

**RAJYA SABHA**

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**\*SYNOPSIS OF DEBATE**

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**(Proceedings other than Questions and Answers)**

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**Tuesday, December 17, 2013/Agrahayana 26, 1935 (Saka)**

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**ANNOUNCEMENT BY THE CHAIR**

**MR. CHAIRMAN:** I have received a notice for suspension of Question Hour from the Leader of the Opposition to allow the House to debate on the Lokpal and Lokayuktas Bill. In view of the importance of the matter, I have accepted the notice. I will call upon the Minister to resume the speech on the Bill. Thereafter, the House will take up discussion on the Bill. Members are requested to adhere to the party-time.

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**MATTERS RAISED WITH PERMISSION OF THE CHAIR**

**I. Resignation of former Justice Shri A.K. Ganguly from the post of Chairman of West Bengal Human Rights Commission for allegedly harassing a Law intern**

**SHRI DEREK O' BRIEN:** This is the serious issue about men in positions of power misusing their power and then doing everything they can to suppress the voice of the victim. Three Judges of the Supreme Court have said that it was inappropriate behaviour of a sexual

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

nature. The girl is under so much pressure. We demand that he should resign, or he should be arrested, or the President should sack him.

*(Shri Shivanand Tiwari, Shri Ravi Shankar Prasad, Shrimati Smriti Zubin Irani, Dr. Vijaylaxmi Sadho, Shrimati Jaya Bachchan, Dr. V. Maitreyan, Shri K.N. Balagopal and Shri Rama Chandra Khuntia associated.)*

## **II. Issues related to the Lokpal and Lokayuktas Bill, 2011**

**PROF. RAM GOPAL YADAV:** Constituent Assembly consisted intellectual people of India. This is such a Bill wherein everyone would be regarded guilty. Every officer/minister would be fearful to take decision and to sign. No officer want to sign on the file. All want to avoid their duty. An M.P. can be sent to jail in MPLAD matter after enactment of Lokpal. Employees of class-III and IV would also be fearful. It would be the most dangerous situation when the Prime Minister would have to put his case before Deputy S.P. or S.P. level investigating officer. You are presuming that every leader is dishonest. Only Lokpal would be the honest one. Wherefrom will Lokpal come? I appeal you to reconsider this matter. When very important matters remain undecided, the country would be in an indecisive state. This would not be in the interest of the country. Our party opposes it and walkouts from the House.

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### **GOVERNMENT BILL**

#### **The Lokpal and Lokayuktas Bill, 2011-Contd.**

**THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY AND THE MINISTER OF LAW AND JUSTICE (SHRI KAPIL SIBAL):** I rise to commend this Bill to the distinguished Members of this House. I am sure that the distinguished Members of this House will collectively make history and not repeat it. I think that never before in the history of this country has such a Bill had such a wide public discussion. We introduced the Lokpal Bill, in the Lok Sabha on the 4<sup>th</sup> of August, 2011. Then, in the context

of the recommendations of the Standing Committee, we withdraw the Bill and introduced a fresh Bill and a more comprehensive Lokpal and the Lokayuktas Bill in the Lok Sabha on the 22<sup>nd</sup> of December, 2011. It was passed on the 27<sup>th</sup> of December in the Lok Sabha.

It seeks to establish the institution of the Lokpal at the Centre and the Lokayukta at the level of the State. The Lokpal will consist of a Chairperson with a maximum of eight Members of which fifty per cent shall be judicial Members and fifty per cent shall come from amongst the SCs, the STs, the OBCs, minorities and women. A Search Committee will assist the Selection Committee in the process of selection. The Prime Minister has been brought under the purview of the Lokpal. Lokpal's jurisdiction will cover all categories of public servants. The Lokpal will have the power of superintendence and direction over any investigating agency including the CBI. A High-Powered Committee chaired by the Prime Minister will recommend the selection of the Director of CBI. The Bill incorporates provisions for attachment and confiscation of property acquired by corrupt means even while the prosecution is pending. The Bill proposes to enhance maximum punishment under the Prevention of Corruption Act from seven years to ten years. There is a general consensus that has emerged. The Select Committee has recommended to do away with Part III of the Bill. The Government has decided to accept this recommendation.

