.*” . Thus, given the queer and tentative nature of provisions made under different sub-sections of Section 18 as mentioned above, is there any iota of surety that an investigation shall be completed within the next 21 months, “*so that the corrupt politician, officer or judge is sent to jail within two years*”?

To sum up, the Draft Lokpal Bill (version 2.1) need to be purged of the following non-negotiable anomalies so as to bring it into a manageable correspondence with the promises dished out in favour of the Bill by India Against Corruption Team-

- Opening Sentence that limits the jurisdiction of the proposed Lokpal to the Centre only;
- Section 2(12) keeps such top authorities as President, Vice-President and Speaker out from the definition of public servants, and thereby outside the purview of enquiry/investigation by Lokpal.
- Chapter on Grievance Redressal System (Sections 21 and 21A) that doesn’t specify any role for Lokpal to receive, hear and dispose of grievances;
- Section-17 that leaves virtually no scope for the common citizens to directly approach Lokpal by way of allegation or grievance;

- Section 18(iii) that allows the public servants proved corrupt and guilty prima facie to continue to enjoy their position and powers during the investigation of allegations against them;
- The Section 18 (iv) that allows a defaulter public authority the untrammelled freedom to reject the recommendation of Lokpal for staying the implementation of a course of action allegedly ultra vires and gives the discretion to Lokpal to approach High Court for seeking appropriate direction to the public authority in the event of rejection of Lokpal's recommendation by the latter;
- The Section 18(vi) that allows the concerned public authority the freedom to reject the recommendation of Lokpal for transferring or suspending the accused public servant, and gives the discretion to Lokpal to approach High Court for seeking appropriate direction to the public authority in the event of rejection of Lokpal's recommendation by the latter;
- The Section 18 (vii) that allows the concerned public authority the freedom to reject the recommendation of Lokpal for taking any precautionary or preventive measures for the safeguard of public property and for preventing the accused public servant from further acts of misconduct and secreting the assets acquired by corrupt means; This Section also gives discretion to Lokpal to approach High Court for seeking directions to the public authority in the event of rejection of Lokpal's recommendation by the latter;
- The Section 18(viii) allows the President the discretion to accept or reject the recommendation of Lokpal made against a corrupt Minister or Member of Member of Parliament; this Section also exempts Prime Minister from the purview of investigation by Lokpal;

On a closer scrutiny of the clause-wise provisions of the JL Bill, many more non-negotiable anomalies shall come to our notice. And that should be the business of all of us who in their heart of hearts wait along with Anna Hazare for an effective draft law on Lokpal to emerge from the deliberations of the Joint Drafting Committee.

Mr. Aksaya Kumar Das, an eminent social activist, President of Orissa Jala Suraksha Jana Manch, in his talk expressed serious concern over several objectionable elements in Anna's Jana Lokpal Bill as pointed out by the analysts. It seems the vested interests have already made inroad into Anna's India Against

Corruption Team simply to frustrate Anna's dream of a corruption free India. On several occasions in the past such black-sheep have succeeded in derailing the big, big nation-wide campaign against corruption, said Mr.Das. He concluded by saying that all the well-meaning citizens remain ever vigilant against such potential saboteurs and betrayers.

The President Mr.Khirood Rout before formally closing the proceedings of the Seminar, summed up its recommendations as follows:

- *The proceedings of the Seminar when made ready shall be shared with all the participants along with media persons;*
- *A copy of the proceedings shall be mailed to India Against Corruption Team and its leader Mr.Anna Hazare and to other members of Joint Drafting Panel on Lokpal Bill; and*
- *The next round of discussion involving a larger number of lawyers, social activists and media persons to be held at the earliest for a further critical review of Jan Lokpal Bill.*

Then the President declared the proceedings of the Seminar closed and over.

Mr.Raj Kishore Singh, a noted social activist rose to offer a vote of thanks to all the speakers and participants of the Seminar and also Basundhara which ungrudgingly provided the logistic support including its auditorium for the successful holding of the event. Expressing the hope that all the participants of today's Seminar shall devote themselves to reading and re-reading of Draft Jan Lokpal Bill so as to contribute to the ongoing efforts for drafting a strong anti-corruption law, Mr.Singh thanked everybody again for their informed participation in the Seminar on a burning issue of the day.

On behalf of Seminar Participants
S/d Kshirod Kumar Rout,
President, Progressive Lawyers Association
D/917, Sector-6, CDA, Cuttack-14, Orissa
Email: kshirodroutadv@gmail.com

List of Participants of Seminar at Cuttack, Orissa on Jan Lokpal Bill -

Mr.Khirod Rout, Advocate	President
Mr.Chitta Ranjan Mohanty, Advocate	Speaker
Mr.Akshay Das, Advocate	Speaker
Mr.Asit Kumar Jena, Advocate	
Mr.Brundaban Rout Advocate	
Mr.Subha Bikash Panda Advocate	Speaker
Mr.Rabindra Nath Sahu, Advocate	
Mr.Rajendra Kumar Dash, Advocate	
Mr.Gyan Ranjan Ray, Advocate	
Mr.Gadadhar Sahu, Advocate	
Mr.Dipak Kumar Dash, Advocate	Speaker
Mr.Tushar Kanta Nayak Advocate	
Mrs.Giribala Behera, Advocate	
Mr.Pratap Keshari Deo, Advocate	
Mr.Giridhari Singh, Advocate	
Mr.Dharmesh Nayak, Advocate	
Mr.Bikash Routray, Advocate	
Mr.Manoj Kumar Mohanty, Advocate	
Mr.Chitta Ranjan Behera, Advocate	Speaker
Mr.Bikash Mohanty, Advocate	
Mr. Ramesh Sahoo, Advocate	
Mr.Rabi Narayan Mohanty, Social Activist	
Mrs.Rini Mohanty, Basundhara	
Mr.Harihar Nayak, Basundhara	
Mr.Ajit Kumar Rana, REBORN, CDA, Cuttack	
Mr.Surendra Kumar Rout, Social Activist	
Mr.Basudev Samal, Trade Union Leader	Speaker
Mr.Raj Kishore Singh, Social activist	
Mr.Tophan Das, Social Activist	
Mr.Gangadhar Baral, Project Swarajya	
Mrs.Snigdha Biswal, Lecturer	
Mrs. Saila Behera, Secretary Basundhra	Speaker
