

A STUDY ON LOKPAL BILL AND ITS EFFECTIVENESS IN CURRENT SCENARIO

AUTHOR – J.GOPIKA* & Mr. SLS RAAJAVINAYAGA SUBAASH**, STUDENT* & ASSISTANT PROFESSOR**,
SAVEETHA SCHOOL OF LAW, SAVEETHA INSTITUTE OF MEDICAL AND TECHNICAL SCIENCES (SIMATS),
CHENNAI.

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ABSTRACT

Corruption in India is a burning issue and inadequately disturbs its frugality the maturity of corruption is set up during programs or schemes funded by the government for citizens or specific groups of people. The citizens of India are now apprehensive about their rights and significance of vote. They're generally set up in favor of developing a system to control corruption. The Lokpal bill against corruption has been set up as a strong tool but it could n't yet be enforced in its spirit and anticipation. The Citizens of India substantiation corruption in the Indian Political System which is growing steadily and dangerously and has come a „ Cancer “ for the Nation. Different social workers similar as Anna Hazare, Baba Ramdev came forward and started their movement against corruption and emphasized upon the perpetration of Lokpal Bill. During the trip after independence, Indian republic witnessed the paradigm shift from the educated & devoted political leaders to cosmetic politicians and also the burning issue of corruption made Indian citizens suspect honest popular affairs. The author has used an empirical study and chance system of check and it has been conducted substantially in Chennai. The author is J.Gopika law council third time pupil from Saveetha University(law department) and the Co- Author is Mr. Sls Raajavinayaga Subaash, Assistant professor from Saveetha University(law department). The sample size in this exploration is 200. The output of the study is that the people are probative of the lokpal bill but till now no lokpal has been constituted so it reduces the effectiveness of the lokpal bill.

Keywords: Lokpal Bill, Lokayukta, Corruption, anti-corruption movement and democracy.

Introduction:

The problem of corruption is neither new nor it's confined to developing countries only. Its nature can be extremely different and therefore the environment and applicability of the problem varied extensively between countries and time ages. India is the largest republic in the world, it continues to struggle on a diurnal base to fight corruption in every field at both the public and original situations. Political, regulatory, commercial and individual corruption in India is major enterprises. A 2005 study conducted by translucency International in India set up that further than 55 of Indians had first- hand experience of paying backhanders or influence

peddling to get jobs done in public services successfully. The history of corruption goes back to ancient times. Its nature can be extremely different and therefore the environment and applicability of the problem varied extensively between countries and time ages. The problem has come more focused in recent decades with increase in global cooperation for achieving profitable and social growth in all countries since 1960s. Although the former Prime Minister Narasimha Rao in the 1990's took the first way towards putting an end to corruption and tried to make all government officers more responsible for their conduct, there's still important work that needs to be done to reform the roots of political corruption in India.

Jan Lokpal Bill is a draft anti-corruption bill drawn up by prominent civil society activists seeking the appointment of Jan Lokpal which would be an independent body that would probe corruption cases. This bill was originally drafted by prominent civil society activists Justice Santosh Hegde (Former Supreme Court Judge and present Lokayukta of Karnataka), Prashant Bhushan (Supreme Court Lawyer), Arvind Kejriwal (RTI activist). The Lokpal is responsible for enquiring into corruption charges at the public position while the Lokayukta performs the same function at the state position.

Maharashtra was the first state to introduce Lokayukta through The Maharashtra Lokayukta and Upa-Lokayuktas Act in 1971. Presently, there are no Lokayuktas in the states of Andhra Pradesh, Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura. The causes of corruption in India include, "Excessive regulations, complicated taxes and licensing systems, numerous government departments each with opaque bureaucracy and discretionary powers, monopoly by government controlled institutions on certain goods and services delivery, and the lack of transparent laws and processes

