

NCPRI note on the Lokpal and Lokayuktas Act, 2014

The Lokpal and Lokayuktas Act (LL Act) was notified in the gazette in January 2014. **The Lokpal & Lokayuktas Act has not been operationalized despite the passage of more than two years since the Act was notified in the official gazette.**

An amendment was required to ensure that in the absence of a recognised leader of opposition, the leader of the single largest party in opposition is included in the selection panel for appointing the Lokpal. **Instead of moving the single amendment and quickly operationalizing the Act, the government has moved several amendments to the Act.** The Amendment bill called the “**the Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014**”, was deliberated upon by the Department related Standing Committee on Personnel, Public Grievances, Law and Justice which presented its report in December 2015. The amendment bill is currently pending before the Lok Sabha.

The Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014 dilutes the original Act in the following ways-

- 1. Diluting provisions related to asset disclosures by public servants-** The amendment bill seeks to dilute the original scheme of asset disclosure under section 44 of the LL Act which was applicable to all categories of public servants covered under the Act. The amendment bill essentially exempts bureaucrats from disclosing details of independently created assets held by their spouse or children. The Lokpal has been established to receive and inquire into complaints related to offences punishable under the Prevention of Corruption Act, 1988 (PCA). As one of the grounds of criminal misconduct under the PCA relates to a public servant or any person on his/her behalf, being in possession of pecuniary resources or property disproportionate to his known sources of income, it is critical that disclosure of assets and liabilities of public servants be of a high standard and be uniform across all categories of public servants covered under the LL Act. As illegally amassed assets could be handed over to family members, it is important that the declaration of assets include the details of assets of the spouse and dependent children of the public servant. The amendment bill also seeks to dilute the provision under Section 44(6) of the LL Act which requires the asset declarations to be made available on the website of the concerned competent authority. In India several categories of public officials or even those seeking to hold public office by contesting elections, are already subject to stringent norms requiring disclosure of assets owned by them, their spouse and dependent children. Such declarations are publicly available and therefore, no special exemption should be extended to any class or category of public officials
- 2. No requirement of quorum in search committee and selection committee meetings-** the amendment bill states that no appointment or proceedings of the Search Committee or Selection Committee shall be invalid merely by reason of any vacancy or absence of a Member in the meetings of the respective committees. Such a clause will be open to misuse, as technically, as per the provisions of the amendment bill, a recommendation can be made by the Search/ Selection Committee even if only one member is available and attends its meeting. **In order to prevent abuse of the proposed amendment, a provision stipulating a quorum requirement for the purpose of validating a meeting in either Committee must be part of the bill.**