

LOK SABHA

JOINT COMMITTEE
ON
THE LOKPAL AND LOKAYUKTAS BILL,
1968

Statement

**Containing a gist of main points made by Witnesses in
their Evidence before the Joint Committee**

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P R E F A C E

The Statement included in this Volume contains a gist of the main points made by the various witnesses in their Evidence given before the Joint Committee on the Lokpal and Lokayuktas Bill, 1968 at their sittings held on the 4th to 6th, 27th July, 3rd, 20th, 23rd, 24th, 31st August, 24th October and 7th December, 1968. The Statement was prepared with a view to enable the Members of the Committee to see at a glance the main considerations urged by the witnesses in their evidence before the Joint Committee.

2. The Statement contains only some of the important points made by the witnesses for and against the provisions of the Bill. Anyone wishing to make use of the material contained in the Statement should rely on and refer to the verbatim record of Evidence given before the Committee, which has been printed in a separate volume and laid on the Tables of both the Houses of Parliament.

3. This Statement has been printed and laid on the Tables of both the Houses of Parliament in pursuance of the decision taken by the Joint Committee at their sitting held on the 13th March, 1969.

NEW DELHI;
The 26th March, 1969
Chaitra 5, 1891 (Saka)

M. B. RANA,
Chairman,
Joint Committee.

**JOINT COMMITTEE ON THE LOKPAL AND LOKAYUKTAS
BILL, 1968**

COMPOSITION OF THE COMMITTEE

Shri M. B. Rana—*Chairman*

MEMBERS

Lok Sabha

2. Shri S. A. Agadi
3. Shri K. Anbazhagan
4. Shri Frank Anthony
5. Shrimati Jyotsna Chanda
6. H. H. Maharaja Pratap Keshari Deo
7. Shri C. C. Desai
8. Shri Shivajirao S. Deshmukh
9. Shri Gangacharan Dixit
10. Shri Samar Guha
11. Shri Kanwar Lal Gupta
12. Shri Gunanand Thakur
13. Shri Hem Raj
14. Dr. Karni Singh
15. Shri Kinder Lal
16. Shri Thandavan Kiruttinan
17. Shri Amiya Kumar Kisku
18. Shri Bhola Nath Master
19. Shri V. Viswanatha Menon
20. Shri G. S. Reddi
21. Shrimati Uma Roy
22. Shri Narayan Swaroop Sharma
23. Shri Yogendra Sharma
24. Shri Shashi Bhushan
25. Shri Vidya Charan Shukla
26. Shri Ramshekhar Prasad Singh
27. Shri R. K. Sinha
28. Shri S. Supakar
29. Shri Tenneti Viswanatham
30. Shri Y. B. Chavan.

Rajya Sabha

31. Shri Gurmukh Singh Musafir
- *32. Shri Ram Niwas Mirdha

*Appointed *w.e.f.* 19th August, 1968 in the vacancy caused by the death of Shri Harish Chandra Mathur.

33. Sardar Joginder Singh
34. Pandit Sham Sunder Narain Tankha
- **35. Shri Ganeshi Lal Chaudhary
36. Shri Purnanand Chetia
37. Shri Akbar Ali Khan
38. Shri K. S. Ramaswamy
39. Shri V. T. Nagpure
40. Shrimati Pushpaben Janardanrai Mehta
41. Shri M. Ruthnaswamy
42. Shri Sundar Singh Bhandari
43. Shri Gaure Murahari
44. Shri Balachandra Menon
45. Shri A. D. Mani

LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, *Secretary, Legislative Department, Ministry of Law.*
2. Shri R. V. S. Peri-Sastri, *Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri N. K. Mukarji, *Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.*
2. Shri S. P. Mukherjee, *Joint Secretary (V), Ministry of Home Affairs*
3. Shri J. M. Lalwani, *Joint Secretary (V), Ministry of Home Affairs.*
4. Shri S. P. Mukerji, *Director, Department of Administrative Reforms, Ministry of Home Affairs.*
5. Shri A. P. Veera Raghavan, *Deputy Secretary, Ministry of Home Affairs.*
6. Shri S. M. Chickermane, *Deputy Secretary, Department of Administrative Reforms, Ministry of Home Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

**Appointed *w.e.f.* 29th August, 1968 in the vacancy caused by the resignation of Shri Awadheshwar Prasad Sinha.

Witnesses Examined

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1.	Shri D. D. Diwan, Director, Citizens' Advice Bureau, New Delhi.	4-7-1968	1
2.	Kendriya Sanatan Dharam Maha Sabha, Daryaganj, Delhi.	5-7-1968	4
	<i>Spokesmen :</i>		
	1. Shri Bhagwan Swarup Bhatnagar, President.		
	2. Shri Chandu Lall Gupta, Vice-President.		
	3. Shri Vidya Bhushan, Member.		
3.	Representatives of Ministries of Government of India :—	6-7-1968	4
	(i) Shri N. N. Wanchoo, Secretary, Ministry of Industrial Development and Company Affairs.		4
	(ii) Shri K. B. Lall, Secretary, Ministry of Commerce.		6
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6.	Prof. P. K. Tripathi, Dean, Faculty of Law, University of Delhi.	3-8-1968	14
7.	Shri N. Sreenivasa Rau, Central Vigilance Commissioner.	20-8-1968	15

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	(1) Shri G. D. Khandelwal, Chairman, Railway Board.		
	(2) Shri B. C. Ganguli, Member (Staff), Railway Board.		
	(3) Shri S. W. Shiveshwarkar, Director General, Vigilance, Railway Board.		
9.	Shri P. N. Sapru, Ex-M.P.	23-8-1968	19
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	1. Shri D. C. Sharma, Chairman.		
	2. Shri Prakash Vir Shastri, Member.		
	3. Shri Onkar Lal Berwa, Member.		
	4. Shri S. C. Samanta, Member.		
	5. Shri P. C. Adichan, Member.		
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JOINT COMMITTEE ON THE LOKPAL AND LOKAYUKTAS BILL, 1968

STATEMENT

Containing a gist of main points made by witnesses in their evidence before the Joint Committee

Serial No.	Name of witness	Date of Evidence	Gist of views
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I. General views

- i. Shri D. D. Diwan, Director,
Citizens' Advice Bureau,
New Delhi.
- (a) As the Lokpal had to go into the irregularities committed by the Ministers and others he should be answerable to Parliament and treated as the most powerful limb of Parliament. His emoluments/budget should be scrutinized by Public Accounts Committee.
- (b) The public servants, who face public enquiries or commissions for some irregularities and felt aggrieved, should also be given equal rights to place their cases before the Lokpal for redressal.