The Prime Minister has been brought under the purview of the Lokpal with subject matter exclusions and specific process for handling complaints against him/her. It lays down clear timelines. For preliminary enquiry, it is three months extendable by three months. For investigation, it is six months which may be extended by six months at a time. For trial it is one year extendable by one year and to achieve this, special courts are to be set up. It enhances maximum punishment under the Prevention of Corruption Act from 7 to 10 years. The minimum punishment under sections 7, 8, 9 and 12 of the Act will now be three years and the minimum punishment under section 15 (punishment for attempt) will now be two years. Institutions that are financed fully or partly by the Government are under the jurisdiction of

the Lokpal, but institutions aided by the governments are excluded. The Lokpal has the authority of search and seizure, as well as powers under the Civil Procedure Code to undertake preliminary inquiries and investigations, as well as the power to attach assets and take other measures to combat corruption.

The Lokpal was a tool utilized in India's governmental system to tackle corruption. There are, however, certain defects and holes that must be remedied. The Lokpal selection process is skewed because there are no guidelines for deciding who is an "eminent jurist" or "a person of integrity." There are no proper procedures for appealing Lokpal's actions. The Lokpal and Lokayukta Act also stipulates that no complaint against corruption can be filed until a period of seven years has passed from the date on which the alleged offense was committed. The aim of study is to know about the opinion of the public on the Lokpal bill. The aim of study is to know about the opinion of the public on the Lokpal bill.

Objectives:

- To find the support for Lokpal Bill.
- To analyze the effectiveness of Lokpal Bill.
- To know if there is potential influence in Lokpal.
- To examine the difficulties of citizens to lodge complaints.
- To study disadvantages of Lokpal Bill.

Review of Literature:

(Tanzi 1998) Vito Tanzi in an International Monetary Fund study suggests that in India, like other countries in the world, corruption is caused by excessive regulations and authorisation requirements, complicated taxes and licensing systems, mandated spending programmes, lack of competitive free markets, monopoly of certain goods and service providers by government controlled institutions, bureaucracy, lack of penalties for corruption of public officials, and lack of transparent laws and processes". **(Waller, Verdier, and Gardner**

2002) There is a growing worldwide concern over corruption at the present time. Several factors are responsible for this. A consensus has now been reached that corruption is universal. It exists in all countries, both developed and developing, in the public and private sectors, as well as in non-profit and charitable organizations. **(Clifford et al. 2018)** Allegations and charges of corruption now play a more central role in politics than at any other time. Governments have fallen, careers of world renowned public figures ruined, and reputations of well-respected organizations and business firms badly tarnished on account of it. The international mass media feeds on it and scandals and improper conduct, especially of those in high places, are looked upon as extremely newsworthy, and to be investigated with zeal and vigour. **(Davidsson, Delmar, and Wiklund 2006)** The rising trend in the use of corruption as a tool to discredit political opponents, the media's preoccupation with it as a highly marketable commodity, and the general public's fascination with seeing prominent personalities in embarrassing situations have brought scandalous and corrupt behavior, a common human frailty, into the limelight of international attention. **(Ray 1999)** Corruption can be a major obstacle in the process of economic development and in modernizing a country. Many now feel that it should receive priority attention in a country's development agenda. This greater recognition that corruption can have a serious adverse impact on development has been a cause for concern among developing countries. In a recent survey of 150 high level officials from 60 third world countries, the respondents ranked public sector corruption as the most severe obstacle confronting their development process. **(Warf 2018)** Countries in the Asia and Pacific region are also very worried about this problem and they are in substantial agreement that corruption is a major constraint that is hindering their economic, political and social development, and hence view it as a problem requiring urgent attention at the highest level.

