

RAJYA SABHA

***SUPPLEMENT
TO
SYNOPSIS OF DEBATE**

(Proceedings other than Questions and Answers)

Saturday, August 27, 2011/ Bhadrapada 5, 1933 (Saka)

DISCUSSION ON THE STATEMENT BY MINISTER

Issues relating to setting up of a Lokpal-Continued

SHRI D. RAJA: Our country has been passing through a very turbulent period in its political life and we all, collectively, will have to address certain basic issues. India, which started as a welfare state, has gradually, been emerging as a neo-liberal state. We find enormous growth of corporate houses. Corporate houses dictate the policies of the Government and are also influencing and manipulating them and resorting to all corrupt practices. It is the entire nation's cause to fight corruption.

An all-party meeting was held on 24th August, 2011 in which unanimously we made an appeal to Mr. Anna Hazare to end his fast and we said, that the present Bill is very weak and inadequate; we need a strong Lokpal and the Government will have to work on a strong Lokpal. In the new Bill, the Government can take inputs from various quarters. The Prime Minister, can also be brought within the ambit of Lokpal. What is wrong in it? Judicial Accountability is a must today and we need a corruption-free independent Judiciary.

***This Synopsis is not an authoritative record of the proceedings of the Rajya Sabha.**

With regard to Lokayuktas, we are federal country and we function on the basis of federal principles and one should not think of imposing certain things on States. In composition of the Lokpal, I think it has to reflect the social inclusiveness there and it has to have representation from SCs/STs, backward classes, women and minorities. Only then, people will have some confidence in the institution of Lokpal. People will look at it as an institution which can deliver fair justice to every section of the society. I think, diversion of funds is also corruption.

The Government can negotiate directly with Shri Anna Hazare on the three questions raised by Shri Anna Hazare and his team. We claim that Standing Committees are mini-Parliaments but the Standing Committees' opinions are just recommendatory. We need to discuss the question of functioning of Standing Committees also. How does our law function in our country? We will have to keep this in mind. In India, it is a kind of anarchy that is emerging and such a situation is very bad and political parties will have to apply their minds together in order to overcome this crisis. We should carry on this fight against corruption.

SHRI PAUL MANOJ PANDIAN: In the backdrop of 2G scam and the various scams which were detected very recently, it has now become the need of the hour to discuss about a Bill like the Lokpal Bill. Regarding the establishment of an organisation like the Lokpal, we have to see how it has to be in consonance with the legal provisions of various Acts, and mostly, with the provisions of the Constitution. In the proposed Bill, it says that matters pending before any Court, Committee or authority for inquiry before Lokpal are not to be affected.

Can there be two simultaneous prosecutions? It is the violation of Constitution under Article 20. It has to be taken note of by the Standing Committee. The AIADMK is of the firm view that the Prime Minister should be out of the purview of the Lokpal. My view is that the Prime Minister who is under the purview of the Prevention of Corruption Act, need not be brought under the purview of the

Lokpal. Appointment of Lokayukta is a State subject, so it must be left to the State. Inclusion of lower bureaucracy within the purview of Lokpal, would only be counter productive. Does the Bill give the powers to remand before the Lokpal? This lacuna with regard to the arrest has to be addressed. If a complaint is given by the Lokpal, it has to be through the Director of Prosecution. There is no mention about the Central Vigilance Commission in the proposed Lokpal Bill. Standing Committee must take note of the fact that for initiating any criminal action against a Judge, permission of the Chief Justice is necessary. We cannot pass a Bill which is struck down as unconstitutional. Therefore, I appeal to this August House to take note of all legal issues while framing this comprehensive Bill with regard to the Lokpal.

SHRIMATI SHOBHANA BHARTIA: I think that there is a National Consensus against corruption. The need of the hour is that Parliament bring in a strong Bill to tackle this menace. I have no hesitation in saying that we need to weed out corruption at each and every level. I am sure that the constitution of a strong Lokpal with proper safeguards will be a beginning in the right direction. I think the office of the Prime Minister needs to be brought under the ambit of Lokpal. Keeping the Prime Minister out may send a wrong signal. I think the areas of National Security, foreign policy and defence need to be kept firmly out of the purview of any investigation by the Lokpal. As far as judiciary is concerned, it should not be under the Lokpal. I think, we should move towards a National Judicial Commission. I think while the higher bureaucracy should be kept under the ambit of the Lokpal, the lower bureaucracy should be overseen by the CVC.

