

The central government introduced the Lok Pal and Lokayuktas Bill, 2011 and the Constitution (116th Amendment) Bill, 2011 on December 22, 2011, which has incorporated some of the recommendations of the Department Related Standing Committee on Personnel, Public Grievances, Law and Justice. The Lok Pal Bill, 2011, introduced in the Lok Sabha on August 4, 2011, was withdrawn by the government. The Bill introduced on August 4 was referred to the Standing Committee, which tabled its report on December 9, 2011.

Comparison of the Lok Pal Bill, 2011; the Standing Committee Report on the Lok Pal Bill; and the Lok Pal and Lokayuktas Bill, 2011

Key Issues	Lok Pal Bill, 2011	Standing Committee Recommendations	Lok Pal and Lokayuktas Bill, 2011
Issues of autonomy			
Constitutional status of Lok Pal	Not included	Office of the Lok Pal should have Constitutional status. Details of the office can be given in a separate Bill.	A Constitution Amendment Bill was introduced to give constitutional status to the Lokpal and State Lokayuktas.
Grievance Redressal Mechanism	Not included	Constitutional status to grievance redressal mechanism. Separate law to guide citizens on procedural matters; acknowledge a citizen's complaint within fixed time-frame; and may exclude certain services, which have supply constraints such as power, water etc.	The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 was introduced on December 20, 2011 in the Lok Sabha. Constitutional status not given.
Jurisdiction of Lok Pal			
Prime Minister	Clause 17(1)(a): Inquiry after the Prime Minister demits office.	Committee left it to Parliament to decide stating that each view has its pros and cons. Views proposed: (i) Exclude PM; (ii) Include PM; (iii) Include PM after he demits office; (iv) Include PM with exceptions for national security, foreign affairs, atomic energy and space; (v) Include PM subject to clearance for his prosecution by both Houses of Parliament in a joint sitting.	Clause 14(1)(a): PM included (current and former) with safeguards: (a) Lok Pal cannot inquire into a complaint against the PM if it is related to international relations, external and internal security, public order, atomic energy and space. (b) Full bench of the Lok Pal has to consider the initiation of inquiry against the PM and at least 3/4 th of the members have to approve. (c) Such inquiry shall be held in-camera and if the Lok Pal decides to dismiss the complaint, records shall not be made public.
Bureaucracy	Clause 17(1)(d): Group 'A' officers and persons of equivalent ranks in PSUs under Lok Pal's ambit.	Centre: Group 'A' and 'B' officers to be covered by Lok Pal. Group 'C' and 'D' officers to be covered by the Central Vigilance Commission (CVC). State: Lokayukta to cover all groups of employees. Sanction not required for any group of employees.	Clause 14(1)(d),(e): Group 'A', Group 'B', Group 'C' and Group 'D' officers covered by the Lok Pal. Clause 75(1)(d): All employees of the state covered under Lokayuktas.
NGOs, corporate and	Clause 17(1)(g): Included if (a) annual income above specified	All entities including NGOs, corporate, and media to be included with some exceptions. Only those entities which	Clause 14(1)(f),(g),(h): Included if (i) established by an Act of Parliament, or <i>wholly or partly financed</i> by the central government, or