(Mauro and PMAuro@imf.org 2002) Lokpal at centre and Lokayukta at state level will be independent bodies. ACB and CBI will be merged into these bodies. They will have power to initiate investigations and prosecution against any officer or politician without needing anyone's permission. Investigation should be completed within 1 year and trial to get over in next 1 year. Within two years, the corrupt should go to jail. **(Black 1891)** Lokpal or Lokayukta will have complete powers to order dismissal of a corrupt officer. CVC and all departmental vigilance will be merged into Lokpal and state vigilance will be merged into Lokayukta. **(Mitra and Sharma 2016)** In the Existing System no action is taken against corrupt judges because permission is required from the chief justice of India to even register an FIR against corrupt judges. By the System proposed by the Civil Society Lokpal and Lokayukta shall have powers to investigate and prosecute any judge without needing anyone's permission. **(Güven 2012)** All investigations in the Lokpal and Lokayukta will be transparent. After completion of investigation, all case records shall be open to public. Complaint against staff of Lokpal and Lokayukta shall be enquired and punishment announced within two months. **(Robinson 2012)** Politicians will have absolutely no say in selections of Chairperson and members of Lokpal and Lokayukta. Selections will take place through a transparent and public participatory process. **(Doig A 1998)** Lokpal and Lokayukta will get public grievances resolved in time bound manner, imposed a penalty of Rs 250 per day of delay to be deducted from the salary of guilty officer and award that amount as compensation to the aggrieved citizen. **(Surat singh 2010)** As per reports, Anna Hazare's fast was successful in mobilizing the support of thousands in the virtual world of social media. On Independence Day, Anna had over 500,000 mentions through status updates and comments across top social networking sites, including Facebook and Twitter in the country. Two days later, the number had shot up to 9 million. On YouTube, over 40,000 people

watched the video shot by Kiran Bedi inside Tihar Jail in which Anna has addressed his supporters. Facebook has 542 fan pages by Anna's name. **(Syed 1999)** According to the survey conducted by STAR News and Nielsen, 87% of the 8900 respondents of the survey supported the Jan Lokpal Bill. The survey – conducted in 28 cities across the country, including all four metros – mainly dealt with three important points: public's knowledge about the Lokpal Bill; awareness about Anna's campaign; and the perceived problems with the Jan Lokpal Bill. **(Anant and Mitra 1998)** Over a million people joined the Times of India online anti-graft campaign, in one of the biggest ever voting exercises in the virtual world. The news analysis points that citizens want to make their voices heard and have found the platform offered by the campaign a viable one to do so. **(K et al. 2011)** India Against Corruption conducted a survey on the draft Lokpal Bill presented by the Indian Government in Parliament. It showed that 85% of the participants were opposed to the government's bill. The team especially cited the results from the Chandni Chowk constituency, the constituency of Telecom Minister Kapil Sibal, who is a vehement voice for the government's version of the bill. **(Kaufmann, Kraay, and Zoido-Lobatón 2002)** According to a nationwide survey conducted by CNN-IBN & CNBC-TV18 and published in early August, only a shade over a third of respondents have heard of Lokpal. 34% of all respondents said they have heard of the ombudsman and only 24% knew what it actually mean. **(Sapru 2008)** Now, people can approach Lokpal for ration card or passport or voter card if it is not being made or if police is not registering their case or any other work is not being done in prescribed time. Lokpal will have to get it done in a month's time. **(Maheshwari SR 2002)** Citizens can also report any case of corruption to Lokpal like ration being siphoned off, poor quality roads been constructed or panchayat funds being siphoned off. Lokpal will have to complete its investigation in a year, trial will be over in next

one year and the guilty will go to jail within two years. **(Farazmand 2002)** But won't the government appoint corrupt and weak people as Lokpal members? That won't be possible because its members will be selected by judges, citizens and constitutional authorities and not by politicians, through a completely transparent and participatory process. **(Riley S 2002)** What if some officer in Lokpal becomes corrupt? The entire functioning of Lokpal / Lokayukta will be completely transparent. Any complaint against any officer of Lokpal shall be investigated and the officer will be dismissed within two months.

Research Methodology:

The present paper was analyzed through the non-doctrinal research methodology and empirical and descriptive method of research was used. The primary information for the research is collected through online surveys with randomly selected respondents which included the general public of different age groups with a well framed and structured survey questionnaire. The secondary sources used by the researcher for the study is by referring to books, research articles, e-sources, articles, journals, newspapers. A total of 200 responses were collected from in and around Chennai.