As far as citizen's charter is concerned, inefficient delivery of services can be because of corruption but may not necessarily be only because of corruption. I believe that there should be a separate legislation which should take care of inefficient delivery of services and this should not form part of the current proposed draft Lokpal Bill. As far as CBI is concerned, I certainly believe that the CBI should be made independent. If we want to have credibility in the

actions, our investigative agencies must be independent. We believe in the principle that there should be a strong Lokpal at the Centre and Lok Ayukta at the State. We should discuss and debate every clause of Lokpal Bills and make sure that the new Lokpal Bill that will come out of the Standing Committee is a Bill that will serve us for centuries to come.

SHRI BIRENDRA PRASAD BAISHYA: Public opinion is in favour of having the strongest Lokpal. My party, Asom Gana Parishad is supporting the movement led by Annaji and his Jan Lokpal Bill. Asom Gana Parishad is also in favour of having a strong Lokpal in the Centre and a strong Lokayukta in the State. My party is in favour of having a Judicial Commission. Our opinion is that all corruption-related issues of Members of Parliament should be brought under the purview of the Lokpal. As regards Public Grievances and Citizen's Charter, we are in favour of this demand. We also support this demand that the lower bureaucracy should also be brought under the purview of the Lokpal.

SHRI SHANTA KUMAR: Today poverty, hunger, rise in prices and injustice are on rise in our country and the main reason behind it, is corruption. Crimes take place due to economic imbalance and corruption. These are the causes for growing naxalism. People are losing faith in political system. We have to restore this faith of the people.

The Government took six years to ratify the treaty signed between UNO and 192 countries in regard to black money deposited in foreign banks. Today people of the country are out on the street. Anna Hazare has done a historical work. This is a different situation. I urge upon him to break his fast. Our credibility in the society is being eroded. We have to restore it by passing this Lokpal Bill.

SHRI SATYAVRAT CHATURVEDI : To check corruption, strong law is needed. The Constitution of India is supreme and the Parliament of the country is a highest body to make law. To establish crime-free, corruption-free, injustice-free and caste-free society is our ideal. Whether the Lokpal Bill of the Government is

correct or the Jan Lokpal Bill designed by Team Anna is correct, this is controversial. I respect the constitutional rights of Anna Hazare. But our Constitution does not allow anyone to violate the basic principles established by it. All the six controversial issues must be debated. But we should not make a law in haste or under pressure. The Prime Minister is the Chief Executive of the country. I don't say that the Prime Minister should be kept beyond any control. The Prime Minister is already under control of the Constitution, the Parliament and the anti-corruption law. A law must be framed for Judiciary. If the Members of Parliament are brought under the purview of the Lokpal, I don't have any objection. As we made a central model law in regard to Panchayati Raj and handed over to States, we must do something in the same manner. We would have to amend the Article 311 of the Constitution to bring lower bureaucracy in its purview, but the political environment is not favourable. Secondly, its procedure takes too much time. We have to make coordination. Our last motto is to have an effective law.

SHRI MOHAMMED ADEEB: Today, third debate is being held on this issue. I don't understand why this debate is being held. Shri Annaji has been told to break his fast, but he is stubborn. The prestige of the Parliament is being mocked at. It is said that Prime Minister will be included in this Bill. How will he run the Government? The issue is not of corruption, some other conspiracy is behind this agitation. It is said that they are social people. Somebody has become social activist and he will run the country. The Members of Parliament have been ridiculed. I want to say that all the three issues have been debated. How will infrastructure be developed for Lokayukta? Annaji should leave his stubbornness. Today you will pass a Resolution and thereafter if he does not agree, what will happen? I will request this House that those people who defamed the Parliament, should be told that you have got no right to defame the Parliament. The vigilance department should be made more stringent. Black money of crores of rupees is generated daily. Whether Lokpal can stop this? This country progressed, money started increasing and

people's character started deteriorating. Strict action should be taken against those people who have violated traffic rules.

SHRI M.V. MYSURA REDDY: With the acquaintance of Anna Hazare group, I had also introduced the Jan Lokpal Bill in this very House. I appeal Shri Anna Hazare, to end his fast. The Prime Minister should also be brought within the purview of the Lokpal with limited safeguards. Our party feels that there should not be any majority for the Government in the selection process of Lokpal. Our party is in conformity with the Judicial Commission and also the Judicial Accountability Bill. There is no need that the conduct of Members within the House is brought under the purview of the Lokpal. The Lokpal Bill, with an enabling provision, can become a model Bill which States can adopt. If a public servant is guilty of an allegation, the Lokpal and Lokayukta can report to the appropriate Government. The Government concerned can impose such punishments as prescribed by laws and the Action Taken Report can be sent to the Lokpal/Lokayukta. If the Government wants to bring Redressal Bill, there should be an enabling provision for the States to adopt such type of Citizen Charters and redressal mechanism. Our party is of the opinion that Lokpal alone cannot root out corruption. The other legislations can also be brought in simultaneously. The corporate sector can also be brought within the ambit of Lokpal.