The Government has decided to accept recommendations of the Select Committee that the fifth Member of the Selection Committee for selection of Lokpal under the category of 'eminent jurist' may be nominated by the President; that in clause 14(1)(g) of the Bill, the category 'institutions financed by Government' be retained under the jurisdiction of Lokpal, but 'institutions aided by Government' may be excluded; that in clause 14(1)(h) of the Bill, bodies and institutions receiving donations from the public be excluded from the purview of Lokpal; that the Lokpal may be required to seek comments of the competent authority and the public servant before taking a decision with a slight modification that we want to give to that particular Government servant a hearing before that decision is taken by the Lokpal; that an amendment to clause 23 of the

Bill subject to the modification that an explanation by the public servant concerned will be called for before launching prosecution by the Lokpal or by the agency concerned. The Government has decided to accept a number of amendments recommended by the Select Committee in the Bill with a view to strengthening the CBI. The essence of this legislation is that the investigating agencies will be independent; the appointment of the CBI Director will be done through an independent and transparent process; all public functionaries would be under the Lokpal Bill; the prosecution under the control of the Lokpal will be done through the Director, Prosecution who shall also be appointed independently. This is the time to celebrate that we have at last reached a consensus. I congratulate all those who participated effectively.

**THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY):** Today's debate is an extension of the debate of 29<sup>th</sup> December, 2011. Government's understanding has somewhat changed and it understands the merit of things said on 29<sup>th</sup> December, 2011. After this debate that has been on for the last 46 years, we should pass the Lokpal Bill removing its shortcomings. Samjwadi Party's contention that people will be afraid to take decisions is unfounded. People will be afraid to take wrong decisions. This law will be a great contribution in the country's interest. The passage of this Bill will increase political credibility. The promise made by former Finance Minister that they will give an effective Lokpal Bill to the country has not been fulfilled. It requires improvements. Law regarding citizens charter and grievances also needs to be passed in this House. There was promise of appointing Lokayukta in States. Fight against corruption can be carried out within the federal structure of the country. Central Government wanted to keep Lokpal or Lokayukta under its jurisdiction but other political parties believed that this law concerns the services of States. Therefore Select Committee suggested that appointment of Lokayukta in every State within one year will have to be made mandatory. Select Committee headed by our colleague Shri Satyavrat Chaturvedi improved the old draft of 29<sup>th</sup> December, 2011. We believe that by appointment of Lokpal in Centre

by Central Government and in States by State Governments will lead to political misuse. Therefore we kept Chief Justice of India, Leader of Opposition, Speaker of Lok Sabha and Prime Minister as four Members and these four will select the fifth member who will be an eminent jurist. In Lokpal Bill moved by Government the power to remove Lokpal vested with Central Government. That provision was changed and process of removal of Lokpal by impeachment was brought in. Power of removal or suspension of Lokpal was also vested with Supreme Court for the purpose of impartiality. Only those institutions should be in the jurisdiction of Lokpal which are funded by Government money. Select Committee was of the view that keeping private institutions getting donation from public under the jurisdiction of Lokpal will over burden the Lokpal. You agree with this recommendation of the Select Committee. The Select Committee has simplified the process of investigation. I have some suggestions regarding amendment No. 6. The person under prosecution has the right to be heard. But there is an exception to that. If someone is to be caught red handed, prior notice need not be given. Lokpal should have the power to take action without hearing such a public servant. Section 26 provides that when investigation is ordered, search and seizure can be carried out. Permission for search and seizure should be without prior permission. Amendment to this effect should be brought. This will help in checking corruption. Select Committee had suggested the appointment of a Director and appointment of Director of prosecution with regard to financial powers. I suggest that in case of matter being pending, if any officer is to be transferred then prior permission of Lokpal should be taken. The powers in Lokpal referred cases should vest in Lokpal itself as far as CBI is concerned. You have provided for religion based reservations in the matter of appointment. The constitution does not permit this kind of religion based reservation. The Minister may kindly consider the language.

**SHRI SATISH CHANDRA MISRA:** Our leader Ms. Mayawati has made her stand clear that we are against corruption and hence welcome such a bill. Yesterday an all-party meeting was called by Rajya Sabha. And we were not informed about it. In media

we were being blamed for boycotting it. A clarification to this effect should be issued.

I would like to say that the current Lokpal Bill is different from the previous one which was passed by the Lok Sabha. Even the Hon'ble Law Minister has admitted that the earlier bill was half-baked and toothless. The current bill has replaced old provisions which were referred to select committee for consideration. I am glad to be part of that select committee.

