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## WORKING OF THE LOKAYUKTAS IN STATES- A CRITICAL ANALYSIS

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### Abstract

The Lokayukta is an anti-corruption watchdog. A Lokayukta cannot be revoked or transferred by the government, and must only be withdrawn by an impeachment motion by the assembly. Naresh Kadyan battled to have a Lokayukta set up in Haryana. The group of officials led by Morarji Desai submitted a study on "Problems of Redressal of Citizen's Grievances" in 1966. In this report, the ARC proposed that two bodies be set up named "Lokpal" and "Lokayukta" which would be known as the chief security officers to guard the interests of common man and to prevent corruptions. Lokayukta is considered to be an incorruptibility of government. Not least it investigates the charges of wrongdoing and arrogance towards public servants and is responsible for speedy redress of grievances. This paper will examine critically the workings and schemes in various Indian states.

### Introduction-

The Institution of Ombudsman was created in 1968 in the Fourth Lok Sabha. Since 1971, attempts have been made to realize the initiative. However, this idea never really saw the light of day. All of Anna Hazare's actions and commitments in 2010 and 2011 brought the Act about Lokpal into effect. The protests of Anna Hazare had forced the Government to surrender and a joint committee was formed to draught the bill. Meanwhile the Parliament struggled to come to an agreement on the bill. The Education Bill was reviewed by the Parliamentary Standing Committee on Law and Justice and it was approved by the Lok Sabha. The contentious bill was

recommended for amendments by the Select Committee. In fact, the Lokpal Act was passed in 2013. The most significant aspects of the Act are based on below.

The Lokpal would consist of eight members, but a single chair. The Judicial and non-judicial members are listed. For presiding over a tribunal, the judges should have high legal background and demonstrated expertise in many fields, including government administration, economic, insurance and bank rules, anti-corruption and surveillance. One third of the council would be from among the SC/ST/OBC/Women. The Chairman is named by a selection committee, which consist of a Prime Minister, chief of Opposition party, Speaker of the Lok Sabha, renowned attorneys and other representatives nominated by the President based on the recommendation of the selection committee. If the MP fails to do his job, he may be suspended from his position by President after a recommendation to the Supreme Court on a petition to which consent is given by 100 Member of Parliaments. The Chairman must be previous or present C J of the Apex Court. An individual with considerable experience and impressive achievements in the field of efficiency may also be named as a Chairperson. The judiciary must be made up of former judge or former chief justice. So far as the members without any judiciary experience are related, she/he must be a famous individual with immaculate honesty as well as excellent capacity, possessing advanced experience and skills of at least twenty-five years in the subjects related to anticorruption policies, public administrations, vigilances, financial matters and banking, law and managements. The members of the Lokpal have to divulge their assets before taking up the role. The Lokpal's jurisdiction will include Central ministers, M Ps (with the exception of subjects related to Article 105), class A, B, C and D officers .It's only achieved after an investigation against Prime Minister has been examined and two-third of representatives approve of it.

There will be three officers under the Lokpal, secretary of Lokpal, directorate of enquiry and prosecutions. Based on the complaints, the Lokpal would determine on whether to conduct the inquest or not. To fulfill their respective duties, the Director of Inquiry led the inquiry wing. It is required to complete the inquiry in ninety days. The Lokpal may also conduct the investigation by CBI and police. The reports will be presented to a special bench of the Lokpal with at least three members. A right of appeal would be allowed to the accused officer. If the perpetrator were found guilty, then the prosecutor will be asked to send a charge sheet against him. Departmental investigation may also take place if found to be appropriate. If the officer is found to be innocent so no further action can be taken against the plaintiff. If the allegation is against any A to D, then the allegation is to be recommended to the Lokpal to enquire and provide a report. For Group C and D officers, the CVC is the sole authority to settle the allegations. The Lokpal has broad potentials of control, directing inquests and seizures, confiscations and attachments of assets. It may also propose the constitution of special courts to enforce justice in corruption cases. The Lokpal inquiry wing will have the jurisdiction of a civil court.

### **Uttar Pradesh Lokayukta**

The status of the Uttar Pradesh Lokayukta was created under the Lokayukta Act of 1975. The Lokayukta is not political; it monitors corruption, incompetency of senior officials or ministers. While Lokayukta has limited investigatory capacity, it has attracted public concentration by examining major issues. On the basis of the Uttar Pradesh Lokayukta and UpLokayukta Act of 1975, the Governor may nominate the Lokayukta and an Under Lokayukta (Deputy Lokayukta). Lokayukta is named after consultation of the Chief Justice, and the opposition leader of the state assembly. The roles of Lokayukta are to acknowledge, inquiry complaints about maladministration and corruption against public servants from the concerned state government body. These court officials enjoy the same power like a civil court under the code of Civil

Procedure, 1908 that embodies the summon the individual, reviewing public records or request copies from any court or office and issues commission for the inspection of witness or records. If there is any false complaint, the Lokayukta's power is available in a restricted form under the Code of Criminal Procedure. By controlling the Lokayukta, the state government has added to its authority.