DR. BHARATKUMAR RAUT: I appeal Hon'ble Anna Hazare to withdraw his fast immediately. We support a strong Lokpal Bill, which will remain within the framework of the Constitution. We also support the demand to bring the lower bureaucracy under the purview of Lokpal. We also support uniform Lokayukta laws at the State level. All babus should come under that. There should be a provision in the Bill, by which the Parliament should be able to impeach a guilty Lokpal. There should be a special desk under the Chief Justice of India where common man's complaint against Lokpal or Lokayukta can be lodged. There should be a timeframe for investigating into a complaint filed by a citizen. Poor man should be provided financial assistance for legal battle.

The CBI and the Judiciary should also be kept out of the purview of the Lokpal Bill. But, there should be a separate mechanism on the lines of CVC to control the CBI and the Judiciary. I think that the National Judicial Commission or something like that should be there. This Bill should not be passed in a hurry. It should not be passed under any pressure. We should have a positive discussion. We can have a separate special Session for a week, after the Monsoon Session or before the Winter Session to pass only the Lokpal Bill. The Government should pass a resolution so that we can honestly appeal to Shri Anna Hazare to withdraw his hunger strike.

SHRI RAVI SHANKAR PRASAD : Parliament is the sentry of democracy. It is the biggest Panchayat of the country. Here we have freedom of expression. The voice of Parliament was gagged only in 1975-76 and its outcome was very bad. Now, we should accept what Shri Anna Hazareji is doing on the Ramlila Maidan. We have committed some mistakes on account of which the nation puts question to us. A lot of money is deposited in the foreign banks and there is the short of sugar, vegetables and many such things in the country. Now, this is the high time that we should improve ourselves. Lakhs of youths have made demonstration in Mumbai. We should realize the agony of their heart. I think that the Prime Minister should be included in the Lokpal Bill. The country respects the post of Prime Minister. He will never be implicated falsely. When a poor man goes to take old-age pension, income tax certificate or domicile certificate, he suffers much hardship. Therefore, all categories of employees should be included in it. We should honour the Citizen Charter. I fully support the three demands made on the part of Annaji. Today, the country has awakened. As representatives of the people, we should feel the pain of those who are wandering, wearing the Anna's cap. I also appeal to the media to discontinue 'paid news'. Media has really played an important role to expose corruption in the country. As a sentry of democracy, the media should strengthen its freedom. Though the NGOs have done very hard work, corruption is also prevalent therein. As they get a lot of fund from India and abroad, they should be made accountable. The same is the plight of the

corporate sector. Many persons of the corporate sector are now in prison. Today, the dignity of politicians has declined. We have to restore that dignity. I want to tell the supporters of Annaji that the country will run by means of democracy.

DR. PRABHA THAKUR : We are all aware of the fact that Annaji is a patriot and his intention is noble. He is well known as a social worker. He is a simple and noble person. But, I have doubts in respect of his team. The persons belonging to his team are misleading the entire country saying that they are the members of a Civil Society. I want to know to which civil society they belong. Are they the representatives of people elected from that civil society? By making such statements, they are insulting Parliament and the people who have elected us as their representatives. They are saying that the official bill will not be accepted. Then, which regime are they talking about, under which the laws will be passed? I want to know from the team of Anna from which source they are meeting the expenses for feeding people who are living in the tents. Misleading statements have perturbed us. Anarchy is prevalent in Delhi and children are unable to go to their schools. They call Members of Parliament thieves and plunderers. I ask Kejriwal Saheb why he does not accompany Annaji in his fast. There is no difference in Lokpal Bill and Jan Lokpal Bill. The words 'Jan' and 'Lok' means the same thing. Why was there resentment when Rahul Gandhiji was speaking here as a Member of Parliament?

My submission is that by merely setting -up the Lokpal would not curb the corruption. Who would become the Lokpal? On what ground they would repose faith in Lokpal when they do not have confidence in the Judiciary, Prime Minister and Parliament? Nobody can cast aspersion on the integrity of the Prime Minister. As Parliament, Judiciary, Bureaucracy and Media being four pillars of the democracy, the reasons for excluding Media from it. They should include all the four pillars in it.