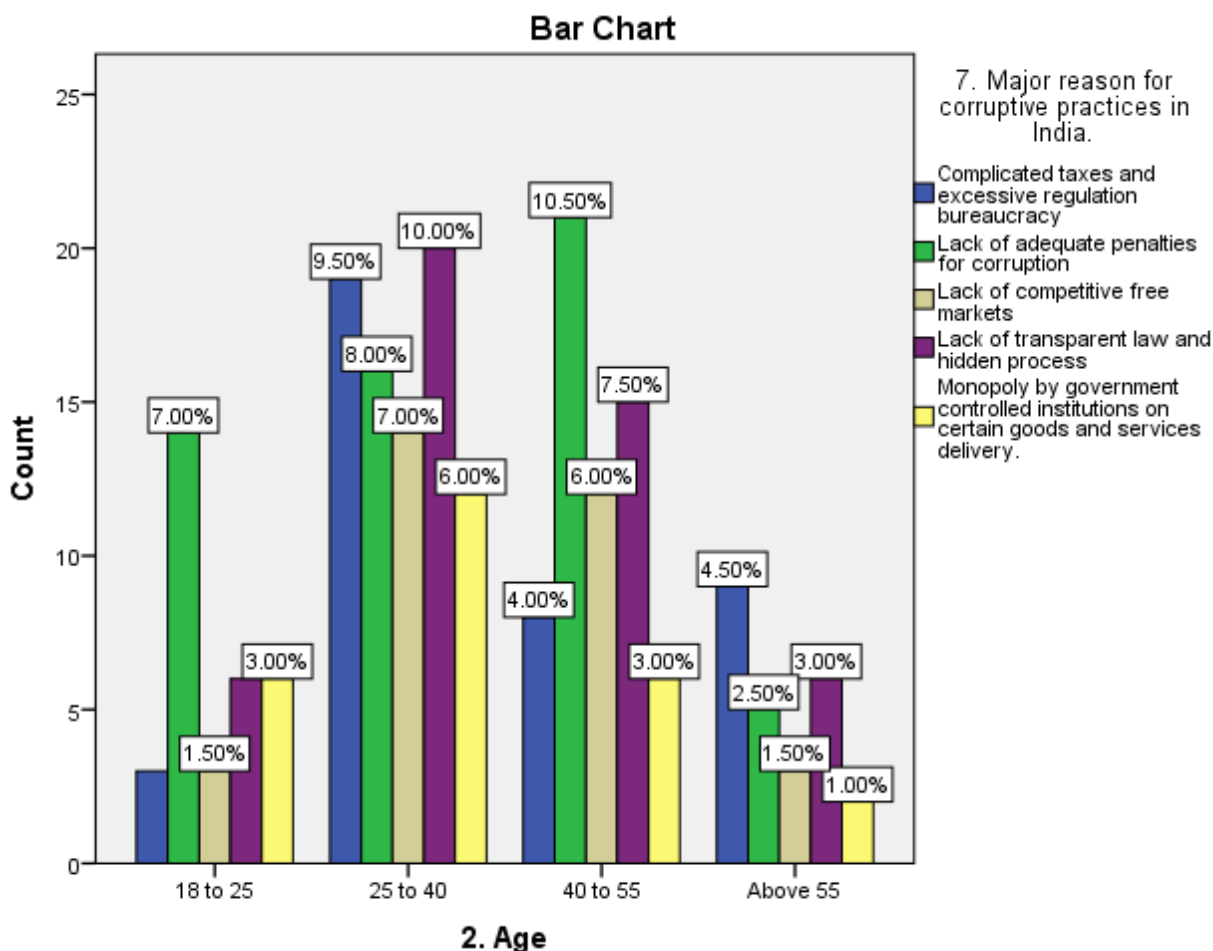
Dependent variables: Age, Gender, Educational, occupation, name And Income

Independent variable: Major reasons for corruptive practices in India, Lokpal is a powerful tool to control corruption, Lokpal Bill is still not implemented by all states to control corruption which is a major drawback of the bill, legal assistance given to public servants against whom a complaint is made is biased and against the sole objective of the legislation, anonymous complaints are not allowed which can deter the complainants to lodge complaints out of fear, Heavy punishments for false complaints can deter complaints being filed, Lokpal is not free from political influence and Lokpal cannot suo motu proceed against

any public servant, this makes it less authoritative body.