II. Jurisdiction of Lokpal

- (a) As everybody was liable to commit errors, all public servants, Chief Commissioners, Lt. Governors, Members of Parliament, Judiciary and others should be brought within the purview of the Lokpal. He should have the right to scrutinize everybody's actions even if it might be a statutory body.

- (b) Administrative or discretionary actions, mentioned in the second schedule should also be brought within his purview so as to see whether the discretion had been properly exercised.
- (c) The Lokpal or Lokayuktas should have the right to send for the relevant files immediately on receipt of a complaint because the fear was that many a time the files were tampered with and sometimes even lost.
- (d) He should have the powers of inspection and surprise checks in offices/Police stations in order to see the irregularities and suggest remedial measures/legislation.
- (e) He should take action on Press reports as was done in foreign countries by such institutions.

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III. *Publicity of the proceedings/Reports before/of the Lokpal*

- (a) The Lokpal should have the discretion to decide whether the Press or any other person could have access to any information during the course of proceedings.
- (b) In order to create confidence among the citizens the cases decided by Lokpal—giving details from the beginning to the end excluding matters relating to national security—should be made public. This would alert everybody dealing with different cases and enable the public to see whether everyone entrusted with job was doing it properly and to judge if there was any scope for improving the procedure.

IV. *Appointment of Lokpal and First Lokayukta*

- (a) For the appointment of Lokpal the Leader of

Opposition must be consulted and the Chief Justice would then make the final recommendation giving his reasons to the President. Cabinet need not be consulted.

(b) The appointment of First Lokayukta should be made with the approval of Lokpal so that the man so appointed was of his choice whom he considers fit for the job.

V. *Terms of Office of Lokpal*

Lokpal should be appointed for one term and a long term or life term with a minimum age limit of 50 years. There should not be a second term.

VI. *Security deposit for complaints*

People should have free access to the Lokpal in every respect and the fee should be only levied according to the financial or monetary status of the complainant. Before the complaints were taken up for investigation, it should be determined whether they were genuine and if not, they should be scotched straightaway.

VII. *Constitution of a Parliamentary Committee*

The Parliament should constitute a Committee consisting of Leaders of all parties. The Lokpal should send his Report to this Committee for their consideration before it was considered by Parliament.

VII. *Engagement of Lawyers.*

If the nature of the complaint so required, the services of a Lawyer might be engaged to represent the case.

2. Kendriya Sanatan Dharma Maha Sabha, Delhi :

Spokesmen :

1. Shri Bhagwan Swarup Bhatnagar, President.
2. Shri Charidu Lal Gupta, Vice President.
3. Shri Vidya Bhushan, Member.

5-7-1968 I Jurisdiction of Lokpal

(a) The Lokpal should have supreme and mandatory powers and should be competent to investigate complaints against each and every authority in the country without any exception. He should also have the powers to review the judgements of different courts.

(b) Parliament should not interfere with his judgements except when he did not work satisfactorily and should be punished thereof.

II. *Engagement of Lawyers*

The lawyers need not be engaged and only the documentary evidence should suffice.

III. *Terms of office of Lokpal/Lokayukta*

(a) The Lokpal and Lokayuktas should not be over 60 years of age and no extension beyond the age of 65 should be granted.

(b) He should be a man with social standing and should work honorably. He should also be religious-minded and God-fearing.

IV. *Time limit for complaints*

So far complaints before the Lokpal were concerned, there should be no time limit.

6-7-1968 I. *General views*

3. *Representatives of the Ministries of Government of India :—*

- (i) Shri N.N. Wanchoo, Secretary, Ministry of Industrial Development and Company Affairs.

The definition of the terms "allegations" and "grievances" might be reconsidered so that what were in effect "grievances" were not allowed to be converted into "allegations".

ii. *Extension of scope of the provisions of the Bill to Public Sector Undertakings and Government Companies*

(a) The senior officers in the Government Companies and Corporations drawing more than Rs. 1,000/- might be brought within the provisions of Lokpal or Lokayuktas. Looking into the grievances of low paid employees by the Lokpal or Lokayuktas would be unwieldy and could better be looked into by the Senior Officers themselves.

(b) The allegations that something had been done as a result of improper motives or conduct could be enquired into but in the absence of such allegations, if there was a grievance from a party e.g. a contractor had not been awarded the contract for certain reasons—not necessarily as a result of corruption — no useful purpose would be served by referring it for investigation or investigating it.

(c) Nothing should be done which would come in the way of the public sector undertakings performing their functions efficiently but at the same time it should also be ensured that nothing was done to protect or shield corrupt people.

(d) In order to discourage frivolous and vexatious complaints, a suitable penal provision should be made in the Bill against those who made such complaints.

(e) Since the nature of duties and functions of Public Sector Undertakings were different from those of Government servants, there should be a difference in the nature of treatment also.

(ii) Shri K. B. Lall, Secretary,
Ministry of Commerce.

6-7-1968 *Extension of scope of the provisions of the Bill to Public Sector Undertakings and Government Companies*

(a) Treating different types of Corporations and all Public Sector Undertakings as an extension of Government and consequently liable to the same treatment, criterion and responsibilities would fundamentally go against the basic policy laid down by Parliament itself namely that industrial and commercial undertakings in the public sector should be run on business and commercial lines and not on departmental lines.

(b) If, however, the public sector undertakings had acquired the monopolistic Character, functions and powers of Government, then they should be liable to same restraints and considerations of public propriety as the Government. But in the absence of such characteristic features, they were to be treated differently so that their day-to-day work and efficiency was not hampered.

(c) Again the Government servants had to be judged not only from the point of view of efficiency but also from the point of view of fairness and equity in their treatment but in the case of commercial/ industrial undertakings, the efficiency of operation was more important than fairness as between individuals.

