

## Dear Annaji, pls add Transparent Complaint/Feedback Sending clauses and Right to Recall Lokpal clauses in the Jan Lokpal Bill

Vande Mataram.

I request Annaji to add these clauses because he is Govt person in-charge of drafting Lokpal bill. IMO, these clauses will increase transparency and decrease chances of Lokpal becoming dictatorial and corrupt. FAQs on draft and Lokpal movement, and they are in **chap-50** of <http://rahulmehta.com/301.pdf> . This document has been submitted on Lokpal consultation website and serial number given is **#A247LB** . If you like the suggestions given here, pls send **#A247LB** to Annaji.

### 1 I request all to post following on Lokpal consultation site or send postcards to Annaji

Respected Annaji,

I have 4 requests – (pls see suggestion **#A247LB** for details)

1. Pls let public see suggestions posted on website of the Draft Committee.
2. Pls add clauses in Lokpal bill which ensures that a citizen can put his affidavit on Lokpal's website, and any citizen can add his name to affidavits to show support.
3. Pls add Right to Recall Lokpal clauses today and not in next life time. Without Right to Recall Lokpal, a Jan Lokpal may become a Dhan Lokpal. So 1 out of 10 Lokpals should be replaceable by us citizens.
4. Pls remove draconian section-27.

Regards, \_\_\_\_\_ (name)

### 2 The 3 Transparent Complaint/Feedback Filing clauses

Following is the addition is propose in Lokpal bill to create transparency in complain/feedback filing.

Section-NN : Transparent Complain/Feedback Filing

#	Officer	Procedure
1	Instruction to Collector (or Executive Magistrate he designates)	The President hereby orders Collector that : if a woman voter or dalit voter or senior citizen voter or poor voter or farmer voter or ANY citizen-voter in his district submits a complaint to Lokpal to the Collector (or his designated Executive Magistrate) and requests to be put on the website of Lokpal, the Collector or his designated Executive Magistrate will issue a serial number and put that affidavit on the website of Lokpal for Rs 20 per page. The affidavit must be made before Executive Magistrate on stamp paper of Rs 20 and signed by two witnesses. The complainer and witnesses must have voter-IDs with them.
2	Instruction to Talati, Patwari, Village Officer (or his clerk)	The President orders Patwari that : (2.1) if a woman voter or a dalit voter or a senior citizen voter or a poor voter or a farmer voter or ANY citizen-voter comes with voter ID, and specifies YES-NO on a complaint submitted on Lokpal's website, the Patwari will enter his YES-NO on the Lokpal's website along with his voter-ID and give a printed receipt for Rs 3 fee. (2.2) The Patwari will also allow citizen to change his Yes-No for Rs 3 fee. (2.3) The fee will be Re 1 for BPL card holder

3	[To all Citizens, Lokpal]	This section is for transparent complain filing only. It is not a referendum procedure. The Yes-No count will not be a binding on Lokpal etc. However, if over “a certain number” of women voters, dalit voters, senior citizen voters, poor voters, farmer voters or ANY certain number of citizen-voters register YES on a given affidavit, then the Lokpal may or need not take necessary action in two months. Or the Lokpal may resign. The “certain number” will be decided by Lokpal. Lokpal’s decision on this will be final. And all citizens are requested to note that this procedure can be also used to send feedback to Lokpal Selection Committee under section-(6)(10)(b) of this bill.
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**Question :** *Can a person purchase voters in above procedure?*

Answer : NO. Why? Pls see (2.2) . Say a wealthy man pays Rs 100 to say 1 crore voters and asks the to register YES. And as per clause-2.2, the voter can change his YES next day. Now even if 1000 richest men pool all the money they have, they cant give Rs 100 everyday. Hence YES-buying is not possible in above Transparent Feedback Filing. For more FAQs, pls see chap-50 of <http://rahulmehta.com/301.pdf>

**Question :** *What is importance of clause-2?*

Answer : Consider section-26.3 of Lokpal bill which says complaint against Lokpal’s employee’s will be put on the Lokpal’s website. Now what if 100,000 citizens have same complaint? Should all send copies complaint to Lokpal? That will simply clutter the Lokpal’s office. And what if 1 cr people have same complaint against Lokpal? Should all be asked to personally visit Lokpal’s office? Or Collector’s offices to submit complaints? This will only create law-order problems. The clause-2 simplifies the problem ---- a few persons can submit the complaint and rest can visit Talati’s office and add their names in a peaceful way.