Analysis:

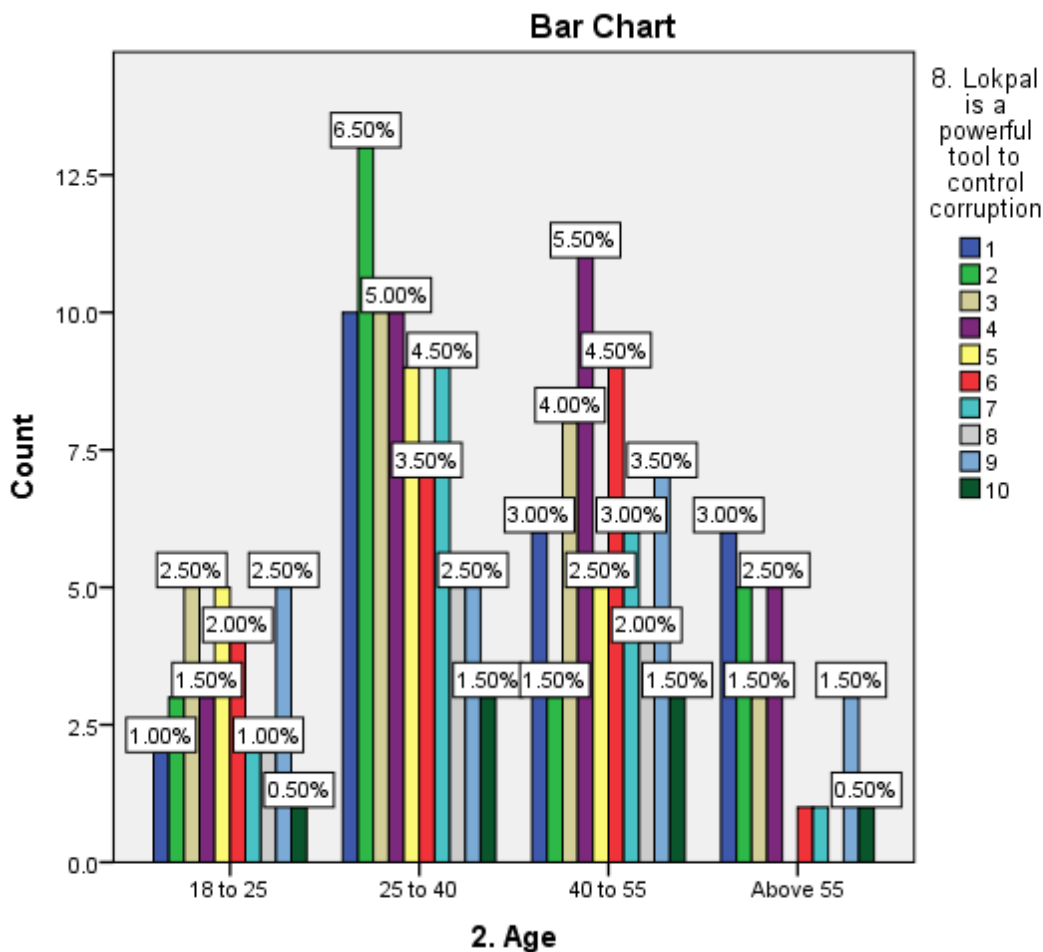
Figure 1:



Legend : In **Figure 1** the probability of major reasons for corruptive practices in India is compared with the Age of the respondents.



