

FDR/ Lok Satta's Response to Standing Committee's Recommendations for Lokpal Bill, 2011

12th December 2011

The Parliamentary Committee on Lokpal has been unduly conservative. What is required is a bold and radical approach to create a new and effective architecture of institutions and empower them to curb corruption. The political will as expressed by Parliament, the nation's mood, and media coverage have created a great opportunity which has not been utilized. Press leaks in advance suggested a radical approach, but the report has fallen short of expectations.

Independence of Lokpal, creation of Lokayukta, constitutional status to both of them, power to investigate complaints and to prosecute, appointment of independent prosecutors, creation of special courts and the proposal to create a National Judicial Commission – all these are welcome.

But the Parliamentary Committee's report on Lokpal legislation has the following serious deficiencies:

1. CBI / ACB continue to be as they are. We need to bring them under Lokpal / Lokayukta supervision fully (not merely for cases handled by Lokpal / Lokayukta).
2. CVC continues to be as it is. It is best to make CVC members ex-officio members of Lokpal. Their appointment should be in the same manner as that of Lokpal. Then CVC can deal with all lower bureaucracy on its own without overburdening Lokpal institution, and yet strong, effective action can be ensured.
3. In states, Lokayukta should have powers to appoint Local Ombudsmen under its supervision, so that lower bureaucracy can be dealt with at that level under the overall umbrella of Lokayukta.
4. PM should be brought within the purview of Lokpal, but with adequate safeguards.

The Committee has squandered a priceless opportunity to address the deficiencies in the legal framework and investigation of corruption offences. The following changes in laws / systems are necessary:

1. Repeal of Section 6A of the Delhi Special Police Establishment Act, and executive instructions in states, so that CBI / ACB can investigate all offences of corruption without hindrance.
2. Repeal of Section 19 of PCA, and Section 197 of CrPC, so that corrupt public servants can be prosecuted.
3. Stronger punishment for cases of collusive corruption where the bribe giver and bribe taker together defraud the exchequer/ public.
4. Enactment of a law for confiscation of properties of corrupt public servants on the lines of SAFEMA Act and Law Commission's recommendation and draft.
5. Appointment of independent prosecution in all anti-corruption cases.

The Parties and MPs need to be briefed on all the lacunae, and we need to collectively mount an effort to get a robust anti-corruption institution. Despite press briefings before the report suggesting radical approach, the committee finally chose to be conservative and status-quoist on many issues. We need to utilize the opportunity to persuade Parliament to act wisely and swiftly to fulfil people's expectations and effectively address the national challenge of corruption.