For FAQs, pls see chap-50 of <http://rahulmehta.com/301.pdf>

**3 Right to Recall Lokpal clauses – Make one out of 10 Lokpals recallable by citizens**

Say you own a factory and have 100 employees and Govt makes a law that you cant expel or even suspend any of the 100 employees for next 5 to 25 years without approval of High Court judges. Then will the level of indiscipline increase or decrease? Well, we citizens are appointing 10 Lokpals and the draft insists that we citizens can expel even one of them without approval of Supreme Court judges !! IMO, such unrecallable Lokpals will become a liability of us commons.

So my suggestion is that at least one out of 10 Lokpals should be recallable by citizens, if not all 10. Many in civil society believe that we commons will appoint only dishonest person. Well, in that case, only 1 out of 10 will be dishonest. The rest will be appointed by Search and Selection Committees and so they will all honest. So just one dishonest person wont be able to do much harm. So why is the opposition to Right to Recall even one out of 10 Lokpals?

Section-NN : Citizen’s Right to Recall, Reject, Retain Lokpal

#	<u>Procedure for</u>	<u>Procedure / instruction</u>
1	-	The word citizen would mean a registered voter. This procedure will apply only for one member of Lokpal called as <i>Citizen’s Appointee</i> . Initially, he will be appointed by the

		Lokpal Section Committee. And the word “may” in this section means “may or need not” and does not mean binding in any way.
2	Instruction to Collector	The President orders Collectors that if any citizen of India above age of 40 wishes to become a member in Lokpal Committee as Citizens’ Appointee, and he appears in person before the District Collector, DC would accept his candidacy for Lokpal member after taking filing fee same as deposit amount for MP election. The Collector will post his name and serial number on Lokpal’s website. No symbol will be issued.
3	Instruction to Talati or Patwari	If a citizen of that district comes in person to Talati’s office, pays Rs 3 fee , and approves at most five persons for the RBIG position, the Talati would enter his approvals in his computer and would him a receipt with his voter-id#, date/time and the persons he approved. The fee for BPL card holder will be Re 1.
4	Instruction to Patwari	The Patwari or Talati will put the approvals of the citizen on Lokpal’s website with citizen’s voter-ID number and approvals he gave.
5	Instruction to Patwari	If a the citizen comes to cancel his Approvals, the Talati will cancel one of more of his approvals without any fee.
6	Instruction to Lokpal	On every 5th of month, the Lokpal Chairperson may publish Approval counts for each candidate as on last date of the previous month.
7	Instruction to Lokpal Selection Committee	If a candidate gets approval of over 24 crore voters, and it is also 1 cr more than the approval count of existing Citizens’ Appointee, then Selection Committee may request existing Citizen’s Appointee to resign and appoint the most approved candidate as Citizens’ Appointee as a Lokpal. The Selection Committee may decrease or increase the threshold from 24 crores to any number between 12 crore and 36 crore.
8	Right to Retain Lokpal	The citizens may use this procedure to retain, or bring back, a Lokpal member was expelled but citizens wanted him to continue. Hence this section may also be referred as <b>Right to Retain Lokpal.</b>
9	Right to Reject Lokpal	If a citizen comes to Patwari’s office and gives name of a Lokpal Committee Member and wants to register NO against him, the Patwari will enter his name, voter number and candidate number and give him receipt for Rs 3 fee. If over 24 crore citizens register NO on a Lokpal Member, then Selection Committee may request him to resign from the Lokpal Committee.
10	Instruction to Collector	If any citizen wants a change in this law, he may submit an affidavit at DC’s office and DC or his clerk will post the affidavit on the website of Lokpal for a fee of Rs 20/- per page.