Figure 2:



Legend : In **Figure 2** the probability of lokpal being a powerful tool to control corruption is compared with the Age of the respondents.

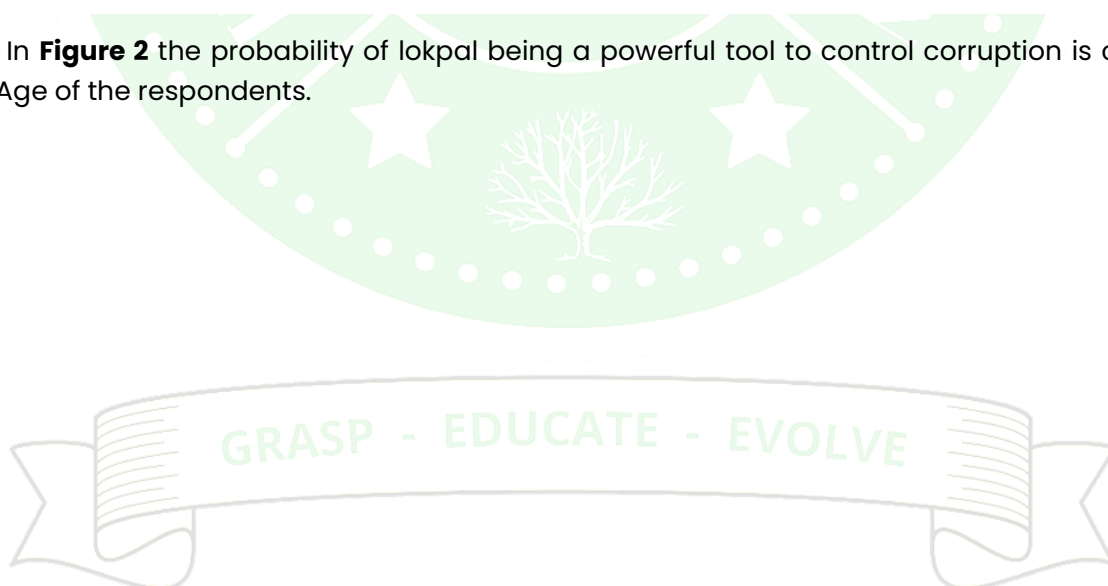
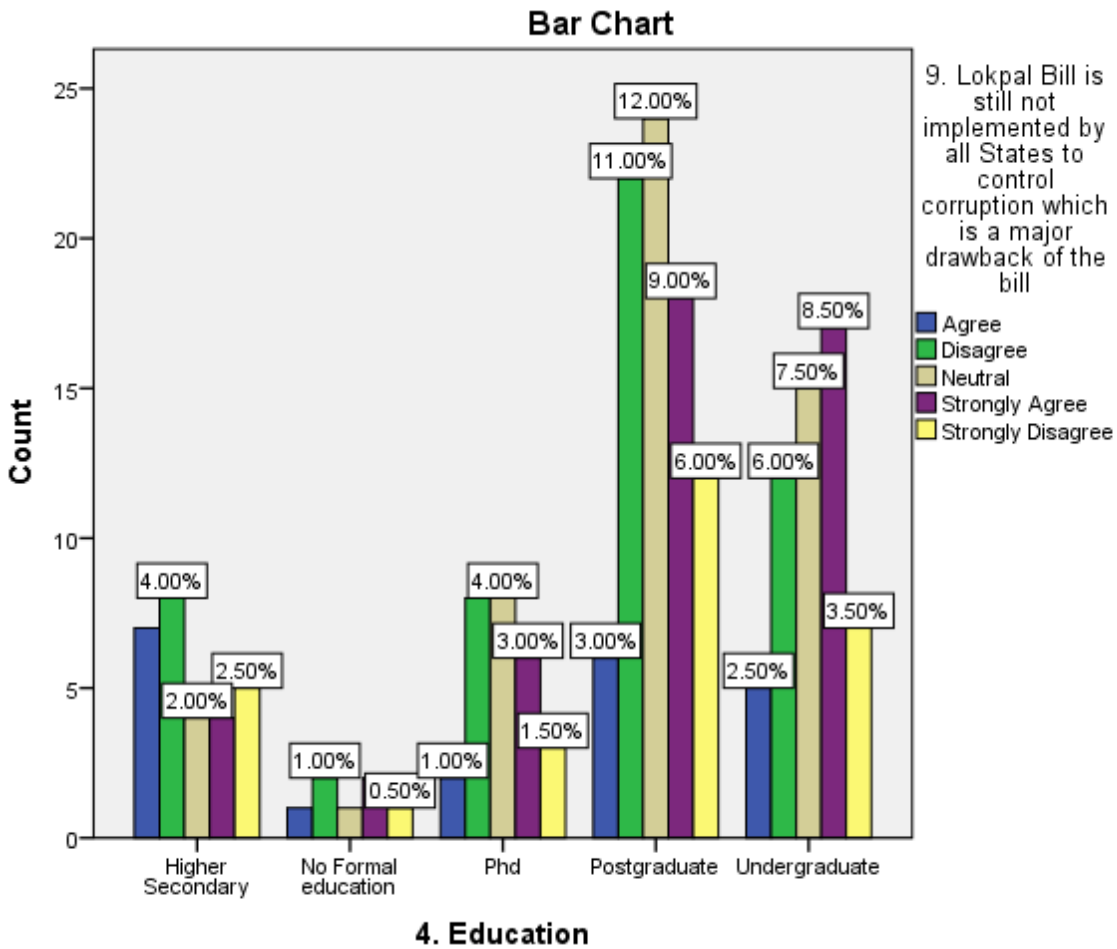