### **West Bengal Lokayukta**

The West Bengal Assembly was passed in 2018 Lokayukta Bill, holding the Chief Minister out of its realm in subjects related to public order. The Lokayukta is empowered by the law to inquire into issues connected with the governor on the rest fifty-eight matters under the State List with the consent of 2/3<sup>rd</sup> of the members of the Legislative Assembly who are present and can vote. It allowed the Lokayukta to examine subjects pertaining to the chief minister on the "top 58 subject matters" within the State List with the help of two-third of the members from the legislative Assembly. There are fifty-nine topics in the State List of Legislation. Lokayukta has a range of powers as well as obligations. Lokayukta should examine a complaint and if he/ she becomes convinced that the complaint is unfounded, he shall report it to the competent authority. The Lokayukta may after receiving a complaint, issue an interim order, so as to avoid grave injustice. The Lokayukta can investigate any behavior of another person other than a public servant in order to determine any wrongdoings against his relative or a government official.

### **Punjab Lokayukta**

In November 2014, Amarinder Singh approved the Lokayukta bill in the state of Punjab with the respect to the chief minister (CM). The new laws will apply to the Chief Minister, ministers, public office holders and non-officials. The Government has taken a decision to improve governance and curb corruption. This will abolish the Punjab Lokpal Act, 1996. Justice Vinod Kumar Sharma, a former judge of the Punjab and Haryana high court, was appointed as Punjab Lokpal in January 2012. Empowering the Lokpal is one of the commitments made by the Congress party before the assembly elections in 2017. With the decision of the government to establish an Autonomous Body, investigation of public functionaries will be carried out by an Autonomous body. The Lokayukta is supposed to have all the authorities of a regular civil court. It would also ensure that the right people will be charged in the event that a false accusation is made. Before launching an investigation, Lokayukta will look into the circumstances and determine if there is appropriate basis for the inquiry. If he discovers that the accusation is not valid, this finding shall be registered. The Lokayukta shall formulate its own particular procedure for conducting an inquiry or investigation. The Lokayukta has to make a report within one year. Any inquiry under the Lokpal Act shall be conducted in camera.

### **Maharashtra Lokayukta**

Maharashtra, being the first and the most distinctive state in India, first introduced the idea of Lokayukta. A Committee study promoted the need for an Ombudsman and a more reliable and accessible grievance redressal mechanism for people. The Maharashtra Lokayukta Institution has managed to settle more than half of public grievances under it. Anyone can make his/her allegations against government officials for corruption directly to the Lokayukta. The powers of Lokayukta vary from State to State. In some states, the Lokayukta inquires into complaints against Chief Minister, Ministers and MLAs, although certain people have the authority to inquire into public servants, law enforcement officials, and judges. The remuneration of the Lokpal would be a charge against the general budget of India. Yet the Lokpal must build its budget for each financial year. A Lokpal in a state is equivalent of the Lokayukta. It was left to each state to choose whether or not to establish Lokayukta. The Act imparted for the appointed

of Lokayuktas in each state of the country within a year. Currently, only states of Maharashtra, Orissa, Rajasthan, Bihar, U P, Karnataka, Madhya Pradesh, Andhra Pradesh, Gujarat, Kerela, Meghalaya and Assam have a Lokayukta. Each individual state has different legislations which are concerned with the Lokayukta. The Lokayukta plays a major role in public awareness of the prevalence of corruptions among politicians and govt. officials. Certain actions by the LokAyukta brought about criminal prosecution or other legal repercussions for people who are convicted. Maharashtra, in 1971, became the first state of India to create a Lokayukta. This was accompanied by the imposition of similar steps by the states of Odisha, Rajasthan, Bihar, Uttar Pradesh, Karnataka, Madhya Pradesh, Andhra Pradesh, Gujarat, Kerala, Tamil Nadu and Delhi. The Maharashtra Lokayukta's powers are meager which make it the weakest Lokayukta in the state.