I thank you for giving representation to SCs/STs/ OBCs and minorities in select committee and Search committee and making a provision for them in committee on Lokpal. Such a provision won't be unconstitutional. I also wish that such a representation should be extended to other important bodies too. Provision for such a representation should also be made in High courts and Supreme Court where it is inadequate as of now. I would also like to add that you have done a right thing by accepting select committee's recommendation so far as CBI's empowerment is concerned.

When Ms. Mayawati was chief minister of Uttar Pradesh she had introduced a law pertaining to Janhita Guarantee. A similar law should be brought here too. I would like to thank Shri Satyavrat Chaturvedi for being the chairman of the select committee and also for conducting it the way he has done.

There is no such provision that the draft which will be passed both by Lok Sabha and Rajya Sabha would be sent to the States and they will adopt this and also modify their acts. Discretion has been left on the state governments to decide and frame their own act.

Therefore, I would suggest that after this Bill is passed, the Government must take the initiative of sending the Act as a model to all the states and ask them to adopt this and make a request to consider and adopt this within one year period. If they do not do it, then they will face the wrath of public in their states. We should take all steps to ensure that the states adopt this particular Act.

**SHRI SITARAM YECHURY:** Today in terms of Lokpal we are talking about corruption in the country. Corruption has two sides- supply and demand. Why we are silent about the supply side of corruption? Funding of political parties by corporate houses is also responsible for corruption. We want it to be banned through amendment in the law. Without touching the supply side we cannot stop corruption. In 1968 the administrative reforms committee led by Shri Morarji Desai had suggested Lokpal.

We had proposed sending a model bill on Lokayutas which has been accepted by both sides. We insist that based on this model states should bring a Lokayukta Bill within a year in keeping with constitutional structure. CBI's role with regard to Lokayukta is complex. Whether it would work under the directions of Lokayukta? Let's incorporate all the good points and make a new Lokpal law that will give us better accountability, transparency and better administration. Leader of the Opposition feels that bringing all the private agencies etc into the ambit of the Lokpal would be unmanageable and it would be a gross interference into the democratic rights and privacy of such agencies. How can you have a Lokpal that will not investigate a private body that indulges in corruption in order to obtain a license? How can you keep that body out of the ambit of law? I think if you are really promising a better accountability, transparency and administration, this serious lacuna should be addressed.

The Government should accede to my amendment that this is not an encroachment upon the work of private corporates, private agencies or private bodies. The CAG have said that there is corruption in PPP. If you are keeping the same out of its ambit, you should take the nation into confidence as to how you are fulfilling the assurances you have given to the country. Although, it is a law against corruption, yet it is not effective one. How are you keeping the PPP out? Charitable institutions have been talked about. What is the definition of charitable? They are charitable only for the name sake, their work is something different. I would seriously urge upon you to reconsider dropping the 'charitable institution' part of that clause.

Please bring into its ambit the corporate sector. What the Leader of the Opposition said about the 'Citizens Charter' is absolutely correct. Along with this Bill the Whistleblowers' Bill should also come. Please do not talk of demand without supply. Please consider this amendment to Clause 14 that we have moved.

**SHRI SUKHENDU SEKHAR ROY:** Our Party, All-India Trinamool Congress, all along was in favour of a stringent law to wipe out corruption, particularly at the highest level. I am sorry for the fact that it was not enacted at the appropriate moment. There is no such provision in this Bill accepting that the State Legislatures would enact appropriate legislation for establishment of Loyakukta at the State level. I want to put a serious question on clause 3 (2). Why all the time are such authorities headed by Judges only? The clause 3 (4) says, "The Chairperson or a Member shall not be a Member of Parliament or a Member of the Legislature of any State." I would request the Hon'ble Law Minister to remove this portion. Clause 45 talks about undisclosed assets. I think the word 'presumed' should be replaced with the word 'treated'. We wholeheartedly support this Bill.

**SHRI SHIVANAND TIWARI:** It gives me pleasure that it has been provided in the Bill that property of the person can be confiscated against whom the cases of corruptions are going on. This is a very good Bill. If the amendment moved by Shri Sitaram Yachuri is included, it could be much better. But inspite of all this we have suspicions whether we could have complete control over corruption by setting up Lokpal. My simple submission is that any legislation will not be a success so long as we do not create a conforming environment therefor. There is too much inequality in the country. If you want to check corruption, you cannot check it by merely enacting Lokpal. We support the Bill.