(d) If the Lokpal, with too many frivolous and vexatious complaints, was under an obligation to satisfy himself whether they should be investigated or not, it would inevitably lead to loss of efficiency of the Public Sector Undertakings. But if somebody else watched the working of the organisation periodically, it would add to the efficiency of the organisation.

(iii) Shri Govindan Nair, Secretary (Expenditure), Ministry of Finance.

6-7-1968 Extension of scope of the provisions of the Bill to Public Sector Undertakings and Government Companies

(a) The working of the Public Sector Undertakings was subject to audit by the Comptroller and Auditor General and there was also a Parliamentary Committee on Public Undertakings which went into the details of the working and management of these undertakings.

(b) The Public Sector Undertakings which dealt with Public Utility services such as Railways, transport etc. should be brought within the jurisdiction of Lokpal or Lokayuktas. But to bring such Public Sector Undertakings as dealt purely with business transactions within the purview of Lokpal or Lokayuktas would not be conducive to the efficient working of these undertakings for it would create apprehensions in their minds which might lead to delays in making decisions.

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(iv) Shri N. K. Mukarji, Jt. Secretary, Department of Administrative Reforms, Ministry of Home Affairs.

6-7-1968 Extension of scope of the provisions of the Bill to Public Sector Undertakings and Government Companies

So far as Public Sector Undertakings and Government Companies were concerned, the allegations against them should be within the jurisdiction of Lokpal or Lokayukta and the complaint of grievances should be excluded. These had already been provided in the Bill and it was not necessary to go further than that.

4. Shri K. Santhanam, ex-Member of Parliament.

27-7-1968 I. General views

(a) The witness favoured the establishment of the institution of Lokpal.

(b) In view of the important role expected to be played by Lokpal and Lokayuktas, they should have the constitutional status like the Election Commission, the Supreme Court or the Auditor General and, therefore, there should be a brief new article *viz.* 261-A as mentioned below in the constitution providing for their appointment and stating their functions :

“261-A—There shall be a Lokpal of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in a like manner and on like grounds as a Judge of the Supreme Court.

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(2) There shall be one or more Lokayuktas for the Union and one Lokayukta for each State who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in a like manner and on the like ground as a Judge of the Supreme Court.

(3) Subject to such provisions as may be made by Parliament by law a Lokpal may investigate any action which is taken by or with the general or specific approval of the Minister of the Union or a State or any other public servant as may be prescribed by or under any law of Parliament in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been in the opinion of the Lokpal the subject of a grievance or an allegation ;

(4) Subject to such provisions as may be made by Parliament by law, a Lokayukta may investigate any action which is taken by

or with the general or specific approval of any public servant not being a Minister or other public servant referred to in clause (3) in any case where a complaint involving grievance or allegation is made in respect of such action or such action can be or could have been in the opinion of the Lokayukta the subject of a grievance or allegation.

(In this Article, the terms "grievance", "allegation" and "maladministration" shall be defined as in the Bill).

(5) The manner of appointment, the salary and other conditions of service of the Lokpal or Lokayukta and other matters relating to their functions shall be such as may be determined by Parliament by law."

The amendment of the Constitution and the enactment of the proposed legislation should go simultaneously but in case amendment of Constitution was not considered feasible, the present Bill should be proceeded with.

II. *Scope of the Bill :*

In order to achieve the purpose of the Bill, it was desirable that the scope of the Bill should not be confined only to the Central Government but should be extended to the State Governments also.

III. *Appointment of Lokpal and Lokayuktas :*

(a) The provision for appointment of Lokpal made in the Bill was satisfactory. But so far as the appointment of Lokayukta was concerned, consultation with Lokpal was not necessary.

(b) The Retired Chief Justices of Supreme Court should not be in the field for appointment as Lokpal or Lokayukta. The serving Judges of Supreme Court and High Courts and retired Judges of High Courts might be appointed against these posts.

(c) The Lokayukta should not be subordinate to the Lokpal. They should be independent persons.

IV. Terms of Office of Lokpal and Lokayukta :

No second term should be given to the Lokpal or the Lokayukta. The lure of second term would make them dependant on the Central Government and would come in the way of their independence. Their term of office should be upto 65 years from the date of their appointment and should not go beyond that. Afterwards they should be given pension to live decently.

V. Action on the Reports of Lokpal or Lokayukta :

In order to maintain the status of the Lokpal or Lokayukta, their *prima facie* findings should be binding on the executive. If it was found that a Minister or a public servant had committed some corrupt acts, the Minister should resign and a Commission of enquiry should go into the allegations and similarly the public servant should be suspended and a departmental enquiry or criminal prosecution should follow.

VI. Powers of Lokpal or Lokayukta :

They should have the statutory right to requisition the services of Central Bureau of Investigation, Vigilance Commissioners and other organisations who look into matters of maladministration and corruption. They should not be made to go through the Ministry of Home Affairs for the services of these agencies.

VII. Jurisdiction of Lokpal :

- (a) The affairs of President or Governors should not be brought within his jurisdiction.
- (b) He should have the jurisdiction over the Ministers both at the Centre as well as the States.
- (c) All India services whether serving under State Governments or Union Government should be brought within the jurisdiction of Lokpal.
- (d) Members of Parliament and State Legislature should be outside his jurisdiction. The conduct of Members should be investigated by the internal body of Parliament, State Legislature and recommendations made to the President accordingly.

VIII. Complaints :

- (a) In order to discourage frivolous complaints every complaint should be endorsed by at least 3 or 4 members of Parliament or State Legislature with the remark that the case needed investigation.
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(b) In case the complaint was found deliberately malicious, it should be open to the Lokpal or Lokayuktas to send the man for prosecution.

5. Dr. H. N. Kunzru, ex-M.P.

I. *General views* : 3-8-1968

(a) The Bill was a little too ambitious and had provided for two types of complaints *viz.*, complaints regarding corruption and mal-administration. There would be heavy burden on the Lokayukta as he would have to deal with a large number of complaints and appointment of a number of Lokayuktas with the required status would entail heavy expenditure. The witness felt that the elaboration of arrangements would not necessarily lead to an improvement in the existing machinery. The Government could bring the Central Vigilance Commission within the ambit of the Bill.