### **Karnataka Lokayukta**

The Lokayukta of Karnataka is arguably the most prominent Lokayukta of India. Lokayukta investigates unethical practises, making recommendations on measures to be taken by elected officials. It offers accountability and enables a variety of administrative procedures. The officials' position depends on the authority empowered in her/him and the emoluments given to take awareness of complaints instantly, arduously and skillfully by a system of unofficial messaging and exchanges. The Karnataka Lokayukta is undoubtedly one of the most successful anti-corruption schemes in the world. It was set up in 1986 under Karnataka Lokayukta Act. The Act was recently amended in Karnataka state following the resignation of Justice Santosh Hegde. Justice Hegde has persistently requested extra powers for the Lokayukta. This is because the Lokayukta has been granted suo motu powers to prosecute all public officials except Ministers and Chief Ministers, Lawmakers and those appointed by the government. Here is the main content of Karnataka Lokayukta Act. The public servants who are protected by the Act include: the Chief Minister; ministers; state legislators; heads of bodies and companies set up under state legislation. The body has a five-year mandate and consists of one Lokayukta and one or two Upalokayuktas. All members should be judges. Members are named by the Chief Minister on the advice of the Chief Justice of the High Court, the Speaker of the House, the Chairman of the Legislative Council, and the Leader of Opposition. Such civil servants may be prosecuted suo-motu on the recommendation of the president or prime minister. The Lokayukta's investigations reports are non-binding. It is not authorized to exercise its authority to prosecute criminals. However it is not possible to describe the workings of Lokayuktas in all states of India in this meagre span of discourse. The pivotal role of the so-called Act or innovative enterprise is to annihilate corruption which is a social pandemic in our country.

Corruption is a concern in many countries. The problem of public-private partnerships has dangerously affected public finance because of the inordinate enrichment of bribe-givers and bribe-takers. Overall findings indicate that national debt would decline significantly with the fall in population. Corruption, ineffective and insensitive government are the major problems facing the country. People feel marginalized and disconnected in relation to the new political system. People will lose hope when they are distanced from politics. Corruption does not only concentrate on embracing bribery, it also helps in ruining the national GDP and overall growth in all sectors. Conduct is used in the much broader sense of representing immoral behavior. Corruption is a callous disease which, if it is not found out in time, can kill the country, leading to the state of degradation and regression. Corruption in the institutional places functioned like a subterranean leviathan or monster, helping to abet and collude with the political mafias. Serving and helping to the masses have long yielded to favoritism, nepotism and materialism. The Supreme Court has compared corruption to cancer in a civilized society as just like AIDS, it is incurable. Corruption of public service is a breach of the rights of man. It is against common

people, against the nation and against growth. Corruption is a major problem facing the country. Corruption is the main factor retarding our country's economic growth. This is a problem which will obstruct progress of nation and result in defame to the country. The Lucknow Supreme Court Development Authority Vs M.K. Gupta (AIR 1994 SC 787) stated that kind of malpractice by government and other authority should never be permitted. It may cause harm to his person however the damage to nation is much more severe. Crimes and corruptions flourish in the society because people tolerate corruption without opposition. The most harmful emotion that one can experience is feeling powerless. A regular citizen instead of whining and arguing does not avoid an unacceptable fashion by officials. An honest person is the most excellent work of God – Pope. When men are pure, laws are useless; but when men are corrupt, laws are abolished. Indian people recognize that corruption is the key reason holding India to be a poor country. A citizen experiences corruptions at all steps and each aspect of their lives. Corruption is against progress of nation, poverty and financial growth. It is one of the worst national malaises. The Government of India as well as Government of States seeks to eliminate casteism as they are realizing that casteism is slowing down their improvement to societal advancement. This condition also slowed the growth of other industries too. Corruption has to be dealt with immediately or otherwise development would be hampered considerably. According to staistical figures, the corruption rate is not higher than 2% of the country's population. Corruption also involves unlawful exercise of power due to one holding a particular role in public sphere. Fast progressing country like India faces this difficulty because it adopts the dignity of Mega industries where many men prosper at the expense of public treasury, and thus indirectly supporting development functions of the States. The United Nations Convention against Corruption (UNCAC) was signed/ reformed by member nations as a way to fight against corruptions. The Secretary General had underscored that corruptions undermine the fundamental rights of the common men particularly of the progressing nations. With the support of seminars organized by the Supreme Court Advocates-on-Record Organization, the topic of integrity in public domain was gradually seemed to view. Conducts and actions in life of people are constantly being scrutinized quite closely. It was important that the three pillars of democracy (Legislature, Executive and Judiciary) be powerful structurally, solid in form and not corrupted and without blemishes in actions. The President of India declared it clearly that If we could make India corruption free, then the vision of making the nation developed by 2020 would remain a dream.