If somebody makes a complaint to the Lokpal and the person against whom complaint has been made indulges in violence against the complainant, then what is the provision for his protection? We had enacted the Right to Information Act to check corruption. The people, who want to highlight the incidents of corruption through the Right to

Information, are being killed. You cannot eliminate the corruption through Lokpal only. We want you to try and control the circumstances responsible for spreading and strengthening corruption in our country.

**DR. V. MAITREYAN:** On behalf of my party, I support the Lokpal and Lokayuktas Bill, 2011. The Select Committee has got many of the amendments which the opposition had moved incorporated in its Report. It is the insincerity of the UPA Government which ignored the Report of the Select Committee for more than one year. However, it is better late than never. My party is of the strong view that the Lokpal Bill should exclude the Prime Minister since the Prime Minister is already covered under the Prevention of Corruption Act, and any misconduct by the Prime Minister can be investigated otherwise. Similarly, the Chief Minister of any State should also be kept out of the purview of the State Lokayukta. The choice of constituting the Lokayukta should be left to the State Government and the State Government may enact legislation if it deems it necessary. It should not be made mandatory by this present Act, but it should be left to the discretion of State Legislatures as to whether they want a Lokayukta or not.

**\*DR. K.P. RAMALINGAM:** (Spoke in Tamil)

**SHRI BAISHNAB PARIDA:** We must keep in mind that whenever any change or reform comes before this House or in the Lower House in the form of a Bill, it was only after a long years of struggle. I agree that the Parliament has the supreme power to enact laws, but it is the people of India who have given this right to the Parliament. We must reflect the aspirations of the people. Corruption has engulfed the entire society, our entire political system, our democratic system and our party system. We must think and we must change all this. I must thank the Standing Committee for having presented their recommendations in such a way that we have arrived

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\* Synopsis of speech delivered by Hon'ble Member in Tamil will be published separately as Supplement.

at a consensus. I feel it would be a great weapon in the hands of our people, our political parties and other institutions. But the question is, how far would we be able to utilize this mechanism in an efficient and honest manner? It is the bounden duty of all the political parties, the Government, all of us and of all the people of this country, to see to it that this Bill is implemented in letter and spirit. If we all work together in solving the very significant and important problems facing us, then, our country can really surge ahead.

**DR. YOGENDRA P. TRIVEDI:** We feel sad when India is ranked as 138th in the realm of corruption. Much has been said about the corruption. This Bill is a very brilliant and valiant effort. Amendment number 6 wherein, before an investigation takes place, the man should be asked if there is a prima facie case against him. This is something which I don't understand. You may be trying to gather the documents, calling witnesses and thinking of a search at his place. Investigation is a criminal process. You are giving him an opportunity to destroy evidence by telling him in this manner. So, there is no question of giving an opportunity before investigation or gathering the evidence. As per amendment number 8, he should be given a chance to prove whether there is a prima facie case against him or not. These are criminal proceedings and if there is any infirmity anywhere, the benefit of doubt will go to the accused. This law is primarily aimed at Government funds. The public money is also Government's money to a certain extent. If there is a huge malpractice in some clubs or some NGOs and if the public is being fooled or cheated then the Lokpal should have the ability and the people should be able to approach the Lokpal. You might say here that you will keep a certain limit. The public should not be distinguished from the Government in such a manner.

**DR. ASHOK S. GANGULY:** I support this Bill. This historic Bill has been pending for a very long time. We have recognised the national importance of the Lokpal Bill. The Right to Information Act had already opened the door to transparency and accountability. The Lokpal Bill now finally fulfills India's desire to be a truly open society. The role of the State must neither be vetoed nor

be undermined in the name of the Lokpal or the Right to Information Act. Openness must not be permitted in the name of neo-federalism. I welcome the march of social reform but with caution because we can very easily descend to a jungle state and we have to be cautious about it.

**SHRI RAJEEV CHANDRASEKHAR:** I support this historic legislation. Parliament, parliamentarians and indeed political parties have travelled a long distance from those early days of 2011 when the popular people's Jan Lokpal movement was treated with scorn and scepticism. The last two years have proved that the desire amongst all Indians for a change in our governance and our response to them as Parliament has been belated. It is this House that stopped the passage of the weak Bill that was passed in the other House and that further strengthens the prestige of this House and indeed its Members. This Bill lays the basis of a strong institution. Institutions must be given time to take birth, grow and evolve to the needs of the times. This is probably the single most important legislation that we are passing post-Independence on the issue of governance. Future and current generations will thank us for our near unanimous support for this Bill and our efforts at cleaning up governance.