(b) The task of preventing mal-administration should be assigned to the Heads of Ministries and Departments who should see that the rules and regulations were observed and the discretion was properly exercised by the officers.

(c) So far as redressal of general grievances was concerned, a person of the rank of Joint Secretary and with a high degree of independence might be appointed to look into them.

II. *Security Deposit for Complaints* :

In order to discourage vexatious and false complaints there should be a provision for a security deposit of not less than Rs. 1,000/- in

respect of the complaints—likely to be investigated—against Ministers and Secretaries and similarly a security deposit of Rs. 750/- in respect of the complaints—likely to be investigated—against other public servants of a lower rank. These amounts should be confiscated in case the complaints were found to be untrue otherwise refunded.

III. *Extension of scope of the provisions of the Bill to Public sector Undertakings:*

(a) At present the Central Vigilance Commission covered Public Sector Undertakings also. There was no reason why they should be excluded from the arrangements to be made in future.

(b) It should also be extended to cover the complaints against Ministers and Secretaries of State Governments.

IV. *Jurisdiction of Lokpal :*

Judiciary should not be brought within his jurisdiction.

V. *Appointment of Lokpal and Lokayuktas :*

(a) Neither the ruling Party nor the Opposition Parties should be asked to advise the Government in this regard. The Government, in consultation with the Chief Justice of India, should recommend the selected person to the President for appointment.

(b) A person who held a very high judicial position, or had made his mark as a Judge of the Supreme Court or had to deal with investigation of cases involving complaints of the kind referred to in the Bill should be appointed against these posts.

(c) Salary and allowances of the Lokpal should be comparable to that received by the Chief Justice of India.

VI. *Terms of Office of Lokpal and Lokayuktas :*

- (a) Lokpal or Lokayuktas should hold office only for 5 years and second term should not be given.
- (b) Maximum age limit need not be fixed.

6. Prof. P. K. Tripathi, Dean, 3-8-1968
Faculty of Law, Delhi University.

I. *General Views*

(a) There were two dangerous features in the Bill. One was the provision for investigation into actions of Ministers. This would derogate the very concept of Parliamentary form of Government as the Ministers were answerable to Parliament and to no one else. This would require constitutional amendments.

Secondly, the provision of conferring on the Lokpal the status of Chief Justice of India and clothing him with the powers of investigation and access to files etc. which the Chief Justice of India did not possess. This would mean creation of a new organ with the same status without responsibility. The Lokpal could be compared with the Chairman, Union Public Service Commission and in no case be placed higher than a Judge of Supreme Court.

(b) Action of a Minister should only be investigated by a Committee of Parliament or a Commission.

(c) Investigation into allegations against public servants by Lokpal or Lokayuktas would attract the provisions of Article 311 of the Constitution which laid down certain procedure to be followed. For this purpose the Central Vigilance Commission was sufficient.

(d) As far as investigation into grievances against public servants was concerned, the Lokpal could discharge a very important function. However, before the investigation was taken up the Lokpal should satisfy himself that the grievance had been placed before the concerned authority and the authority had failed or refused to meet the grievance.

(e) There should be a provision to fix the responsibility on the complainants with a view to check false complaints.

7. Shri Nittoor Sreenivasa Rau,
Central Vigilance Commissioner,
Government of India

20-8-1968 I. *Historical background*

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Tracing the historical backgrounds of the proposed legislation, the witness stated that the Central Vigilance Commission came into existence on the recommendation of an interim report of the Santhanam Committee. The Government entrusted the Central Vigilance Commission with matters relating to integrity of public servants and excluded matters of public grievances from its purview. Commissioner of grievances inside the Government set-up in the rank of Additional Secretary in the Ministry was also appointed.

Subsequently the Administrative Reforms Commission went into the question and submitted its report on the basis of which this Bill had been formulated. He expressed satisfaction over the introduction of the present Bill.

II. *General Views*

- (a) The Bill should explicitly provide to ensure integrity in public servants so that the power or position was not improperly used by them with an *ulterior* motive.
- (b) In order to come to conclusion, the confidential records should not be shielded from the sight of Lokpal or Lokayukta.
- (c) The various vigilance Units in various Ministries should continue to form an integral part of the Ministry and the advice and guidance of the Lokpal or Lokayukta should be available to them.

III. *Security deposit for complaints*

- (a) Action on complaints should be initiated only after very carefully examining whether it was justified.
- (b) A large number of people, who might have very legitimate grievances might not actually be in a position to pay the deposit money and asking them to pay a fee before they approached any authority would be against public interest.
- (c) Effective measures to weed out frivolous complaints should be taken but levy of a monetary tool was not the appropriate method.

IV. *Functions of Lokpal and Lokayuktas*

The functions of Lokpal and Lokayukta would be in an advisory capacity and not in the character of decisions and, therefore, might

not attract the jurisdiction of the Supreme Court or High Courts under Article 32 and Article 220 respectively.

V. *Publicity of Proceedings :*

Necessary protection from publicity to the proceedings at the preliminary stage of investigation by Lokpal or Lokayukta should be given.

VI. *Status of Lokpal and Lokayukta :*

The Lokpal and Lokayukta would be invested by Parliament with certain functions and if they were distinct and not derogatory of the functioning of the Judges of the Supreme Court, there should be no objection to the status of the Lokpal and Lokayukta being equated with that of the Chief Justice and the Judges of the Supreme Court respectively. So far as payment of salary and allowances was concerned, it was a different matter.

VII. *Term of Office of Lokpal :*

No second term should be given to Lokpal.

VIII. *Appointment of Lokpal :*

The witness stated that he had no particular objection in consulting the opposition for appointment of Lokpal. He, however, preferred it to be done by convention and not by statutory provision.

8. Railway Board (Ministry of Railways) of 2-8-1968

Spokesmen :

1. Shri G. D. Khandelwal, Chairman, Railway Board.
2. Shri B. C. Ganguli, Member (Staff), Railway Board.

I. *General Views :*

The principle underlying the Bill was to build up an image and confidence in the public that everybody was accountable and answerable but it should be implemented in a manner, so as not to inhibit or deter senior functionaries of the Government from taking decisions.