SHRI RAM VILAS PASWAN: I am unable to understand the main objective of the present Fasting of Shri Anna Hazare. Does

not the death of a poor person from hunger come under corruption? Do not the atrocities committed on the people belonging to the Scheduled caste and backward class come under corruption? The maximum representation of the people belonging to the under privileged sections, other backward class and minority community is in the third class and fourth class services. Now a conspiracy is being hatched to bring them under the ambit of the Lokpal. There is Legislature only where a very large number of people belonging to the under privileged sections, Adivasis, other backward class and minority community is getting representation. I would also like to state that some persons sitting over there are shouting slogans against the reservation. According to the Lokpal Bill there will be no representation of Members of Parliament in the selection committee of the Lokpal. There will be no member from Scheduled Caste, Scheduled Tribe, other backward class and minority community in it. These people are bye-passing Parliament. I am also of the belief that Prime Minister should be excluded from the purview of the Lokpal. The entire agitation is against the Scheduled Caste and the backward class. When we have 50 percent reservation for Scheduled Caste, Scheduled Tribe and other backward class, I, therefore, demand that women and people belonging to the minority communities should also be included in it.

SHRI JESUDASU SEELAM: We have been discussing the importance of a strong and a very well thought over institution to weed out corruption from this country. It is not that there are no systems in place to curb the corruption. Because of its ineffectiveness, I think, we have to seriously determine to bring a strong Lokpal. We discussed this issue. We have given it the shape of a Bill called Samajik Nyay Lokpal Bill. We would request that this Bill should also be considered along with the other Bills. It is basically touching three-four issues. The Government's Bill is silent on definition. But the Jan Lokpal Bill does mention some sort of a definition. We would like to further expand the definition to include various kinds of denials. I would like to emphasize that discrimination is also a form of corruption. We also would like to urge the Standing

Committee through you that the definition scope should also be enhanced to cover the corporate malpractices and malpractices of media. We are also concerned with the qualification part. Yesterday, my leader mentioned in the other House that they should give a constitutional status to this institution. Appropriate action should be taken to make it a constitutional body. Apart from the qualifications of judicial members, disqualification or appointment of Chairpersons and other members, age limit was nowhere mentioned in the three versions of the Bill. I suggest that it should be around 60. There should be proportional representation to the Scheduled Castes, the Scheduled Tribes, OBCs and the minorities in the composition of the Committee. We should have a strong redressal of citizens' grievances mechanism at the District level. Each Department should notify the redressal officer. We should have reforms not only in the distribution of natural resources but we should also bring about reforms in the other sectors. I hope you are not going to bring the Office of the Prime Minister under the ambit of the Lokpal. In case for some reasons, you want to bring him, bring him with some safeguards. We want a strong system of electoral reforms. We must address the roots of corruption only then the Lokpal can function effectively.

SHRI NARESH GUJRAL : As responsible parliamentarians, it is our duty to live up to our people's expectations and to enact effective laws within the Constitutional framework. People are expecting instant relief. Let us ensure that they are not disappointed. My party Shiromani Akali Dal believes that the Bill will improve the governance and accountability which unfortunately has taken a back seat in recent years. We will now go with the sense of the House, provided the Prime Minister is included for acts other than relating to the national security and public order. We feel that the judiciary should be kept outside the purview of the Lokpal by creating a National Judicial Commission. Misconduct of the members outside the House could come under the purview of the Lokpal. Inclusion of the lower bureaucracy within the Lokpal's ambit is not a matter of objection. We must ensure that the Lokpal is strengthened. Regional parties are apprehensive that the office of the Lokayuktas may be

misused to destabilize Opposition Governments in the States. We fully support the Citizen's Charter. We have recently enacted the Punjab Right to Service Act, 2011. Herein, we shortlisted 67 basic services relating to various public dealings. What we need today is a total systemic revamp. We can only succeed in this endeavour if we reduce the discretionary powers, at all levels.

SHRI RAM KRIPAL YADAV: Today, Annaji's agitation is being discussed in the whole country. I agree that corruption is a major problem. I also agree that Annaji's thinking is very good. But the manner in which Annaji's team wants to act, I believe that, somewhere, the democratic system of the country is being hit. This team is misguiding Annaji to achieve the success. This is, definitely, not a good omen for the democratic system. If somebody says that we do not believe in Parliament, the Standing Committee, then what will happen to the democratic system of this country? We all are concerned that a strong Lokpal Bill should be brought so that the corruption could be controlled. Several members have said that voluntary organizations should not be covered under the Lokpal Bill. Today all the works related to the health, education and social welfare are being carried out through the NGOs. Whether there will not be any control on them? Similarly, why there should not be any control on the corporate sector? Whether they are not involved in corruption? Today, after gathering a few people, it is being tried to overpower the Parliament and the Government. If you want the laws to be enacted as per your will, then you should come to the Parliament. If you want to enact the law using the force and by ignoring the Parliament, the Standing Committee, the democratic system, it is not correct.