**SHRI RAVI SHANKAR PRASAD:** We should introspect ourselves today while we are having discussing on the Lokpal Bill. Country is changing and youth of the country have new expectations. BJP has always been in support of Lokpal but country has to wait for two years. PILs were also seen as hurdles in the working of bureaucracy and administration but when someone is working honestly then there is no need to fear. Country has to face various scams because number of administrators have never deny to the wrong doing of their political bosses. I would like to thank Anna Hajare jee for inspiring us of by their movement and fasting unto death dharna for early passage of Lokpal Bill. The Whistle Blower Bill should be passed early. Citizen charter has empowered people and it has led to development of a pro-welfare people initiative oriented bureaucracy.

An accused comes into focus only when a cognizance is taken, based upon investigation, filling of chargesheet and application of mind by the Magistrate so, by amendment number 6, you are making provision against the criminal procedure of the country. I want an explanation in this regard. I would also like to know about the time frame of trial as provisions have been made regarding time bound investigation and sanction. Stringent action should be taken against the corruption. There should be speedy trial of cases against the guilty public servants and it will also result in exonerating the innocent public servants. It is a historic victory of polity of India, Indian parliamentary traditions and awareness of country as Prime Minister has also been brought under the purview of Lokpal with some safeguards.

Today, this Parliament with a proud is bringing a Bill in which Member of Parliament are considered as a public servant and the same Parliament in one voice is going to pass a law which is certainly going to give a positive message to the country that the Parliamentarians can also rise to occasion when the situation arises. The responsible people of the country who understand the procedure of the country should be included in the Lokpal. Section 3 says that representation of the minorities should also be in the Lokpal, but our constitution does not envisage representation for minorities and it is unconstitutional. Lokpal must understand the enormity of the power and the responsibility because they have accountability too. The issues of corruption must be taken very strongly and who are guilty must be punished.

**DR. M. S. GILL:** We have put India's Prime Minister under this Bill like anyone else. I beg to differ. The Prime Minister is a very-very special person. If a Prime Minister is remiss on anything, there are other mechanisms to deal with him. India has a surplus of laws to deal with various problems. In every Act of this country, you straightaway says, ideally a Supreme Court Judge, or a Chief Justice of India should be the Chairman. You do not look for a distinguished Indian. Don't imagine all the time that everything can be solved by Judges. Even though we admire them, but look at the rest of Indians

also. There is a provision for the Chairperson and Members of the Lokpal but who will take action against them if something goes wrong? This is all to catch and punish people. But you must take care of the people and their lives. There are lots of cases in our history where people have been smashed by misapplication of law. I support the Bill. But please look at other aspects of this issue and problems from other angle also. India needs growth.

**SHRI M.P. ACHUTHAN:** What is the root cause of corruption in India? It is the unholy nexus between Government, political Leadership corporate houses and the officialdom of bureaucrats. The question is that do we have the political will to break this nexus? Even in this Bill, the main drawback is that we did not have it. You are leaving the corporate houses and the private sector which is the main cause of corruption. Do you have the courage to touch them? Those entities which are getting concessions and money from the Government that section has to be included in this Bill. Then only will the people think that we are serious about curbing corruption of India. Clause 14 says that any such inquiry shall be held in camera and if the Lokpal comes to the conclusion that the complaint deserves to be dismissed the records of the inquiry shall not be published or made available to anyone. Why is there the provision of in camera? Why are we denying the people to know the complaint and the reasons for dismissal of that complaint? If we are sincere in rooting out corruption in public life then we have to be brought forward citizen's charter Bill and whistleblower Bill. I fully support this Bill with some reservations.

**DR. BHALCHANDRA MUNGEKAR:** I strongly support the Bill. The corruption has become a way of life in the country. The entire political class in the country must introspect itself to what extent we are responsible for the corruption. In this country the source of corruption basically is absence of the rule of law. During the last 20 years, we are finding that corruption is rampant in the private sector. Judiciary itself is not free from corruption.

This country suffered because of non-implementation of the schemes. There are so many programmes. But the benefits of these programmes are not reaching the desired people and the targeted people only because of corruption. I am fully supporting this Bill, but including incumbent Prime Minister will be totally demolishing the moral authority of the Prime Minister.