3. Shri S. W. Shiveshwarkar,
Director General, Vigilance,
Railway Board.

Another object of the Bill was to root out corruption but no institution, not even the institution of Lokpal could cleanse the administration of corruption unless the character and the outlook of the people underwent a change.

As compared to law courts or Commissions of Enquiry or petitions to Parliament, the institution of Lokpal would be more effective and much simpler in dispensing justice and would add glory to democracy.

II. Status of Lokpal :

The Lokpal should be a man of a very high judicial standing.

III. Functions of Lokpal and Lokayuktas :

The Lokpal and the Lokayuktas should ensure that nobody was deprived of justice for the sake of favouring another person.

The Lokpal and the Lokayuktas need not send a copy of the complaints to the accused immediately after it was received as that might enable the accused to tamper with evidence and documents.

If a party felt aggrieved as a result of its tender for a contract having been rejected, the matter could be referred to the Lokpal or the Lokayuktas.

IV. *Terms of Office of Lokpal and Lokayuktas :*

There should be no second term for the Lokpal and the Lokayuktas.
The Lokayukta should not be promoted as Lokpal.

V. *Time Limit for Complaints :*

The time limit of one year for grievances and of five years for allegations was all right.

VI. *SPE and Lokpal/Lokayuktas :*

The SPE should not be allowed to start any investigation without taking permission from the Lokpal or the Lokayuktas.

VII. *Provision re. U.P.S.C.*

The existing provision regarding consultation with the U.P.S.C. should remain.

9. Shri P. N. Sapru, Ex.-M.P. . . . 23-8-1968

I. *General Views :*
The Bill was intended to control and curb the vagaries of bureaucrats and politicians and it was desirable to have an institution of the Lokpal.

II. *Status of the Lokpal :*

The status of the Lokpal should correspond with that of the Comptroller and Auditor General and not that of the Chief Justice of India. The Chief Justice of India must not be made to look forward to any appointment as Lokpal after his retirement.

III. *Appointment of the Lokpal :*

The Lokpal should be appointed by Parliament on the advice of the Prime Minister, the Leader of the Opposition and the Chief Justice of India.

The Lokayukta might be appointed as Lokpal.

IV. *Penalty for Contempt :*

Two years was a heavy penalty for what was called contempt. It might only be six months.

V. *Jurisdiction of the Lokpal :*

Matters arising out of casteism and communalism should also come within the purview of the Lokpal.

Since the Lokpal was to be appointed by Parliament, he could go into the conduct of Ministers. He should not, however, be given the power to go into the affairs of the Members of Parliament.

The Lokpal might scrutinise the affairs of the judiciary though that could better be left to the Chief Justice or the Courts themselves.

The Lokpal should have discretionary power in the matter of not allowing a document to be presented but he should give his reasons for that.

VI. *Terms of Office of Lokpal :*

The Lokpal should have only one term of time or six years. He should be given a good pension thereafter but no extension and no further appointment.

VII. *Publicity of Proceedings :*

Investigation should be conducted with openness, fairness and impartiality and after its completion all the facts should be made available to the public.

VIII. *False Complaints :*

In order to avoid false complaints made out of *malice* and personal prejudices the Lokpal should, to start with, receive complaints only from the Members of Parliament or Members of State Legislatures and not directly from the public.

IX. *Machinery to help the Lokpal :*

It was very difficult to evolve an entirely separate machinery to help the Lokpal and Lokayukta. The machinery of the Government would suffice to help them for the purpose of investigations.

X. *Report of Lokpal :*

The report submitted by the Lokpal to Parliament should be scrutinised by a permanent Committee of Parliament.

XI. *Amendment in Clause 6 (1).*

In the proviso to clause 6 (1) of the Bill, the word 'Judge' should be substituted by 'Senior Judge'.

10 Shri C. K. Daphtary, Attorney General of India.

24-8-1968 I. General Views :

The institution of Lokpal and Lokayuktas was something like an experiment and must be tried. It had worked well in New Zealand. Generally the Bill was sound.

II. *Secrecy of Information obtained by Lokpal or Lokayuktas :*

As the proposed institution had not been given the status of a court the provision made in clause 14 of the Bill was quite futile in substance for there was nothing secret and confidential in this country.

III. *Terms of Office :*

The terms of office might be a little longer *i.e.* from 5 to 7 years but there should be no re-appointment at all. The question of re-appointment always brought in an element of patronage and possible favour.

IV. *Independence of Lokpal and Lokayuktas :*

If the recommendations made by the Lokpal and Lokayuktas in their reports were subject to anyone's veto and consultation from some-body else, it would detract from their authority. In case the recommendation was for dismissal or demotion of a particular person, the provisions contained in Article 311 of the Constitution were to be taken into consideration and therefore, something would have to be done.

V. *Functions of Lokpal and Lokayuktas :*

The functions of Lokpal and Lokayuktas should be restricted to those matters provided in the Bill at present and it should be observed how they worked. If necessary, these functions could be increased subsequently.

VI. *Qualifications for appointment of Lokpal and Lokayuktas :*

It would not be possible to define qualifications for appointment of Lokpal or Lokayuktas and, therefore, it should be left as it was in the Bill.

VII. *Institution :*

There should be one organisation consisting of Lokpal and Lokayukta, Lokpal being at the top. Lokayukta should function under the general superintendence of the Lokpal.

VIII. *Mode of Enquiry :*

It should be a summary enquiry as the Lokpal might think fit and the procedure was to be laid down by himself. The question of quasi-judicial functioning was not involved.

IX. *Appointment of Lokpal :*

- (a) Lokpal should be appointed by President in consultation with the Leader of the Opposition of both the Houses and the Chief Justice of India.
- (b) Selection should not be confined to judges alone. He might be a non-jurist provided he had the experience, knowledge of the world, common sense and integrity.

X. *Security Deposit :*

The witness did not agree with the idea of some deposit for complaints.

XI. *Time-limit.*

There should be some time-limit for submitting the grievances and allegations.