As a result of the international pressure and as an early warning, Singapore Government has agreed to eliminate graft. The first Administrative Reform Commission, set up by Moraraji Bhonsle was focused on reviewing the causes of administrative failure. There were also proposals to include Lokpal in the center and Lokayukta at the Province. The second Administrative Reform Commission, chaired by Shri Veerappa Moily, addressed ethics in governance and accountability in the legislative and judicial system at the National Colloquium on "Ethics in Governance: Moving from Rhetoric to Results" on September 2006 at the National Judicial Academy in Madhya Pradesh. Mahatma Gandhi, the father of the country, predicted that the people will be the ones to expose corruption and to bring those who participate in it to justice. In 1928, Gandhi wrote in *Young India* that after the situation improves, corruption will be on the road of eradication. It is important to establish an institution named Lokpal at the central level. There are Lokayuktas or Lokpal in several states. These departments ensure that there are inquiries into allegations of wrongdoing made against public officials by residents. It serves as a protector or savior against mischief by the government officials. Procedures should be fast and inexpensive to benefit process management. Complaint is admissible with supporting documentations. It will act and stand against decisions taken by the government because of this position. This more public approach serves to humanize ties between the public and the

government, creating greater respect for the rule of law and a more accountable administration. It is a supporter of anti-corruption. In order to reach a standardised Lokayukta scheme, a constitutional amendment has been proposed in India. By making the institution of Lokayukta unvarying throughout the nation as a three members organization, made up of a retired high court chief justice, the state vigilance commissioner and a jurist or a renowned administrator as members, the suggested agendas would make the establishment more effective. The enforcement of the Lokpal and Lokayukta (Ombudsman) Act of 2013 is being hindered because many of its provisions are being misinterpreted. The biggest obstacle facing the Act is that Lokpal was not even named until 2019. There are some politicians who opposed the government action to build this Grand Mosque. The project plans were not adopted for several years after that. However, the act is found to be silent on several key principles relevant to corruption prevention. People criticise that the Act does not offer immunity to whistle-blowers. Also, the selection board of the Lokpal is designed by the Prime Minister and other members of Parliament. The recruiting selection process is not entirely without the control of external influences. The Lokpal seems to get the most coverage by the Lokayukta Act of 2013. This Act will definitely empower the state governments to set up Lokayuktas. It has been observed that the Act has no legal authority governing the role of Lokayuktas. There is the transgression of the duty of law administration. There is no explicit reference on the make-up of this agency in this Act. There are concerns about the judicial independence and efficacy of the Lokpal. The judiciary itself must be able to deal with matters of malpractice. In fact, the control of Lokpal does not apply to the armed forces of the country.

### **Conclusion**

It is evident that Lokpal and Lokayuktas are heavily dependent on bodies like CBI and CVC to conduct investigations, also for preliminary stages. These Ombudsman institutions need their own autonomy to carry out their duties without the involvement of political parties. These institutions require autonomy so that these bodies can perform their duties as mandated by international financial institutions. It can be seen that only a limited number of countries set up the Lokayuktas. There is separate legislation for states and Lokayuktas. This demonstrates the utter uselessness of the said Act. One can see in many states such as Karnataka and Madhya Pradesh, the Lokayuktas are committed to counter and halt corruption, however, there is lack of such efforts in other states. This system has been crippled as many of its functions have been impaired by red-tapism. This kind of complicated system could prove to be detrimental to the very purpose of this system. The body could be easily taken over by the officials with influence. The most important issue raised is that there is no way to appeal against the Lokpal. This potentially impedes investigation of the corruption as the Lokpal had revealed cases that occurred more than a decade ago. As yet the Lokpal bill has not been enacted. No new state has adopted a Lokayukta still. The Parliamentary Committee strongly criticised the government for not implementing this Act. A deficit of political volition was largely responsible for the problems. Even if the Act was applied, the issue would not be solved because it is still a complex and complicated mechanism. In addition, the nominating committee itself consists of politicians. There is no requirement to define a renowned jurist or a man of honesty. This is smoothly exploited. According to statute, the Act gives no exemptions to the whistle-blowers. The stipulations for an investigation against the accuser if the convicted is acquitted would deter people from filing complaints. There is no way of knowing whether the Lokpal will stay genuinely serving the people or not. One of the main issues here is the absence of judicial components from the purview of the Lokpal. The Lokpal is not granted a statutory basis either. There is no provision to seek justice in Lokpal. There is no law relating to Lokayuktas. There is a lengthy path to go to achieve accountability and clean governance before corruption is eradicated. Overall, the Lokpal and Lokayukta Act of 2013 seem to be lacking and unsuccessful.

The greatest objection to the Act is the absence of whistleblower protection. Those individuals do not hold the same views with the prominent voices. The anti-corruption campaign in India has a very long course. To conclude, it can be said that many would be indecisive to raise their clarion voice against the chaotic authoritative voices. Therefore, the Lokayukta as an avenue for the anti-corruption movement and dream for establishment of utopian society in India has a long path to tread.

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