PROF. SAIF-UD-DIN SOZ : I saw a situation, after a long time, in this august House, that hon. Pranab Mukherjee and hon. Arun Jaitley both were lustily cheered by the whole House. It was a heartening situation, and I hope, after sometime, we shall reach a consensus. We showed that when it is needed, we are together. One of the Annaji's supporters said that we should look to Tripoli to see the strength of the people's power. It was, wholly, unacceptable to me. India has not wasted 64 years of independence and our achievements

are reflection of that. Now you can see to what extent they can go denigrating Parliament, refusing to accept the fact that both these Houses were chosen as representatives of the crores of people of this country. There was a feeling in my mind that things were going the wrong way in this Andolan. Such people have, through their speeches and statements, denigrated Parliament. They have refused to believe that we are a vibrant democracy, we have a strong secular base and we serve as a model of democracy and pluralism to the world. We must have a strong Lokpal, but we must keep the federal structure of the constitution in mind. And as far as the Lokayukta is concerned, it must be left to the State Legislature. We are a federation of States, we must show respect to our States, and State Legislatures. Then, we must have an institution, a mechanism for redressal of the grievances. We must have a Judicial Commission. Justice Khare and Justice Verma lamented the fact that they didn't have any mechanism in the Judiciary to punish erring Judges. We have to take steps in this direction. This togetherness of the house is exemplary. This is historic movement. Anna ji has created awareness. He should now leave it to parliament. I am fully confident that parliament will do its duty to the nation.

THE MINISTER OF FINANCE (SHRI PRANAB MUKHERJEE), replying to the discussion, said: I would like to express my deep appreciation for all the 26 members who have made their contribution in this important historic discussion as described by the leader of opposition. In my introductory observations, I did not discuss the merits and demerits of Lokpal bill. I particularly concentrated on the event of Anna ji's fast and government's response thereto since April 5th of this year. And, this time we made an exception because the situation is grave. For the 40 years the debate is going on that what should be the structure of Lokpal. I am not passing any blame to anybody for this long period of 42 years.

Therefore, an agitation is taking place by a Gandhian and receiving massive support from the people on the issue of constitution of Lokpal. Unfortunately, despite our efforts and nine meetings with civil society, we could not have 100 percent agreement. Out of 40 basic principles, we had agreement on 34 issues and all those have

been incorporated in the Lokpal bill which is under consideration with the standing committee. Criticism has been made that it is a weak Bill. It does not reflect the desire of political parties. The member of political parties represented in the parliamentary standing committee can move amendments to strengthen the bill. There is no reason that the Bill be withdrawn. What is the justification of this demand? What is the logic of burning the copies of the Bill in Public? In democracy, there will be disagreements.

Do we seriously believe that with the passage of Bill all corruption will be eradicated? One piece of legislation may be complete or fool-proof. But my respectful submission is that many more efforts have to be made. Many of you have made good suggestions. Question of independence of Lokpal has arisen. Yes, we have provided full independence. We are attempting to change the system. We have introduced taking the advantage of modern technology as we have done in case of e-filing of income tax returns. We are going to have various social sector programmes. In couple of years, we are going to provide identity Number to each and every resident of the country. If you look at from 1991 onwards, between our government and their government, you will find how much they have reduced the discretionary powers of Ministers. Today, there are regulators and these regulators are empowered with statutory powers. And I must appreciate that NDA government had also followed it. We are trying to address the problem. But sometimes, we cannot go beyond a point. Legislation is domain of legislature and Parliament. Suggestions and recommendations can be given but these are required to be approved by the parliament in case of central laws. We have tried our best to arrive a national consensus to tackle the problem and to avoid the so called apparent conflict between civil society and political establishment. If we want to get back the confidence of people then we shall have to ensure that these premier institutions function as per the rules. We are in the unique position that we regulate our own functioning. If we do that, I think, many of the issues will be corrected automatically.

Taking the sense of the observations, I would like to place for consideration of the House that the House discussed various issues relating to setting up of a strong and effective Lokpal. This House agrees, in principal, on Citizen charter, lower bureaucracy to be under the Lokpal through appropriate mechanism and establishment of Lokayukats in the States and further resolves to transmit the proceedings of this House of today to Department -related Parliamentary Standing Committee for its perusal while formulating its recommendations on the Lokpal Bill which is under their consideration. We request Shri Anna Hazare to end his fast and let there be no so-called conflict between the civil society and Parliament.

Discussion concluded.

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