XII. *Writ Jurisdiction of Supreme Court and High Courts :*

The Constitution contemplated the supremacy of the courts in various matters over every authority. If it was intended to exclude the Supreme Court and High Courts from exercising the writ jurisdiction so far the activities of Lokpal and Lokayuktas were concerned, it had to be considered very carefully because this would be a precedent and would involve some amendment of the Constitution.

XIII. *Jurisdiction of Lokpal :*

Ministers should not be excluded from the jurisdiction of Lokpal.

XIV. *Promotion of Lokayuktas :*

The witness did not object to the promotion of Lokayuktas as Lokpal.

The Institution should not be made a dilatory and expensive tribunal for persons who might approach it. The basic idea was that a very high and respected person like Lokpal could be approached informally almost and could deal with grievances or allegations. If complicated procedures were made both for approaching and for his hearing the grievances or the allegations then it would really be a Court or tribunal which would defeat the very purpose of the legislation.

II. *Writ Jurisdiction of Supreme Court and High Courts :*

The Lokpal and Lokayuktas would have jurisdiction only to make recommendations and findings. They would have no jurisdiction to issue any directions or orders to any officer. Therefore, the witness stated, there would be no conflict with the jurisdiction of the Courts.

III. *Engagement of Lawyers :*

Lokpal and Lokayuktas should avoid Lawyers as far as possible. They might take evidence but Evidence Act should not apply. It should be informal.

IV. *Appointment of Lokpal and Lokayuktas :*

(a) The method of appointment of a Lokpal laid down in the Bill was satisfactory for it would give general confidence which was the essentiality.

(b) No condition should be put for appointment of Lokpal and Lokayuktas. He should not necessarily be a judge or a lawyer. A

person of a very wide administrative experience might be a very useful person for this purpose provided there was integrity of character and respect for him.

V. *Report of Lokpal and Lokayuktas :*

Before the Lokpal and the Lokayuktas would record their findings, they would give an opportunity to be heard and that would be in consonance with the requirements of Article 311. Hence it was not necessary to modify Article 311.

VI. *Qualifications for appointment of Lokpal and Lokayuktas :*

It was not necessary to prescribe minimum qualifications for their appointment.

VII. *Administrative machinery of the Institution :*

If the Legislation intended to provide for the composite machinery for the redressal of grievances and allegations, it would be best to have the Lokpal as the head of it.

VIII. *Investigation :*

The Lokpal and Lokayuktas could look into any case which could be subject matter either of grievance or allegation.

IX. *Security deposit for Complaints :*

Any provision for security deposit for complaints would defeat the very purpose of the Bill and would destroy the efficacy of the remedy. The Lokpal and the Lokayuktas had the power to reject frivolous complaints.

X. *Investigation through C.B.I. :*

The C.B.I. should not be there at all. The investigation should be by the Lokpal or the Lokayuktas himself. It would be open to them to seek the assistance of the police.

XI. *Control over Vigilance Units in various Ministries :*

If the investigation was to be made with the help of various Vigilance Units, who were subordinate to Ministers or Officers, and if it was likely to come in the way of independence of the Lokpal or the Lokayuktas, then those Vigilance Units should be brought within the control of Lokpal or Lokayuktas.

XII. *Terms of Office of Lokpal and Lokayuktas :*

Terms of Office for Lokpal and Lokayuktas for 5 years was sufficient and in no case the term should be extended beyond 5 years.

12 Shri S. Dutt, Vigilance Com- 24-8-1968 I. General Views :

missioner, West Bengal.

(a) The relation between the Lokpal and Lokayukta should be similar to that existing between the Chief Justice

and the Judges of High Court. The Lokayukta should function independently.

(b) Investigation in respect of 'grievances' would have to be conducted by the Lokpal Lokayuktas personally where as for investigation in respect of 'allegations' they would depend in most cases on Government Investigating Agencies. In view of this, the procedure of dealing with 'allegations' would necessarily be different from that of dealing with 'grievances' and should, therefore, be provided accordingly.

(c) The Lokpal should be authorised to act *suo moto* particularly in respect of allegations.

(d) The Lokpal or Lokayuktas should not depend on the consent of the Government for utilising the services of any officer or an agency of the Government.

(e) The report, submitted by the Commission of Inquiry set up by Government to investigate into a complaint of allegation against public servants under the Commissions of Inquiry Act, 1952, should be referred to the Lokpal for advice.

(f) Allegations of corruption and dishonesty against public servants which would come within the jurisdiction of the Lokpal should not be referred to the U.P.S.C. again for opinion.

(g) The C.B.I. should be under the administrative control of Government but the Lokpal should have unrestricted right to use the agency for investigation and report.

II. *Publicity* :

The grounds of a case after investigation should be published widely. The identification of a person involved should also be disclosed.

III. *Time-limit for complaints* :

For action taken *suo moto* by the Lokpal in respect of the grievances, the time-limit should be two years and in respect of allegations, the time-limit should be 10 years.

VI. *Engagement of Lawyers* :

Engagement of Lawyers should not be permitted except in very odd cases involving a sort of detailed examination of accounts.

V. *Terms of Office of Lokpal* :

The Lokpal should not be given second term and the period of 5 years for a term was quite sufficient.

VI. *Appointment of Lokpal* :

For appointment of Lokpal Opposition Party should be consulted.

13 Dr. L. M. Singhvi Ex-M.P.

24-8-1968

I. General Views:

In order to safeguard the Institution from being flooded by frivolous complaints, the witness stated that, as in England, the complaints might be routed through the Members of Parliament. Secondly, the working of the Institution should be reviewed by constituting a Special Committee consisting of either Members of Parliament or Jurists. After one or two years of review the recommendations should be made by this Committee.

II. Mode of Inquiry :

- (a) With a view to inspire public confidence, the inquiry should necessarily be thorough.
- (b) So far violation of Articles 32 and 226 was concerned the witness stated that normally this Institution would not take cognizance of the cases falling within the jurisdiction of the courts and *vice-versa*. Besides, it should be incumbent on the persons lodging complaints to make a declaration that he had not gone to any court of law. If the complainant had done so, he should make a declaration that the matter was pending before a court of Law and that it should be treated as an affidavit so that if he had acted in any manner which was contrary to prescribed rules, he could be proceeded with.

