Indian Lokpal (Ombudsman) Act: A Prototype of law devoid of 'Political Will'

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[I] Abstract:

Lokpal has been a subject matter of debate for more than five decades now, being brought to the forefront by Team Anna through a country wide movement stirred by 'India Against Corruption'. The debacle of corruption, it seems, has reached the threshold of public's patience, culminating into this country wide movement. The aim of this paper is to understand various provisions of the current Act as assented to by the President and further to explore the plausible remedies which may be employed to plug the existing loopholes. This paper is split in five parts: First, dealing with the preliminary – setting the premise for taking on to the provisions head on; second, dealing with the provisions on sanction of the public servants; thirdly, exploring the defect in the constitution of Lokpal by keeping the Chief Justice of India as its tentative Chairperson; fourthly, dissecting the defects concerning the appointment of Director CBI and finally a section exploring the general miscellany of provisions which are touted by various academics and jurists as impeding the functioning of Lokpal.

[1.0] Introduction:

Allow me to wade into this subject by expelling popular misconceptions about the Indian Lokpal: It is neither an investigating agency nor a court adjudicating claims of anti-corruption of public servants.[2] It is a body which has been constituted to supervise and issue directions to the investigating agencies including CBI to ensure fair investigation.[3] Malfunctioning of CBI was brought to the altar by a social activist

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[2] *The Lokpal and Lokayuktas Act, 2013*

[3] Paragraph 4 appended to Object Clause to *The Lokpal and Lokayuktas Act, 2013*

Vineet Narain in 1993 through a Public Interest Litigation.[4] His shout echoed the political circles and created ripples of concerns amongst the members of higher political class and bureaucracy. CBI, a government's investigating agency did shoddy work of investigation in what was popularly called as Jain-Hawala Case.[5] Owing to the involvement of few men of clout, CBI was alleged to wreck the investigation necessitating the creation of a body with supervisory role over CBI, which was till then exercised by the Ministry of Home Affairs and Department of Personnel Training. Devising the mechanism of *'continuous mandamus'* in this case for the first time, CBI probe was effected under the supervision of Court and not executive.[6] Aftermath led to the invigoration of Central Vigilance Commission, which eventually brimmed out as a statutory body, as a consequence of this case.[7] Attributing entirely to the government, lack of motivation to dispense with the power of diluting control over CBI ensued in creating a feeble if not crippled Central Vigilance Commission. This could be well gauged from the vocabulary employed by the apex court – referring CBI as a 'caged parrot' in a recent matter is reflective of the absence of paradigm shift which the apex court anticipated while authoring the Judgment in *Vineet Narain's case*.[8]

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[4] *Vineet Narain v. Union of India*: AIR 1998 SC 889; (1998) 1 SCC 226

[5] *Id:* This all began with a shout from Vineet Narain, a social activist way back in 1993 wherein a terrorist Ashfaq Hussain Lone was arrested and on interrogation, name of Jain Brothers came up from whom two diaries were procured. These diaries revealed a nexus between high ranking politicians and bureaucrats who were alleged to have been funded by a source linked with the source funding the terrorist. Government bodies including CBI were alleged to actively bury the entire scandal.

[6] *Id.*

[7] *Id:* Paragraph 65: Supreme Court in its first direction directed the Central Government to confer statutory status upon the Central Vigilance Commission. This culminated into an ordinance in 1998 which finally achieved the status of law in 2003.
See also Question and Answer no. 4 on http://cvc.nic.in/faqs.htm#why

[8] J Venkatesan, *CBI urges Supreme Court to free the agency from being a 'Caged Parrot'*, The Hindu, November 26th, 2013, http://www.thehindu.com/news/national/cbi-urges-supreme-court-to-free-the-agency-from-being-a-caged-parrot/article5391613.ece, (Retrieved on 22nd March, 2014)

[1.1] Functioning of the CBI:

CBI is the investigating agency established under the Delhi Special Police Establishments Act of 1946.[9] CBI is an investigation body just like the police in a state, having a mandate akin to it, with concurring powers to conduct investigation and prosecution as prescribed under the Code of Criminal Procedure.[10] Is there an overlap? Yes! S. 3 of the Delhi Special Police Establishments Act has empowered the Central government to notify the offences and classes of offence which are to be investigated by the CBI and CBI conducts an investigation if an offence committed concerns a Central government employee. Generally speaking, CBI looks into specialized kinds of offences including anti-corruption matters, special crimes and economic offences. Their offices are located in Delhi and have a pan India jurisdiction.[11]CBI may not be approached for routine cases, it is only in specified offences or classes of offences it could be approached. If one countenances a situation of corruption, he may lodge a complaint by approaching the nearest anti-corruption branch of CBI[12]- which, besides in every state capital, is located in many more cities.[13]Absence of anti-corruption branch in a district may be resolved by lodging a complaint with either SP or in his absence senior most police official in that district.[14]Besides an individual complain, trigger to put CBI in motion could also be pressed by lodging a complaint with Central Vigilance Commission or by a direction issued by the administrative authority.[15] To this list, Lokpal is a new addition, enabling it to initiate CBI inquiry. When the information prima facie discloses commission of a cognizable offence then a regular case is registered under S. 154 of the CrPc.[16] But if the information prima facie discloses commission of irregularities then a preliminary enquiry (PE) is first registered. If Preliminary Enquiry discloses commission of a

[9] *A Brief History of CBI*, http://cbi.nic.in/history.php. (Retrieved on 22nd March, 2014)
[10] Para 17.2 of the Single Directive, http://cbi.nic.in/aboutus/manuals/Chapter_17.pdf. (Retrieved on 22nd March, 2014)
[11] *Id* at para 17.5
[12] Answer to question 9 under FAQ. Retrieved from http://cbi.nic.in/faq.php#faq01
[13] *Id.*
[14] Para 17.32 (1) of the Single Directive
[15] Para 17.6 of the Single Directive
[16] Para 17.7 of the Single Directive

cognizable offence then a regular case under S. 154 is registered.[17]In case of registering of either a regular case of preliminary enquiry, a copy of F.I.R is to be sent to the head of the Department and/or the concerned Ministry[18]to which public servant is accountable. In case if a person against whom complains has been filed is a gazetted officer, a copy of it shall also be sent to the CVC.[19]

For public servants to the order of Joint Secretary or above, single directive provides, *no preliminary enquiry or investigation under Prevention of Corruption Act, 1988 could be kicked off without taking a prior permission from the concerned Department/Ministry*.[20]It is often suggested that this oftenly defeats the purpose as such permission is the boarding pass without which no proceedings against a corrupt officer could take off. Also leakage of such information in the hands of suspect might lead to lurching of proceedings against them – the possibility of which is enormous especially when the suspect works at such a high position in the concerned Department/Ministry. This has led to two problems: Firstly, delay in conducting enquiry or investigation against the suspect and; secondly, tampering with the evidence before enquiry or investigation by the suspect. It was this function of this directive, which led to the creation of another supra body in the form of Central Vigilance Commission, which also plummeted in delivering its mandate. But a body comprising largely by bureaucrats, more often than always, the ones who are obliged with post retirement jobs[21], have proved vulnerable in offering the impetus required from them. Largely also, they don't have any decision making power pertaining to initiating any enquiry or investigation, to which the new law puts a full stop. How the new law has been a harbinger of change has been dealt below as opposed to the existing setup is given below.

Decision to proceed with the preliminary enquiry, notwithstanding single directive, shall be taken by a bench of Lokpal comprising of three