11	Instruction for Talati or Patwari	If any citizens want to register his opposition to this law or any section or wants to register YES-NO to any affidavit submitted in above clause, and he comes to Talati's office with voter-ID and pays Rs 3 fee, Talati will enter YES/NO and give him a receipt. The YES-NO will be posted on the website of the Lokpal.
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The selection committee appoints 10 Lokpals and the above proposed addition would make 1 of ten replaceable by citizens. A similar procedure in which citizens can register NO can be used as **Right to Reject Lokpal**.

**Question :** *Can a person purchase voters in above procedure?*

Answer : NO. Why? Say a wealthy man pays Rs 100 to say 24 crore voters and asks them to approve a candidate. Then as per clause-5, the voter can change his approval next day. Now even if 1000 richest men pool all the money they have, they cant give Rs 100 everyday. Hence approval-buying is not possible in above Right to Recall procedure.

**Question :** *Will crores of citizens approve a Lokpal candidate?*

Answer : Depends on how bad Lokpals are and how good alternative is. Some 60% to 75% citizens do vote in Loksabha and Assembly elections, even though they have no hopes in any of the alternatives. This shows that citizens do take initiatives to bring change. So if alternate candidate is promising and existing Lokpals are corrupt, then citizens will take initiatives to bring changes.

**Question :** *RTR should be confined to educated countries like USA and not used in India*

Answer : USA has better education because citizens have Right to Recall District Education Officer !! We dont have RTR-DEO and so because of corruption education, funds vanish and so most citizens are still uneducated. Also, the website of India Against Corruption cites Hong Kong as example for Lokpal. If Hong Kong is a valid example, then analogy with USA should not be denied prima-facie.

#### **4 On draconian section-27**

Section-27.1 of the propose Jan Lokpal bill says that if an employee of Lokpal beats or even murders a citizen, the citizen cant file police complaint or court case against him without permission of Lokpal. The staff is handpicked by Lokpal and so Lokpal permitting complaint against his staff is like expecting Dhritrashtra would allow Draupadi to file complaint angst Duryodhan !! Curiously, section-27.1 is mistranslated in Hindi draft !! The main English version implies that no complaint can be filed against Lokpal employee while Hindi translation says "no **wrong** complain can be filed against him" !! I wonder why/how translator made such an obvious mistake. Also, section-27.2 says that lower courts cant challenge Lokpal's proceedings. This makes Lokpal above courts !! And again, Hindi translation completely omits section-27.2 !! Such significant errors in translation of draconian section are unfortunate. Anyway, my suggestion is top omit section-27 before Jun-30 deadline and not next lifetime.

#### **5 More on Transparent Complain/Feedback sending clauses**

In year 2004, I had suggested to many activists that we must add transparent complaint filing in the then proposed RTI Act. IOW, add a clause in RTI that if the applicant wants, his complaint should come on the website of Lokpal and concerned citizens can add their names by visiting Talati's office. The response I got was : lets have RTI2 without transparent complaint filing system now, and we will add transparent complaint filing clauses "later". Six years have passed, but we don't see "later". So this time, I request all citizens to ensure that

the clauses are added before Jun-30 deadline and not later. Again, my request to all is not to support my clauses, but to propose BETTER clauses before Jun-30 deadline. I oppose the argument that procedural details should come in next lifetime. IMO all procedural details should be settled before Jun-30 deadlines.

The Lokpal bill (section - 6.10.b) says that citizens can send feedback to Search and Selection Committees. But no procedures have been laid out. Say 1 lakh or 50 lakh or 20 cr citizens want to send feedback. Sending feedback by emails is non-option because many can send 1000s of fake emails. Sending letters is also non-option because selection committee and search committee will never get time to open even 1 lakh letters. And letters can be destroyed before they reach selection committee members or if selection committee members are corrupt, they may say that they never received the feedback. So the proposal that a citizen can submit affidavit (with his suggestions) at Collector's office and Collector scans and uploads on Lokpal's website is best of all possible ways I could think of. Nevertheless, if one thinks that a better way is possible, I request him to enumerate the clauses before Jun-30 deadline and not wait for next lifetime.