III. Appointment of Lokpal :

Appointment of Lokpal should be "in" consultation with the Chief Justice and leader of opposition and not "after" consultation with them. "After consultation" was the term which would enable the President and the Executive of the country to do precisely what they liked.

More appropriately a Committee consisting of the Prime Minister, the leader of the opposition and the Chief Justice of India should recommend the name of a person for appointment as Lokpal to the President and this should be considered as binding on the President.

IV. Report of Lokpal and Lokayuktas :

There should be a Standing Committee of the two houses of Parliament to be known as the joint Committee for Petitions and Public Grievances which should be entrusted with the primary task of pursuing the implementation of the recommendations of the Lokpal and the Lokayuktas and also of examining the explanations of the Government, if any, in cases where the Government had not implemented the recommendations. The relationship between the Lokpal and the Joint Committee for Petitions and Public Grievances would be somewhat on the lines of the relationship between the Comptroller and Auditor-General and the Public Accounts Committee.

If this Committee was constituted then complaints should not be routed through Members of Parliament.

V. *Qualifications for appointment of Lokpal and Lokayuktas :*

Selection of person to be appointed as such should be motivated by no other consideration than the highest public good. The choice should be unimpaired by political motivation. Persons of highest intellectual and moral should be appointed. It should be open to distinguished persons in the field of Law and administration.

VI. *Removal of Lokpal and Lokayuktas :*

Procedure for removal of Lokpal and Lokayuktas should be identical to the procedure adopted in respect of impeachment of judges.

VII. *Lokpal and C.B.I.*

The C.B.I. should be only supplemental and additional aid and not exclusive aid at the hands of the Lokpal. As the C.B.I. was the general investigating agency, it would create a number of administrative complications if it was made a subordinate investigating organisation of the Lokpal but on any matter, the C.B.I. was entrusted with the investigation, C.B.I. should be answerable to the Lokpal and Lokayuktas.

VIII. *Powers of Lokpal and Lokayuktas :*

It should be open to the Lokpal or Lokayukta to order any public authority to assist them in the manner they might

desire. It should not be open to the Government to refuse that assistance.

IX. Jurisdiction of Lokpal :

Ministers should be brought within the jurisdiction of Lokpal.

X. Definition of 'Grievance' :

The definition of grievance should be slightly changed to read " 'grievance' means a claim made by a person that he sustained injustice in consequence of maladministration, or was subjected to humiliation or undue hardship."

XI. Allegations :

False allegations, if sufficiently of a grave character, should be punishable by prosecution. It should be within the discretion of the Lokpal to order for prosecution in respect of grave irresponsible allegations. This would provide a penal check against the persons making wholly irresponsible allegations.

14. Shri A.N. Mulla, M.P. 31.8.1968.

I. General Views :

If this Institution of Lokpal and Lokayuktas was to function successfully, the following conditions must be fulfilled:—

- (a) The persons to be appointed as such should of superior calibre, who should possess three outstanding qualities of the highest order viz., independence, integrity and efficiency.

(b) There should be no interference with the investigations by the Lokpal or Lokayuktas and no legal or other hurdles should be placed in their way. They should have access to every information and evidence excepting information relating to external or internal security of the country and policy matters of the State.

(c) The process of investigation should be quick and cheap. The institution should not be burdened by any set of laws and the Lokpal should have the full right to collect evidence in his own manner from all sources subject to these conditions:—

(i) full opportunity should be given to the authority complained to defend itself; and

(ii) the final decision should contain all those particulars which were necessary for the judgement of a court of law. The judgement should be well reasoned giving its conclusions for that would inspire confidence.

(d) The Lokpal and the Lokayuktas should be armed with public agencies to help them in their investigations without any hindrance and they should be given the right to have their own private agencies also to secure information.

(e) The Lokpal and the Lokayuktas should be completely independent. They should not have to lean upon the help of the Government. They should have the right to demand all assistance from the Government which should be freely given and no obstacles should be raised.

II. Leader of Opposition :

As at present there was actually no opposition, a person from amongst those who were against the Government in both the Houses viz., Lok Sabha and Rajya Sabha, should be elected in such manner as the vice-President of India and not the Speaker might direct.

III. Terms of Office of Lokpal and Lokayuktas :

- (a) There should be no second term either for Lokpal or Lokayuktas.
- (b) The Lokpal and Lokayukta should be 60 and 55 years of age respectively.
- (c) Lokayukta should be eligible for appointment as Lokpal provided there was a gap of a term before they had finished their work as Lokayuktas and then they were appointed as Lokpal. There should be no continuity.
- (d) The Lokpal or Lokayukta should in no case hold office for more than a year on the expiration of his term.
- (e) In clause 5(2)(a) and (b) it should be clearly stated that the vacancy of the Office of Lokpal or Lokayuktas must be filled within a period of 6 months.

IV. Status of Lokpal and Lokayuktas :

The Lokpal and Lokayukta should have the status of a judge of the Supreme Court and the Chief Justice of a High Court respectively.

V. Supremacy of Supreme Court :

Supervisory Control of the Supreme Court contained in Articles 32 and 311 of the Constitution should remain in case of any decision given by the Lokpal.

VI. Clause 8(2) :

For the successful functioning of the Institution, the inquiry by the Lokpal or the Lokayukta should have the precedence over all other inquiries and no other inquiry should be a hurdle in their way. There should be no possibility of the Government in power interfering with their functions. Therefore, clause 8(2), should be deleted.

VII. Complaints :

- (a) Formality of sending the complaint on a prescribed form would hinder the complainant's voicing his complaint in secrecy to a certain extent and so this hinderance should not exist.
- (b) Immediate handing over of a copy of the complaint to the public servant or the authority concerned by the Lokpal or Lokayuktas

would be against the purpose for which the Bill was being enacted. There was the danger of the evidence being tampered with and hence it should be left on the discretion of the Lokpal or Lokayukta at what time a copy of the complaint should be supplied.

VIII. Secrecy of Proceedings of Investigation :

Provisions made in Clauses 10(2), 12(8) and 14(6), were not in consonance with each other. It should be clearly stated whether the proceedings would be secret during the pendency of the case.