media	amount, (b) funded by govt or public donations. Specifically excludes religious institutions.	are <i>owned or controlled</i> by the government above a specified degree or receive public donations above a specified amount or receive donations under the Foreign Contribution Regulation Act above Rs 10 lakh per year.	controlled by the central government; (ii) <i>wholly or partly financed or aided</i> by the government and has an annual income above a specified amount; and (iii) receives public donation and has an annual income above a specified amount or receives foreign funding above Rs 10 lakh a year under the Foreign Contribution (Regulation) Act, 2010. Religious institutions covered under the Lok Pal.
Vote and speech of MPs in House	Clause 17(2): Vote and speech excluded.	No change recommended in protection given to MPs' vote and speech in Parliament and Committees under Article 105 of the Constitution.	Clause 14(2): No change.
Judiciary	Not included	Exclude judiciary and quasi-judicial authorities. Establish National Judicial Commission for appointing and dismissing judges.	Not included.
Lokayuktas in states			
Lokayukta	Not included	Single, central law to deal with Lok Pal and state Lokayuktas to ensure uniformity in prosecution of public servants.	From Clause 63: Part III of the Bill gives details of the constitution of Lokayuktas in the states. To have jurisdiction over the CM, Ministers, MLAs, all state government employees and certain private entities. Specifically excludes religious institutions.
Composition of Lok Pal			
Qualifications	Clause 3: Chairperson to be either a sitting or former judge of Supreme Court.	Chairperson could be a non-judicial member also.	Clause 3(2): Allows non-judicial members to be Chairperson. At least 50% of Lok Pal members to be SC/ST/OBC/ women/minorities.
	Judicial members to be SC judges or HC Chief Justices. Non-judicial members to have 25 years of experience in anti-corruption policy, vigilance, etc.	In addition, Lok Pal should exclude a person (a) convicted for offence involving moral turpitude, (b) less than 45 years old, and (c) who has left government service within 12 months of his appointment.	Clause 3(4): Excludes MPs and MLAs, person convicted of offence involving moral turpitude, less than 45 years old, member of a Panchayat or municipality, a person who has been removed from service of the centre or state from qualifying to be a Lok Pal member.
Selection of Lok Pal			
Process	Clause 4: Selection Committee to recommend candidates to President. The Committee may form a search committee.	Should be mandatory to constitute a search committee but recommendations are not binding on the Selection Committee.	Clause 4(3): Selection Committee shall constitute a search committee to prepare a panel of candidates for consideration. Selection Committee may also consider candidates not recommended by the Search Committee.
Composition	<i>Selection Committee:</i> PM, Speaker, Leader of Opposition (LoP) in both Houses, Cabinet	<i>Selection Committee:</i> In addition to PM and Speaker, it should include the Chief Justice of India (CJI), an eminent Indian unanimously nominated by the CAG, CEC and	Clause 4(1),(3): <i>Selection Committee:</i> PM, Lok Sabha Speaker, LoP in the Lok Sabha, CJI or a Judge of the Supreme Court nominated by CJI and one eminent

	<p>minister, eminent jurist, eminent person, judge of SC and Chief Justice of a HC.</p> <p><i>Search Committee:</i> Persons with expertise in anti-corruption, vigilance, etc.</p>	<p>UPSC chairman and only LoP of the Lok Sabha.</p> <p><i>Search Committee:</i> Should have minimum seven members with 50 per cent members from SC/ST/OBC/minorities / women.</p>	<p>jurist nominated by the President.</p> <p><i>Search Committee:</i> At least 7 members who shall be persons having expertise in matters related to anti-corruption policy, public administration, vigilance, and finance. At least 50% of the members shall be SC/ ST /OBC/women/minorities.</p>
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Removal of Lok Pal

Complaint referral	<p>Clause 8: President may remove member after Supreme Court inquiry. SC may inquire based on reference from President on his own or on a citizen's petition or on a petition signed by 100 MPs.</p>	<p>A citizen should be allowed to approach the Supreme Court directly with a complaint. If admitted, it would be heard by a five judge bench.</p> <p>If President does not refer a citizen's petition, he should give reasons.</p>	<p>Clause 37: Same as the Lok Pal Bill, 2011.</p>
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Process of investigation and prosecution