[17] Para 17.8 of the Single Directive
[18] Para 17.9 of the Single Directive
[19] *Id.*
[20] Para 17.14 of the Single Directive
[21] P. J. Thomas's Case

members out of which one shall be a judicial member.[22]Once Lokpal decides to pursue the preliminary enquiry against Group A, B, C or D officers, complaint shall be directed to the Central Vigilance Commission who is entrusted to supervise the enquiry and have to submit the report concerning Group A and B officers within 90 days from the date of receipt of complaint which is further extendable by 90 days to the Lokpal. However, for Group C and D officers, CVC may continue with the procedure spelled out under the Central Vigilance Commission Act of 2003.[23]Besides Group A, B, C and D officers, other authorities against whom Lokpal has the jurisdiction to order preliminary enquiry from CBI includes Prime Minister, ex and sitting Member of Parliaments, ex and sitting Cabinet Ministers et al, both serving and retired.[24] Stating tersely, preliminary enquiry now would be ordered by Lokpal against all the public servants positioned under S. 14 of the Act. Save in cases of public servants coming under Group A, B, C and D, supervision shall be that of Lokpal while in the case of these officers, CVC shall perform the supervision over the preliminary enquiry conducted by CBI. Cadre of lower officials, Group C and D, CVC only shall decide if investigation is required by the CBI or not while CVC is required under the law to submit a report to the Lokpal concerning Group A and B officers, decision on whom, if CBI investigation should be ordered or not, shall vest with the Lokpal. From a mandate to keep concerned Department/Ministry in loop for CBI to proceed with enquiry or investigation, new law has witnessed a momentous shift. Now, the lever is in the hands of Lokpal, striving to assure CBI's independence. While conducting a preliminary enquiry, it is optional on them whether to seek comments from the public servant and concerned Department/Ministry or not. Forget about seeking permission to initiate preliminary enquiry now, this provision has been drastically mellowed down to push the autonomy of the preliminary enquiry conducted by CBI towards furthering the bastion of fairness.

[22] S. 16(1) (c) of the Lokpal Act.
[23] Second Proviso to S. 20 of the Lokpal Act
[24] S. 14 of the Lokpal Act

As far as allowing Central Vigilance Commission to take decisions on Group C and D public servants is concerned, the logic underneath appears to cut short the burden of the Lokpal, allowing the decision on investigation and prosecution of Group C and D officers with the Central Vigilance Commission. At the outset, it appears to be a smooth provision but its effectiveness could only be assured if the investigating agency functions without any fear or inducement, which is a tough row to hoe under the present statute. This argument has been discussed in detail later in part IV of the Article.

[3.0] Sanction for prosecution, an irksome procedure – Attempt to anew it:

Shifting of sanction from the government to the Lokpal is one of the conspicuous take aways under the present legislation. Let's just briefly brush through the provision on sanction that existed before the enactment of Lokpal Act in the anti-corruption cases. Second directive provided:[25]

> "Prosecution should be the general rule in cases of bribery, corruption or other criminal misconduct and in case involving substantial loss to the public funds which are found fit to be sent to the Court after investigation. Under S. 19 of the Prevention of Corruption Act, 1988 and in cases covered by S. 197 of the Criminal Procedure Code, prior sanction of the Competent Authority is required for launching prosecution in a Court of Law against a Government servant by public authorities. The sanctioning authority is expected to satisfy itself whether a prima facie case exists or not and, if it does, whether launching of the prosecution will be in the public interest."

Until now cases in which sanction for prosecution was required in the name of the President, the CBI was to forward their report after completion of the investigation to the Central Vigilance Commission and endorse a copy to the Administrative Ministry/Department concerned for comments. Their comments were to be forwarded by the Ministry/Department concerned to the Central Vigilance Commission within one month or such time as may be fixed by the Central Vigilance Commission from the receipt of the report of CBI. After considering the

[25] Para 17.45 of the Second Directive

report of the CBI and other relevant records besides the comments, if any, received from the Administrative Ministry/Department, CVC was to recommend to the concerned Ministry/Department whether prosecution should be sanctioned or not. Appropriate orders will thereafter be issued by that Ministry/Department.[26] If concerned Ministry/Department was at loggerheads with the recommendation of the CVC then such deadlock was to be referred to Department of Personnel and Training for the final call.[27]

In the cases where sanction for prosecution is to be issued by an authority other than President, the directive spells out for issuing sanction within 3 months from the date of receipt of the report by CBI.[28] If the concerned authority refuses to accord the sanction then it may along with its views and reasons forward the case to the CVC for advice within a month from the date of receipt of the report from the CBI.[29] If CVC advices for granting the sanction and the concerned Department/Ministry rules against such suggestion then the final decision shall lie with the DoPT.