IX. President's direction [Clause 17(3)].

An exception in favour of a direction given by the President for investigating a complaint by the Lokpal or Lokayukta should not be there for the power could be politically abused.

X. Powers of Lokpal and Lokayuktas :

(a) The Lokpal and Lokayuktas must be given full and unfettered powers to tap all sources of information excepting the information relating to security of the country and proceedings of the Cabinet (Clause 11(5)).

(b) They should have access to all information and documents. The certificate relating to the secret nature of the document should come either from the Prime Minister or a Cabinet Minister so authorised and not from a Secretary.

(c) They should have the right to examine the persons on oath against whom the investigation was proceeding and cross examine them.

(d) Clause 11(6)—The Lokpal or the Lokayukta should have the unrestricted power to collect evidence. The provisions of this sub-Clause would spoil the whole scheme of the proposed institution and, therefore, it should not be retained.

(e) They should have the right to start investigations *suo-moto*.

XI. *Intentional insult or interruption to Lokpal or Lokayuktas (Clause 15):*

The Central Government should not act as the protector of either Lokpal or Lokayuktas. The moment, the Lokpal certified that a complaint should be filed, the Public Prosecutor must file that complaint.

XII. *Fees for complaints :*

There should be no fee for lodging a complaint. Even anonymous complaints should be entertained.

XIII. *Jurisdiction of Lokpal and Lokayuktas :*

Assistant Judicial Commissioners and the District Judge in the Union Territory and the Election Commissioners should not be excluded from their Jurisdiction.

(b) Members of Parliament should be brought within the jurisdiction of Lokpal.

XIV. Engagement of Lawyers :

Engagement of Lawyers should be debarred.

XV. Appointment of Lokpal and Lokayuktas :

There should be no objection to the appointment of retired Supreme court and High court judges as such for here was the advantage of their vast experience in assessing the evidence, sifting it and coming to conclusions.

XVI. Time-limit for complaints :

(a) So far *suo-moto* action was concerned no time-limit should be fixed.

(b) On the complaints involving allegations, the time-limit of 5 years was sufficient but they should not be debarred from investigating a complaint after 5 years if they felt that the matter was important.

XVII. Part (e) of the second Schedule should be excluded.

24-10-1968 I. General Views :

(a) Committees on Petitions of both the Houses should be merged and renamed as "Committee on Petitions and Public Grievances" — consisting of Members of both the Houses.

(b) The Reports of the Lokpal and Lokayukta should be submitted to this Committee on Petitions and Public Grievances for scrutiny. The reports should then be presented to Parliament with the recommendations of the proposed Committee. The Committee would lessen the burden of both the Houses.

15 Committee on Petitions,

Lok Sabha :

Spokesmen :

1. Shri D.C. Sharma, Chairman
2. Shri Prakash Vir Shastri, Member.
3. Shri Onkar Lal Berwa, Member.
4. Shri S.C. Samanta, Member
5. Shri P.C. Adichan, Member

- (c) The relationship of the Lokpal and Lokayukta with this proposed committee would be somewhat analogous to that subsisting between the Comptroller and Auditor-General of India and the Public Accounts Committee.
- (d) The recommendations of the Lokpal and Lokayukta and the proposed committee should not necessarily be binding on the Government.
- (e) The Members of Parliament with judicial background could be appointed as Members of this proposed committee
- (f) The Lokpal and Lokayukta must be made responsible to Parliament and their functions watched
- (g) In order that the Reports of the Lokpal and Lokayukta were scrutinized expeditiously, the proposed committee could be asked to submit their recommendations within 15-20 days.

II. Jurisdiction of Lokpal and Lokayukta :

The members of Parliament and every public servant should be brought within their jurisdiction.

III. Age-limit of Lokpal and Lokayukta.

The Lokpal and Lokayukta should not be more than 55 years of age.

The main purpose of establishing the proposed Institution was to provide a forum where decisions taken in the process of departmental work of Government were open for scrutiny by an independent authority. With the increasing extent of State intervention in all fields of life of a citizen, it was being widely felt that the ordinary provision for judicial review was not a sufficient safeguard for the citizen.

2. It was being admitted by all that there was a considerable area where maladministration of the Police, partly due to corruption and partly due to excessive zeal, harmed not hundreds but thousands of citizens. Therefore, the extension of power of the Lokpal to investigate complaints of maladministration by the police was very important.

3. The witness stated that there was no justification for excluding commercial contracts entered into by the Government if there was an allegation that the terms of contract were vitiated by any corrupt motive on the one hand or even favouritism or nepotism on the other.

4. The Lokpal should be given power to take legal action in a case where he considered it necessary to initiate appropriate legal proceedings.

5. Access or approach to Lokpal should be direct and not through Members of Parliament as was prevalent in the United Kingdom.

6. The success of the proposed Institution would however, depend on the seriousness with which the first Lokpal approached his

duties and the respect which was accorded to him by the Departments of the Government and by the Parliament.

II. Jurisdiction of Lokpal.

There was no harm if the Members of Parliament, Ministers and the Prime Minister were also brought within the jurisdiction of the Lokpal. The administrative efficiency of the Ministers would in no way be effected for the Lokpal would not be concerned with their mistakes if otherwise *bonafide*.

2. The police in the State should be brought within the jurisdiction of the Lokpal and the scope of the Bill might also be extended to the States.
3. The witness was also in favour of the judiciary being brought with in the purview of the Lokpal.

III. Appointment of Lokpal :

The procedure for appointment of Lokpal as provided in the proposed Bill was correct.

IV. Terms of Office of Lokpal

The second term of appointment could be given to the Lokpal provided the incumbent was really capable and worth retaining.

V. Age-limit of Lokpal.

The maximum age-limit of the Lokpal might be fixed at 65 years of

VI. *Qualifications for Appointment of a Lokpal*

Any person who was endowed with a reasonable amount of intelligence and common-sense could fully appreciate the law and hence could be appointed as Lokpal.

VII. *Security Deposit for Complaints :*

There should be no security deposit for complaints. That would stop the individual taking the remedy to which he was entitled.

VIII. *Administrative Machinery of the Institution.*

The Institute should have a unified administration so that conventions were developed and precedents established.

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