Role of CVC and CBI	<p>No mention of role of Central Bureau of Investigation (CBI) and Central Vigilance Commission (CVC). Lok Pal to have own Investigation and Prosecution Wing.</p>	<p>CVC should investigate Group C and D employees (currently dealt by departmental authority). File periodic reports to Lok Pal.</p> <p>Instead of Lok Pal's investigation wing, the CBI should investigate cases after preliminary inquiry by the Lok Pal. CBI has autonomy over its investigation. Lok Pal shall have supervisory role over CBI in relation to Group A and B officers.</p>	<p>Clause 20(1),(2),(3): The Lok Pal shall refer a preliminary inquiry against Group A, B, C, D officers to the CVC. After conducting the inquiry, the CVC shall submit a report to the Lok Pal in case of Group A and B officers. The CVC shall proceed according to specified procedure in case of Group C and D officers. CVC shall send periodic reports to Lok Pal on its cases.</p> <p>If a prima facie case exists against a public servant, the Lok Pal may refer the case for investigation to the CBI. The Lok Pal may also refer a case for preliminary inquiry to the CBI (other than Group A,B,C,D officers). Lok Pal shall exercise general superintendence over CBI (similar to CVC's supervision currently).</p>
Appointment of CBI Director	<p>No provision.</p>	<p>No recommendation given.</p>	<p>Appointment of CBI Director and officers above Superintendent of Police amended. Director to be appointed by the central government on the recommendation of PM, LoP of Lok Sabha and CJI or judge of Supreme Court.</p> <p>Superintendent of Police and above to be appointed by the central government on recommendation of CVC, Vigilance Commissioners, Secretary Home Affairs, Secretary DoPT.</p>
Inquiry and investigation	<p>Clause 23: Initiate inquiry only on complaints by citizens. Lok Pal to refer it for a preliminary</p>	<p><i>Inquiry:</i> Lok Pal shall conduct only the preliminary inquiry. Allow suo motu initiation of inquiry. In such cases, inquiry to be done by 5 member bench of Lok Pal unconnected with</p>	<p>Clause 20: <i>Preliminary inquiry:</i> The Bill sets up an Inquiry Wing under the Lok Pal.</p>

	<p>inquiry or a preliminary investigation. If there is a prima facie case, Lok Pal will conduct an inquiry or investigation. The accused has the right to be heard at both stages.</p>	<p>suo motu initiation. No opportunity to be heard at this stage.</p> <p><i>Investigation:</i> If there is prima facie case, refer matter to the CBI for investigation. Reference shall be decided by a 3 member bench of the Lok Pal. CBI to file charge-sheet or closure report with approval of Lok Pal. Accused to be given a hearing before charges are framed. CBI should complete investigation within 6 months which may be extended to another 6 months. Lok Pal to have general superintendence over CBI. CBI can also initiate suo motu investigation.</p>	<p>No suo motu power to inquire given. On receipt of a complaint, Lok Pal shall first decide whether to proceed on the matter. If it decides to do so, it shall order a preliminary inquiry by the Inquiry Wing or CVC or CBI or any other agency. During inquiry, comments of the public servant and competent authority shall be obtained. The preliminary inquiry shall be completed within 90 days of receipt of complaint (can be extended for 90 days with reasons given in writing).</p> <p><i>Investigation:</i> A 3-member bench of the Lok Pal shall decide if a prima facie case exists after receiving the inquiry report. The concerned public servant shall be given an opportunity of being heard. If it decides that a prima facie case exists, the Lok Pal may (i) refer the matter for investigation by the CBI or any other agency; (ii) initiate departmental proceedings against the public servant by the competent authority; (iii) close the case and proceed against the complainant for making a false and frivolous complaint. The investigation shall be completed within 6 months (extension of 6 months allowed).</p> <p>Director of Inquiry Wing to be appointed by Chairperson of Lok Pal from a panel of names recommended by the central government.</p>
<p>Prosecution or disciplinary action</p>	<p>Lok Pal's prosecution wing may file case in Special Court or recommend disciplinary action against public servant.</p>	<p>Lok Pal should retain power of prosecution based on CBI's report.</p>	<p>Clause 20: Every investigation report shall be considered by a 3-member Lok Pal bench and it may decide to (a) file a charge-sheet or closure report before the Special Court; (b) initiate disciplinary proceedings against the public servant by the competent authority. In case of PM, Ministers and MPs, report shall be sent to the House which shall report back on any action taken within 90 days.</p> <p>If the Lok Pal decides to file charge-sheet, it shall direct its Prosecution Wing to initiate prosecution in the Special Court.</p> <p>Director of Prosecution Wing to be appointed by Chairperson of Lok Pal from a panel of names recommended by the central government.</p>
<p>Power of suspension</p>	<p>Clause 35: Lok Pal can recommend transfer or suspension of public servant pending inquiry.</p>	<p>Recommendation has to be mandatorily accepted by competent authority. It may not be accepted only if 3 persons of Ministers of State rank (Ministry of Home, Personnel and the administrative Ministry) decide against it. In case of MPs, the presiding officer of a House may record in writing any action taken against them.</p>	<p>Clause 32: Lok Pal can recommend transfer or suspension of a public servant while conducting preliminary inquiry. The central government shall ordinarily accept the recommendation except for reasons given in writing.</p>
<p>Special Court</p>	<p>Clause 38: Special Courts to adjudicate cases.</p>	<p>Special Court should be allowed to try cases other than those under the Prevention of Corruption Act, 1988 (PCA).</p>	<p>Clause 35: No change. Trial to be completed within 1 year (extension of up to 1 year allowed).</p>
<p>Confiscation</p>	<p>No provision.</p>	<p>There should be power of confiscation of assets arising</p>	<p>Clause 31: If the Special Court on prima facie evidence believes that a</p>