The 2<sup>nd</sup> clause that citizens should be allowed to add his YES-NO on a complaint submitted at Talati's office is useful when 1000s or lakhs or crores of citizens have same complaint. They all don't need to send same complaints. Removing clause-2 will only sabotage the system.

## **6 More on Right to Recall Lokpal, and Right to Recall PM, Right to Recall judges etc.**

RTR is not a foreign concept. Satyarth Prakash says that "Raajaa must be Praja-aadheen or else he will rob citizens and thus ruin the nation". Dayanand Saraswatijee has taken the verses from Atharvaved. So RTR is not an American or foreign concept --- it is very much Indian.

Citizens in USA have right to recall police commissioner and that's the only reason why corruption in USA policemen is low. Likewise, citizens in USA also have right to recall High Court Chief judge and District judges that the main reason why cases go fast and corruption in USA's lower court is low. The citizens in USA have right to recall over Governor, MLAs, District Education Office, Mayor, District/State Public Prosecutors etc. One may note that USA does not any Ombudsman (aka Lokpal) and despite this USA has low corruption in most departments in State/Districts due to Right to Recall at State/District levels. Same USA has very high level of corruption in Senators and Federal Officers because they do not have right to recall Senators and Federal Officers.

In year 2004, I had suggested that we must put Right to Recall Information Commissioner clauses in RTI Act -- otherwise, most RTI Commissioners will become corrupt and inefficient and RTI applicants will be running from pillar to post. But again, the response I got is that "we must focus on unity, we must support RTI without Right to Recall and we must oppose Right to Recall Information Commissioner now and support RTR on Information Commissioner later". What is this "later"? Next life time? IMO, this time, we must demand RTR Lokpal clauses in the draft before Jun-30 deadline and not now. I don't request or insist anyone to support my propose RTR-Lokpal clauses. But I request and insist to all to propose clauses better than RTR-Lokpal clauses I have proposed.

Some persons have insisted that they support Right to Recall, but they oppose discussion to add RTR-Lokpal clauses in Lokpal bill in this lifetime. They insist that RTR must come from Sarpanch to upwards. I wonder why they don't insist on Lokpal bust at Gram Level and then at Tahsil level and the District, State level and then at National level? Why demand Lokpal at Central Level first?

Saying that RTR should be at Sarpanch level and not at Central/State level is like saying that "here, take this one rupee coin and forget about Rs 100 note, Rs 500 note and Rs 1000 note !!" And also, saying that RTR

should be at Sarpanch level today and RTR-PM, RTR Supreme Court Chief judge, RTR Lokpal should “later” , later can mean next life time,

In absence of right to recall, a person in power degenerates as if there is no bottom. Eg recently, **Honorable Supreme Court Chief Justice Khare gave bail to a Swiss multi-millionaire who had raped three eight year old girls and video taped it !!** Honorable Justice Khare gave that bail despite video tape evidence and lower court conviction !! Such judgments come only because we citizens don't have right to recall Supreme Court Chief Justice. Same way, if we citizens don't have right to recall Lokpals, Lokpals too will become corrupt/nepotic like Honorable Supreme Court Justices.

As a second last statement, I would re-state the analogy I gave before. Say you have a factory with 100 laborers or highly educated managers, and say Govt makes a law that you cant expel any worker for next 5 to 25 years. Then will the level of indiscipline increase or decrease? Same way, if citizens don't have right to recall Lokpal, then most Lokpals will act like these 100 laborers only.

As of now, civil society committee members are in power and in position to add Transparent Complaint filing and Right to Recall Lokpal clauses in the Lokpal draft. The five Ministers may or may not accept it – that is another matter. But if civil society members themselves oppose adding Transparent Complain Filing and RTR-Lokpal clauses before Jun-30 deadline, that would show total lack of intention against Right to Recall. I hope that is not the case.

Jai Hind.

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(The answers to FAQs on proposed additions is given in **chapter-50** of <http://rahulmehta.com/301.pdf> )