

## **NCPRI's position on The Lokpal and Lokayuktas (Amendment) Bill, 2014**

1. The NCPRI welcomes the provision in the amendment bill which provides for the inclusion of the leader of the single largest opposition party in the Lok Sabha as a member of the Selection Committee for appointment of the Chairperson and Members of the Lokpal, in case there is no recognized Leader of Opposition in the Lok Sabha.
2. The NCPRI welcomes the provision to drop the reference to 'section 6A of the Delhi Special Police Establishment Act, 1946' to bring the Lokpal & Lokayuktas Act, 2013 (LL Act) in accordance with the ruling of the Supreme Court.
3. **The NCPRI is extremely concerned to note that the Lokpal & Lokayuktas Act has not been operationalized despite the passage of more than one year since the Act was notified in the official gazette.**

### **Response to specific provisions of the the Lokpal and Lokayuktas and Other Related Law (Amendment) Bill, 2014.**

#### **Clause 2 of the Bill**

##### **Current provision in the bill:**

2. *In the Lokpal and Lokayuktas Act, 2013 (hereinafter referred to as the principal Act), in section 4,—*  
*...(b) for sub-section (2), the following sub-section shall be substituted, namely:—*  
*“(2) No appointment of a Chairperson or a Member or the nomination of an eminent jurist shall be invalid merely by reason of any vacancy or absence of a Member in the Selection Committee.”;*  
*(c) in sub-section (3), after the second proviso, the following proviso shall be inserted, namely:—*  
*“Provided also that no appointment of a person in the Search Committee or the proceedings of the Search Committee shall be invalid merely by reason of any vacancy or absence of a Member in the Selection Committee or absence of a person in the Search Committee, as the case may be.”.*

##### **NCPRI's recommendation:**

The amendments in sub section (b) and (c) that seek to provide that no appointment or proceedings shall be invalid merely by reason of any vacancy or absence of a Member in the Selection Committee or Search Committee are open to misuse. 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 amendments, NCPRI recommends the insertion of a provision stipulating a quorum requirement for the purpose of validating a meeting in either Committee. This could be set at 2/3<sup>rds</sup> or 3/4<sup>ths</sup> of the total membership of the Committees.**

### Clause 6 of the Bill

#### **Current provision in the bill:**

*“6. In section 44 of the principal Act,—*

*...(A) public servants referred to in clauses (a), (b) and (c) of sub-section (1) of section 14, in the manner provided in the Representation of the People Act, 1951 and the rules made thereunder;*

*(B) public servants referred to in clauses (d) and (e) of sub-section (1) of section 14, in the manner provided in the All India Services Act, 1951 and the rules and regulations made thereunder or the rules made under the provisions of article 148 or article 309 of the Constitution, as the case may be;*

*(C) public servants referred to in clause (f) of sub-section (1) of section 14, in the manner provided under the relevant Acts and the rules and regulations respectively applicable to them; and*

*(D) public servants not specifically covered under (A) to (C), in such manner as may be specified, by regulations by the Lokpal.”;*

#### **NCPRI’s recommendation:**

By bringing the disclosure requirements for public servants in tune with the rules/laws currently applicable to them, the amendment proposal dilutes the original scheme of disclosure intended under section 44 of the LL Act.

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. Further, wide publicity, as envisioned in sub-section 6 of section 44 of the original LL Act, must be given to the declaration of assets of public servants to enable members of the public to make informed complaints to the Lokpal. Therefore clause 6 should be deleted.

**Clause 6 should be deleted.**