of assets		from corruption by the accused.	public servant procured assets by corrupt means, it may authorize confiscation of such assets. If the public servant is later acquitted, such assets shall be returned to the public servant.
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Penalties

False and frivolous complaints	Clause 49(1): Penalty is imprisonment for 2 to 5 years and a fine between Rs 25,000 and Rs 2 lakh.	Term of imprisonment should be decreased to a maximum of six months. Amount of fine should not exceed Rs 25,000. Specifically provide for complaints made in good faith in line with the Indian Penal Code (IPC).	Clause 46: Penalty is imprisonment for a maximum term of 1 year and a fine of up to Rs 1 lakh. Does not apply to complaints made on good faith (as defined in IPC).
Offences in PCA	Clause 59: Penalty for criminal misconduct and 'habitually' abetting bribery is imprisonment of 5 to 7 years.	Maximum term of imprisonment should be increased to 10 years. Suggested enhancement of penalties for other offences in the PCA.	Clause 58: Penalty for various offences in the PCA enhanced. For public servant taking gratification and abetting public servant, jail term increased to 3-7 years from 6 months-5 years. For criminal misconduct, jail term increased to 4-10 years from 1-7 years. For 'habitually' abetting, jail term increased to 5-10 years from 2-7 years.

Reports of Lok Pal

Reports	Lok Pal shall submit annual report with summary of activities to the central government. It shall be laid in Parliament.	No recommendation.	Clause 48: Lok Pal shall submit annual report to the President on activities. The President shall lay the report in Parliament along with a memorandum explaining the reasons why the advice of Lok Pal was not taken in certain cases.
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Other related issues

Article 311 of Constitution	No amendment proposed in Article 311 (requirement of inquiry to remove govt officer).	Article 311 should be amended or replaced with a statute. This provision is used to delay investigation and prosecution of corrupt public servants. The rules and regulations related to this article should also be examined.	No change.
Whistleblower & phone tapping	No provision	Provisions of the Public Interest Disclosure Bill should also be applicable to the Lok Pal. No power to tap phones should be given to the Lok Pal.	No change.

Sources: The Lok Pal and Lokayuktas Bill, 2011; the Lok Pal Bill, 2011, the Department Related Standing Committee Report on the Lok Pal Bill, 2011 and PRS.

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