Under the new law, Lokpal has been entrusted with the power to accord sanction instead of 'competent authority' as envisaged under the previous law. Once the investigation report of the CBI is submitted[30] to the special court alongwith a copy to the Lokpal[31], a Bench comprising of not less than three members[32] of which atleast one shall be a judicial member[33] shall seek the comments from the competent authority and alleged public servant, and may proceed to decide if sanction for the prosecution should be granted or not.[34]Transferring the power of sanction from the concerned Department/Ministry to the Lokpal is an

[26]Clause (a) to Para 17.46 of the Second Directive
[27] Clause (c) to Para 17.46 of the Second Directive
[28] As part of piecemeal development, Justice J S Verma led to this through Vineet Narain v. Union of India.
[29] Clause (b) to Para 17.47 of the Second Directive
[30] S. 20(6): This shall be treated as a final report as envisaged under S. 173 of the Code of Criminal Procedure.
[31] *Id.*
[32] S. 20(7) of the Act
[33] S. 16(1)(c) of the Act
[34] S. 20(7)(a) of the Act

attempt towards dispensing biasness and delay in according sanction for prosecuting a public servant. The veiled reasoning could be traced through - since Ministries are often hand in gloves with the public servants rendering either in delay or refusal of sanction from them, hence the transmutation. In situations of deadlock, power to grant sanction rested with Department of Personnel and Training, which again was oftenly alleged to have been wrongly shielding the corrupt public servants. Since, CVC itself had recommendatory powers[35] - namely power to review the pending application devoid of power to grant sanction, this move of granting the final power to grant sanction with the Lokpal is definitely a welcome move. This would tremendously cut short on the delay in availing sanction from the competent authority and further weed out the instances of refusal in granting sanctions on malefic grounds.

However, when the evidence required for prosecution lacks sound cogency then Lokpal has further been conferred with the power to order a departmental action by directing the competent authority against the concerned public servant.[36]

[3.0] Are we not Showcasing Chief Justice of India in celestial light under the new law!

In this part, I wish to argue that office of the Chief Justice of India should only be involved with the Institution of Lokpal to the extent to which propriety permits. I shall take the argument of Mr. Arun Jaitley who has oftenly espoused this argument save in Lokpal to make my case. Post retirement jobs should be banned for the members of Higher Judiciary is what he has been mooting for.[37] Reasons are obvious – to ambush the possibility of bias in favor of government while adjudicating

[35] Clause (a) and (b) to Para 17.46 of the Second Directive
[36] S. 20(7)(b)
[37] Post Retirements Job Hunt Affecting Judicial Freedom, Times of India, 1st October, 2012, Retrieved from http://timesofindia.indiatimes.com/india/Post-retirement-job-hunt-affecting-judicial-freedom-Arun-Jaitley-says/articleshow/16619338.cms on 22nd March, 2014

claims where government's interests are involved. Now with that said, we have Chief Justice of India on the five member selection committee constituted for the selection of members of the Lokpal. With an understanding that either the sitting Chief Justice of India or a retired one shall preside the institution of Lokpal[38] there are two points to make – Assuming that he is not going to be part of decision making if his name is being considered for the Chairmanship of Lokpal then select committee is going to be left with only four members. This might have a bearing on the selection of the fifth member, an eminent jurist who is to be appointed on the recommendation of remaining four members of the Select Committee. With an agreement on that out of five members – two are from the ruling party, one can't rule out the possibility of a likely collusion between the members of the ruling party and the Chief Justice of India on the selection of the fifth member to the Select Committee. This is argued because he may be a prospective candidate for the Chair of Lokpal, to secure which he may have to sing the song with the government. Considering the propriety of the post of Chief Justiceship, obviously, it may not happen but the statute should strive to achieve fairness on its way to securing the goal of creating an independent Lokpal.