**SHRI K.N. BALAGOPAL:** I would request the Government to accept our Amendments which we are moving here, and these relate to corporates, private sector and PPP which are involved with the business of the Government. After 1991, that is, the globalization era, a majority of the Government businesses have got transferred to private people. We can see, in the last ten years, how many corruption cases have come up. But the Government is not taking any action.

I am very happy that hon. minister has brought another Amendment after hearing the discussions, and the total spirit of the Select Committee is accepted now. We have moved some amendments, related to Amendment No. 14. We are requesting the Government to accept that point. Otherwise, the Bill will not be successful.

**SHRI Y. S. CHOWDARY:** It is very unfortunate that even after 52 years of its first introduction; the Lokpal Bill is still not enacted in India. In our country, there is no dearth of laws. We have problems of implementation and execution. In fact, when every new law comes, every time corruption index goes up. From our party, we would like to support the Bill. My suggestion is, we can put a proper monitoring system, at least for the first five years, to report to Parliament about its implementation.

**DR. BARUN MUKHERJI:** I rise to support this historical Bill. We have been discussing about it for more than two years. It is one good example that how, through conflicts, debates and discussions, we can come to a near consensus. I believe, when it will be enacted, it will have enough scope and strength to fight corruption. But, this may not be foolproof.

What are the reasons for exclusion of corporate sector or NGOs or PPPs? In PPP projects, mostly the private parties are extracting the major advantages and there is a lot of corruption through it. I request the hon. minister to think over it and include the PPP projects under this Bill.

**SHRI BIRENDRA PRASAD BAISHYA:** I rise here today to support the Bill. We have always advocated for a strong Lokpal. We have always taken the stand that the Prime Minister and Members of Parliament should be brought within the purview of the Lokpal. I want to emphasize that we should have strong Lokayuktas in all the States, simultaneously. Without Lokayuktas at the State level, we cannot curb corruption.

To curb corruption, a strong Lokpal and Lokayukta is the call of the hour. I must congratulate the Select Committee which has done a marvellous job. In the Bill, there is a provision that within a year, all the States shall have a Lokayukta. I hope, this provision would be implemented strongly in each and every State. I strongly support the Bill.

**SHRI ANIL DESAI:** I rise to oppose the Lokpal Bill. a more effective mechanism needed to be evolved to receive complaints relating to allegations of corruption against public servants and to inquire into them and take follow up actions. Creating extra constitutional authority like Lokpal would amount to blatant undermining the authority of Parliament and Constitution. If Lokpal errs, there seems to be no effective provision in the Bill to remove him. By creating Lokpal, we should not jeopardize our democracy. We want that this power should be given to the President of the country so that democracy of this country be recognised with respect in the whole world.

**SHRI NARESH GUJRAL:** My party is fully supportive of the Lokpal. I think, this is a reaction to that strong civil society movement that has come about. I urge the Government to create a separate cadre for investigating officers and they be given specialized training. If guilty officers or public functionaries are not given

exemplary punishment expeditiously, the institution of Lokpal would be totally ineffective. Investment has to be made to improve our judicial system. The office of the Prime Minister should have been kept outside the purview of this Bill. kindly reconsider this and keep the Prime Minister out of its purview.

**SHRI RAM VILAS PASWAN:** The whole house should consider it seriously that whether the Prime Minister should be brought in its purview or not. In my opinion the Prime Minister should not be in its purview. There should not be politics in each and every thing. The Select committee should be thanked for what it has done. With regard to Lokpal the opinion is emerging that all officers have become dishonest. I support this Bill with a heavy heart. All are afraid at heart. Why have you not included NGO and businessmen in it? Prepare a citizen charter. If u do not have a clear intention, it will not solve any problem.

**SHRI RAM KRIPAL YADAV:** I would like that good people come in lokpal. Lokpal becomes an example. I feel that it would not be effective. There is an apprehension that wherefrom you would bring honest men and how would you seek justice from them? It should be ensured that people would not be victimized by Lokpal. If inequality is not removed, democracy would go to come an end. The office of the Prime Minister should be kept outside the purview of this Bill. The minorities have played a key role in building this nation. They do be given rights. Until Lokayukta similar to Lokpal is not constituted, corruption would not come to an end. System has to be changed. I support this Bill with a heavy heart.

**SHRI RANBIR SINGH PARJAPATI:** Today the Government has brought this Lokpal Bill under the pressure of the people of the country. We have already told that the Prime Minister and CBI should be brought under the purview of the Lokpal. I am happy that CBI has been brought under its purview. On behalf of my party, I support the Bill.

