

COLLECTIVE AND CONCURRENT LOKPAL ANTI-CORRUPTION AND GRIEVANCE REDRESS MEASURES

The purpose of this exercise is to present to the government a well thought out and widely discussed set of measures that could be simultaneously and collectively adopted to prevent corruption at all levels, especially in high places, and to effectively redress grievances. Such measures could include the enactment of one or more laws in order to create the required institutions and authorities, the amendment of existing laws and practices, and the strengthening of existing institutions.

The concerns and issues that need to be kept in mind while formulating the anti-corruption and grievance redress measures include:

1. Anti-corruption institutions must be financially, administratively and legally independent of those whom they are called upon to investigate and prosecute.
2. It is essential to have a multiplicity of decentralized institutions, geographically and across levels, with appropriate accountability mechanisms, to avoid the concentration of too much power, especially unaccountable power, in any one institution or authority.
3. Irrational constraints, like the need to obtain prior sanction, to investigate or prosecute should not be allowed.
4. However, institutions and processes must be fair and impartial to both the complainant and the accused, and ensure that honest persons are not harassed in the process of investigation and prosecution.
5. Each anti-corruption institution must itself be accountable in the same manner that it seeks to make other institutions accountable.
6. Appointments to these institutions must be done transparently and in a participatory manner, so as to minimize the chances of the wrong sorts of people getting in.
7. The functioning of each of these institutions and authorities must also be transparent, while protecting whistle blowers and respecting legitimate privacy and other concerns, as laid out in the RTI Act. Efforts must be made to proactively disclose as much information as possible, complying with and moving beyond section 4 of the RTI Act.
8. Institutions must each be of a manageable size, with no one institution becoming so large that its effective management and control becomes a problem.
9. Similarly, institutions and authorities should not be allowed to be overwhelmed but should be so designed that they can deliver results within a reasonable time frame.
10. If democratic institutions falter or weaken, there is no alternative to repairing and strengthening them. Setting up a parallel regulatory or decision making process is unlikely to help and such a parallel system is likely to itself get corrupted.
11. Consequently, at the very least, initial complaints must lie with each public authority, and they must be given an opportunity of setting their own house in order. Only appeals against what are seen as unsatisfactory responses should come to the proposed independent bodies.
12. The basic framework of the Constitution need not be challenged and solutions could be found that are within the framework of the Constitution.

13. In order to ensure that the proposed institutions and authorities are themselves credible and not prone to mutual back-scratching, circular powers of oversight must be avoided where institutions and authorities oversee each other's functioning and integrity.
14. In order to ensure efficacy and independence of an institution, it must be given adequate powers and resources to both investigate complaints and to ensure the effective prosecution of cases.
15. The development, in a bottom up manner, of appropriate citizen's charters, as also the codification of a comprehensive set of entitlements for citizens, both in service delivery as well as for democratic rights, should be a pre-requisite to the setting up of a grievance redress mechanism.
16. Lessons need to be learnt from the experience with social audits, especially in relation to the MGNREGA. These lessons should influence the design and practice of social audits for large government expenditures and contracts. Social audits should also be conducted for assessing policies and their impacts.
17. The window of opportunity currently available, because of the widespread public sentiment against corruption, must be respected and fully utilized to bring in these measures as soon as possible.

Following from these principles, some of the measures that need to be concurrently and collectively implemented include:

1. Enacting a legislation for the setting up of Lokpal/Lokayukta Anti-Corruption Lokpals (*Rashtriya/Rajya Bhrashtachar Nivaran Lokpal*) at the Centre and in each of the states, that would receive, investigate and ensure effective prosecution of complaints about corruption relating to all elected representatives, including the Prime minister, Chief Ministers, Central and state Ministers, MPs, MLAs, MLCs, elected councilors, etc, and all class A officers, and to prosecute those against whom sufficient evidence is found. They would also have the power to investigate and prosecute any other person who is a co-accused in any of the cases being investigated or prosecuted by the Lokpal.
2. Amending the *Judicial Accountability and Standards Bill*, that is currently before the Parliament, to ensure that the judiciary is also made effectively and appropriately accountable, without compromising its independence from the executive or the integrity of its functions.
3. Drafting an act that provides for the setting up and functioning of Public Grievances Lokpal (*Shikayat Nivaran Lokpal*) at the centre and in each of the states. These commissions would have powers to ensure that detailed citizen's charters and norms of functioning are prepared for each public authority. They would also ensure that other entitlements and rights are codified, and that the obligations of each public authority are fulfilled. The grievance redress commissions would have decentralized institutional mechanisms going right down to each ward/block level, and would ensure a bottom up people centric approach so that complaints and grievances could be dealt with speedily and in a decentralized, participatory and transparent manner. The functioning of the grievance redress processes could be linked to the RTI Act and also to recent, time-bound, service delivery laws providing for the imposition of

penalty on officials who do not meet the prescribed time frames for providing services to the public. The experience of the Delhi Grievance Redress Commission could also be instructive.

4. *Strengthening the institution of the CVC* and bringing in under its purview all officers not covered under the Lokpal bill. Towards that end, providing the institution of the CVC with adequate investigative and prosecution powers and resources. Creating similar, independent, State Vigilance Commissions for each of the states, and also strengthening departmental enquiry procedures.
5. An effective legislation to protect whistleblowers will be enacted. In addition, each of these institutions would also have provisions for protecting whistleblowers and their identity.

Each of these institutions and authorities will function transparently and will have to be accountable to the public for their actions (and inactions) through strong and effective accountability measures. An option that can be considered is that only one law be enacted that would contain all these proposed institutions and measures. However, the institutions must be separate and independent of each other.