There is another reason why I say so - a reason which is latent within the statute. This goes like this, since the statute also envisages retired Chief Justice of India to preside the Lokpal, thus if the sitting Chief Justice of India shall constitute select committee he might favor the government in the selection of the fifth member to the Lokpal because he'd be relying on compassion of the government if he'd be interested in the appointment as Lokpal post retirement. This would again smudge the clarity needed in body of such a high repute. This would be reflected in the appointment of the Director CBI also as besides the Prime Minister and Leader of Opposition, Lok Sabha, third member is the Chief Justice of India. This constitutes a conspicuous case of conflict of interest and this deadlock solicits immediate scrutiny and should be resolved in favor

[38] S. 3(2) (a)

of transparency and fairness. More so when the Supreme Court itself has been a votary of preserving institutional integrity.[39] What they could have done is, to have either of them, sitting and retired Chief Justice of India removed from being considered as the Chairperson of the Lokpal. S. 3(2) (a) may be amended to read as:

> The Lokpal shall consist of – (a) a Chairperson, who *[is or has been a Chief Justice of India or] *amend to omit the phrase in bracket** is *[or has been] *amend to omit the phrase in bracket** a Judge of the Supreme Court or an eminent person who fulfils the eligibility specified in clause (b) of sub-section (3); and
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> The above should be qualified by a proviso offering a rider in favor of the senior most Judge to be eligible to be appointed as a Chairperson amongst the Judicial Members so chosen by the Select Committee.
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> Further, the age of the Supreme Court Judges should be increased to 70 years and there should be an embargo on the post retirement positions to be held by them. Concurrently, no retired Judge should be considered for the appointment to the Lokpal. Only the sitting Judges of Supreme Court should be considered for its membership. Accordingly, number of Judges in the Supreme Court may be increased by the Government.
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> Also, service of sitting Supreme Court Judges shall be counted as part of their seniority while considering their cases for promotion, either to the Collegium or to the post of Chief Justice of India.

This would ace towards achieving an unbiased decision making on the part of the Chief Justice of India within the select committee pertaining to the appointment of the fifth member to the Select Committee and the Director CBI. Now, there wouldn't be any conflict of interest with the Chief Justice of India. And since all the Judicial Members would be having security of tenure, Judges wouldn't have to lobby with the government for post-retirement Jobs.

[4.0] Appointment of Director CBI – A bird in hand is better than two in the bush approach

[39] Center for PIL v. Union of India AIR 2011 SC 1267

'Inability to perform whenever powerful persons were involved',[40]led to churning of the existing constitutional setup of CBI for assuring a transparent and fair probe. Straight questions were spear headed towards the functioning of CBI and the apex court innovated *'continuous mandamus'* to place a rider on possible malpractices while investigation. Court can't intervene in every matter of corruption to check supervision by issuing Mandamus and even if it does, it's difficult to continuously monitor them.[41]Owing to implausibility of every probe being monitored by the Court, an alternative in the form of Central Vigilance Commission brimmed out to restrict the venality of corruption pervasive amongst the public servants.[42] Despite the creation of CVC, fetters on the autonomy of CBI are still felt, which are obviously due to legions of reasons. Few prominent ones include – lack of independence of CBI, independent functioning of CVC and lack of expertise with CVC lacking experience in the host of matters that CBI deals in. Supreme Court's observation in *Centre for PIL v. Union of India*[43] is known to everyone wherein the court held that, *legality of the recommendation made by the High Powered Committee regarding the appointment of Chief Vigilance Commissioner is not beyond the peripherals of Judicial Review.*[44]

One of the cardinal issues which civil society pushed vehemently while their agitation which premised the passing of Lokpal, rested on the