**SHRI AMAR SINGH:** We are ourselves responsible for the degradation honour of politicians. We are involved in maligning each other. We are not united. After a long time, the House had come on a consensus over a Law. We must be united on this issue. I support the Bill.

**The Hon'ble Minister, replying to the debate, said:** I would like to thank the distinguished Members of this House who have supported this Bill. When I rose to initiate the debate, I tried to keep politics out of it. I will just refer to the points made by the distinguished Leader of the Opposition in this House. He made three distinct points. He said that he was a little concerned about the fact that at the time of initiating investigation, the delinquent officer is being given a right to represent. Though I am bringing the amendment to ensure that at the time of raid, seizure and search, there is no opportunity given to the officer. It would do some injustice to them if no explanation is sought from them. We are making sure that if the department or the investigating agency is to seize and search, there should be no impediment in their way and it is in that context, this particular provision was incorporated. Secondly, we hope that all State Governments would take note of the fact that we have passed a very strong, a very independent Lokpal Bill. We hope that every State Governments will take this as a model Bill. The third point was in respect of the reservation for religious minorities. I would like to draw the attention to Article 16 (4) of the Constitution which provides reservation in the context of employment. The policy of reservation applies when you are serving under the State. The policy of reservation does not apply when you are not serving under the State. This is not service under the State. Sitaram ji raised the issue of demand and supply. We are dealing with the issue of supply in the Prevention of Corruption Act. As you are aware that Amendment Bill is already in place. That Bill actually deals with the supply side corruption. We are not bringing it under the Lokpal but we are bringing it under the Prevention of Corruption Act so that supply-side corruption can also be dealt with effectively. Sukhendu ji said, "Why should we have Judges appointed in the Lokpal? We believe that when we are dealing with complex legal issues, we need some legal training. What better training than that of a

person who has been a Judge? He also mentioned about the fact as to why should we not have Members of Parliament or the Members of the Legislative Assemblies in the Lokpal. The reason is simple. The purpose of this law is to deal with the Members of the Parliament and the Members of the Legislative Assemblies, and, if they are the ones who are going to be represented in the Lokpal, there is going to be a problem, there is going to be a conflict of interest. Law alone will not ensure elimination of corruption. Unless we bridge the gap between the rich and the poor, we can not achieve our goal. As far as the issue of Prime Minister is concerned, this, is the consensus of the House that the Prime Minister should be included.

*The motion for consideration of the Bill, was adopted.*

*Clauses etc., as amended, were adopted.*

*The Bill, as amended, was passed.*

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### **STATEMENT BY THE MINISTER**

#### **Outcome of the 9th Ministerial Conference of the WTO held at Bali, Indonesia from 3rd to 7th December, 2013**

**THE MINISTER OF COMMERCE AND INDUSTRY (ANAND SHARMA):** I attended the 9<sup>th</sup> WTO Ministerial Conference at Bali from 3 to 7 December 2013. The 2001 Conference at Doha had mandated a comprehensive development agenda for multilateral trade negotiations. Ever since the WTO was established in 1995, Member States were unable to arrive at a consensus on any multilateral agreement. The Bali meet was the first occasion where members were able to reach an agreement.

In the backdrop of the global economic downturn of 2008 and the inability of the membership to reach consensus on the full Doha Development Agenda, it was decided at the 8<sup>th</sup> Ministerial Conference in 2011 to focus on areas where convergence was possible. Accordingly, after deliberations amongst members in 2012, it was agreed that members would strive for an agreement on Trade Facilitation, a few areas in agriculture, development issues and issues

of relevance for Least Development Countries (LDCs). Considering the limited sectoral agenda set out for the Bali Conference, India decided to bring the issue of procurement of food grains from subsistence farmers for public stockholding for food security firmly on the negotiating table.

The existing Agreement on Agriculture does not bar public stockholding programmes for food security. However, if food for such programmes is acquired at administered prices and not at market prices, then it is deemed as support to farmers. WTO rules negotiated in the Uruguay Round provided that all such support has to be kept within a limit of 10% of the value of production of the product in question. However, rules for calculating the support are based on a reference price of 1986-88, without taking inflation into account. India, as part of a G-33 coalition of developing countries proposed an amendment of the WTO's Agreement on Agriculture to change these rules. The proposal is not new. Similar suggestions were tabled by other groups of developing countries. It was also a stabilized part of draft agricultural negotiating text of December 2008.