[40] J S Verma on page 21
[41] Continuing Mandamus: Merely issuance of a mandamus directing the agencies to perform their task would be futile and, therefore, it was decided to issue directions from time to time and keep the matter pending requiring the agencies to report the progress of investigation so that monitoring by the court could ensure continuance of the investigation.
[42] R K Raghavan in The Hindu, The Lokpal and the CBI on September 4th, 2011 http://www.thehindu.com/opinion/lead/the-lokpal-and-the-cbi/article2424159.ece
[43] AIR 2011
[44] *Id*; Court delineated specifics suggesting demarcation between policy decision and legality of such decision. This review wasn't on the ground of malafide. Court seemed to offer legitimacy of their decision by employing words like 'integrity' and 'rightful use of power keeping in mind the purpose of its use', linking it with the duty of the High Powered Committee (HPC). Predicating on these two grounds for making a case for judicial review, court reviewed the legality of the recommendation rendered by the HPC. Banking on *State of Andhra Pradesh v. Nalla Raja Reddy* (1976) 3 SCR 28, apex court stated that if any relevant material having nexus to the object and purpose of the 2003 Act takes into account any irrelevant circumstances then its decision would stand vitiated on the grounds of official arbitrariness. Court relentlessly emphasized over Institutional integrity in conjugation with personal integrity. Developing on this argument, court said, what DoPT looked at, was the resume of the candidates without keeping in mind the institutional integrity including institutional competence and functioning of CVC.

creation of an independent CBI, which sadly has been compromised with under the new law. It is worthy to dissect the former provisions on the appointment of Director CBI before portraying the feeble provisions, for a holistic understanding of it. Under the previous regime, appointment of the Director CBI was made from a panel of IPS officers who were recommended by a five member committee comprising of Chair of the Central Vigilance Commission, two members of CVC and two secretaries to the Government of India[45]. From the list, a High Powered Committee comprising of Prime Minister, Leader of Opposition (Lok Sabha) and Minister of Home Affairs, by majority, use to select the Chief Vigilance Commissioner. In the name of political neutrality, Minister of Home Affairs has been replaced with the Chief Justice of India.[46] Then Central government was empowered under the statute to appoint the Director CBI. S. 4A of the Central Vigilance Commission Act of 2003 should be amended, to add S. 2A, stating:

> Further, committee shall record reasons while carrying out the process of empanelment of officers before recommending it to the High Powered Committee as constituted under S. 4A of the Delhi Special Police Establishments Act of 1946.

There are two amendment proposed in the CVC Act at this juncture: Firstly, to increase the term of the Director CBI from 2 to 5 years under S. 4B of the CVC Act and; secondly, to put an embargo on the post retirement job on the Director CBI.[47]

Under S. 4C of the CVC Act, it is the committee (comprising of Chief Vigilance Commissioner, both the Vigilance Commissioners, secretary to the MHA and secretary in the Cabinet secretariat under S. 4A of the Act shall in consultation with the Director CBI recommend the names to the Central government, who shall appoint such high officials. Comity

[45] S. 4A of the CVC Act

[46] S. 4A of the Special Delhi Establishment Act of 1946

[47] Former CBI Director R. K. Raghavan has been vocal about this reform and he has been suggesting to put an embargo for five years immediately after his retirement but that appears to be a compromise due to two reasons: First, there is no logical justification or explanation for the same as to why a random five year ban be there and why not more or less and; secondly, the ideal situation would be to put an embargo for a life time to severe the decision making from any favor which might lure Director CBI or anticipated by him from the government.

between the Director and SP is necessary as they both have to work in tandem. Generally, the officers who have unblemished track record regarding their integrity and efficiency are enlisted in the promotion panel prepared by the MHA, currently MHA and CVC play a vital card in paving their way to deputation with CBI, which is a bad practice and should be done away with. If the concerned State government is willing to release the officer and he is willing to come on deputation with CBI then he should be allowed to come and join. This practice of deputation necessarily serves well pooling in good resources at one place but since after serving the CBI, concerned officer shall return back to his cadre State wherein again he'd look upto his political bosses, entailing a discussion on searching an alternative to the deputation of these officers is necessary at this juncture. This is more so when the Committee envisaged under S. 4C of the Central Vigilance Commission Act is dominated by the bureaucrats in it.

To enable Director CBI to constitute his team comprising officers of impeccable integrity, a further arrangement should be struck with the State governments to release the IPS officers whom Director CBI is desirous of and the officers are willing to join CBI on deputation. Since after deputation, the concerned officer shall return back to his Cadre State wherein his professional interests shall be governed by the State government, therefore as convention, no officer should be assigned to conduct enquiry/investigation against the bureaucrats or politicians from Cadre State. This is simply to save him from the wrath of politicians and powerful bureaucrats.