The G-33 proposal met with strong resistance. India, however, stood firm and through sustained efforts, managed to bring the US, EU, Australia, Canada and others to the negotiating table. The G-33 suggested several alternatives including inflation adjustment of administered prices. However, the developed countries effectively blocked any discussion on such proposals.

The counter proposal made to the G-33 was a two year due restraint mechanism to provide temporary protection from challenge through the WTO Dispute Settlement Process, with a number of conditions attached. This would have rendered the mechanism entirely ineffective and have implications for India's policies on procurement and public distribution including the implementation of National Food Security Act passed by Parliament.

India's consistent position in the WTO has been that matters pertaining to livelihood, food security and rural development are of

vital importance. Special and differential treatment is a must for developing countries.

In accordance with the decision of the Cabinet, in my plenary statement, I made it clear that the issue of food security was non-negotiable for India as it directly relates to the livelihood concerns of millions of subsistence farmers and food security of the poor and vulnerable sections of the society. I underscored that an interim solution cannot be a temporary solution nor be terminated and must remain in place till such time that a negotiated permanent solution is in place. I also stated that without a satisfactory decision on food security, we considered the Bali Package as lacking in horizontal balance and would, therefore not be able to lend our support to it.

Though a concerted bid was made to isolate India at Bali, our principled position resonated with the developing countries of Africa, Asia and Latin America including South Africa, Mauritius, Brazil, Egypt, Nigeria, Kenya, Zimbabwe, Namibia, Uganda, Argentina, Tanzania, Cuba, Bolivia, Ecuador, Venezuela, Nicaragua, Sierra Leone and Nepal. The African Caribbean Pacific (ACP) Group, the LDC group and the African Group of countries also lent support to India's view that a solution had to be found to the problem raised by India.

We were able to build a broader coalition of support forcing US and EU to cede ground. India declined a country specific carve out and insisted that protection must be available to all developing countries. After intense negotiations over 3 days, a few hours before the Conference was scheduled to end, a revised draft text was placed before the membership, which addressed our core concerns. It provides for an interim mechanism to be put in place and to negotiate for an agreement for a permanent solution for adoption by the 11th Ministerial Conference of the WTO. In the interim, until a permanent solution is found, Members will be protected against challenge in the WTO under the Agreement on Agriculture in respect of public stockholding programmes for food security purposes. It unambiguously stated that the interim solution shall continue until a

permanent solution is found. By implication, India will have the flexibility of providing support to its farmers without the apprehension of breaching its WTO entitlements. It has also effectively led to a commitment from Members of the WTO to work on a permanent solution as part of a post-Bali work programme. Now we will be preparing for negotiations for arriving at a permanent solution. Countries which do not run such public stockholding programs also retain the flexibility to introduce them if they so wish to.

I would also like to make it clear that nothing in the aforesaid agreement impinges on our food security program for the poor and vulnerable sections of society, which is very much part of our sovereign space. This has never been part of negotiating agenda in WTO nor can ever be allowed to be.

On Trade Facilitation, our proposals on Customs Cooperation and those relating to agricultural exporters found acceptance amongst the membership. The Trade Facilitation Agreement which was also endorsed by India is basically aimed at greater transparency and simplification of customs procedures, use of electronic payments and risk management techniques and finally faster clearances at ports, all of which would reduce transaction costs and bring about enhanced trade competitiveness. Many of these have already been implemented by India as part of our broader efforts for liberalization and simplification of procedures.

I would like to conclude by saying that the Bali Ministerial meeting was a landmark one in the history of WTO. It re-affirmed India's leadership role amongst the developing countries and also demonstrated our diplomatic ability to build consensus. We were able to arrive at a balanced outcome which secures our supreme national interest. India was key to arriving at a breakthrough and shaping the first agreement since the creation of the WTO 18 years ago. India's constructive approach in negotiations was acknowledged by all member states. We have managed to retain the centrality of the development dimension in the Doha Round.

A positive outcome at Bali has also strengthened the credibility of the WTO as an institution. We have been able to give a clear signal to the world that while India is prepared to engage, it will not accept an un-balanced agreement. It will under no circumstances compromise the fundamental issues pertaining to food security, livelihood security and the welfare of its subsistence farmers and poor.

**SHUMSHER K. SHERIFF,**  
*Secretary-General.*

[rssynop@sansad.nic.in](mailto:rssynop@sansad.nic.in)