There are few who also argue that either the anti-corruption unit of CBI should be brought administratively and functionally within the ambit of Lokpal or a new cadre for conducting investigation in anti-corruption matters be created under the Lokpal, divesting investigating powers in anti-corruption cases from CBI.[48]But the officers, who come on deputation, pooling in their expertise is the strength of the CBI which

[48] Sriram Panchu, *Repairing the Lokpal*, Economic and Political Weekly, Vol. XLVII No. 3, January, 2012

would be tremendously assuaged if the aforesaid suggestions sail through. Therefore through the suggestions floated above, a good deal of check could be placed in assuring the independence of the investigating agency. This is all the more important because Director of Prosecution who previously moved on the commands of the Ministry of Law and Justice is now under the Director of CBI. Independence on the part of Director CBI is sure to further a fairer functioning of the Director of Prosecution.[49]

[5.0] Miscellany: A theoretical effort in assessing the contours of Lokpal

Dispensing the power of creating Lokayukta in a State and creating a robust citizen charter are amongst others sprinkling spiky provisions characterizing the present law.

Violation of federal structure, as it is claimed by the State governments that the Lokayukta is going to conduct investigation in the anti-corruption matters of Ministers and Officials in a state, is wholly unfounded. The Constitutional Scheme through Article 253 envisages a situation wherein if the Indian Parliament advances to enact a law pursuant to International Commitment, which in the present case is United Nations Convention against Corruption to which India is a signatory, such objection could be tenably ambushed.[50] As a tale to narrate and invoke as a precedent, Human Rights Act 1993 was passed pursuant to India's commitment to defend Human Rights under the International Covenant on Civil and Political Rights and International Covenant on Social and Cultural Rights of 1966.[51] Statute mentioned above ignores the federal policy recognizing a more strong priority to implement - India's International Commitment of furthering Human

[49] A recent controversy which involved instruction on the part of Minister of Law and Justice to the Law officers alleging altering the status report on Coalgate Scam to be filed before the apex court – which subsequently involved resignation of the then Law Minister, Mr. Ashwani Kumar. Echo to make Directorate of Prosecution independent of Ministry of Law and Justice became more prominent ever since this incident.
[50] Sriram Panchu, *Repairing the Lokpal*, Economic and Political Weekly, Vol. XLVII No. 3, January, 2012
[51] *Id.*

Rights protection – leading to the creation of Central and State Human Rights Commission across the country.

As argued by the government, in the pyramid of corruption, it percolates from top to bottom. Thus government argues: if the corruption is checked at the top, corruption at the bottom would be catered to, as part of process. The draft advanced by Team Anna Hazare had the provisions for fixing liability of officers, found guilty of non-performance, as part of Citizen Charter. The government has made this specifically part of another bill, which is pending and has severed it from the Lokpal. This bill once made a law is expected to work in tandem with the Lokpal.

Dexterous tackling of this miscellany is equally necessary in offering impetus to the anti-corruption crusade, a movement which could be steered either ways from here.

[X] Concluding Remarks:

Aside the technical infirmities deliberated above, the watchword in the effective functioning and improvisation of this statute lies in the 'Political will'. The duplicity in standards of probe has led the common man to think if the spirit of Justice carries different connotations while transcending through different echelons of society - different for different people, varying, premising on the clout they exercise! If the answer to this query be yes, the entire structure on which 'Justice' has furthered over centuries stands truncated. It's hardly anybody's guess how bewildering it has been for CBI to pursue a clean enquiry against their political masters. Character, as asserted by many, is obviously a quintessential tenet in the robust functioning of CBI but with it, should be assured a minimum institutional structure which if not promotes atleast aids in preserving the basic character required in the effective functioning of the institution. Lokpal is an effort in that way. With that setting the tone, invigoration of CBI; reforms in the select committee besieging the Chief Justice of India riveted with a parallel law on citizen charter and an equally effective Lokayukta in the State remain important fishes to be fried, devoid of which, savoring the dish called Lokpal

would not only be bland but indigestible too, to an ‘Aam Aadmi’s (ordinary man) stomach!