Figure 3:



Legend : In **Figure 3** the probability of the Lokpal Bill is still not implemented by all states to control corruption which is a major drawback of the bill compared with the Education of the respondents.

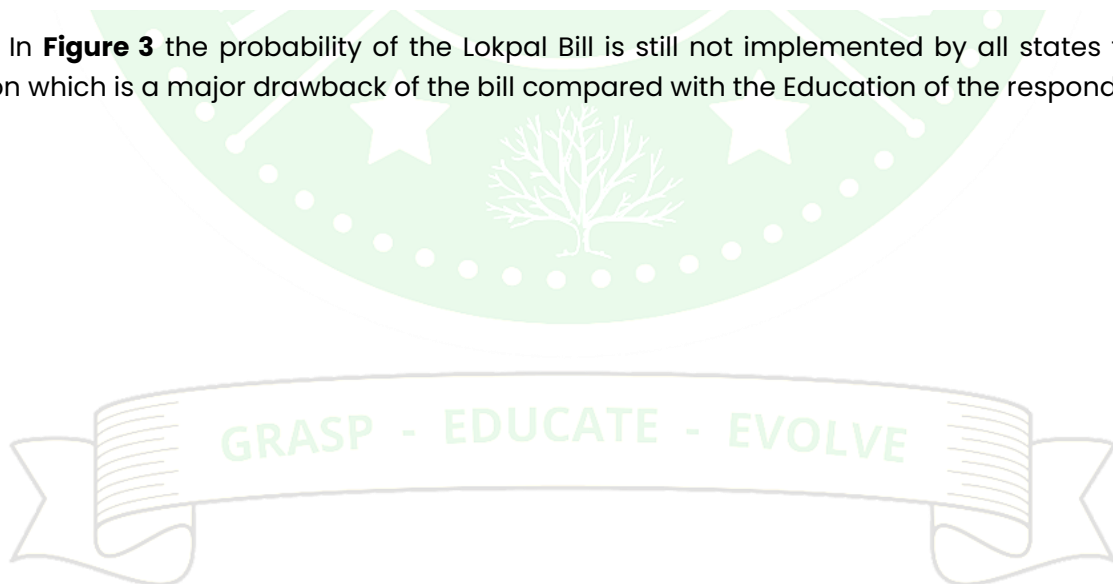
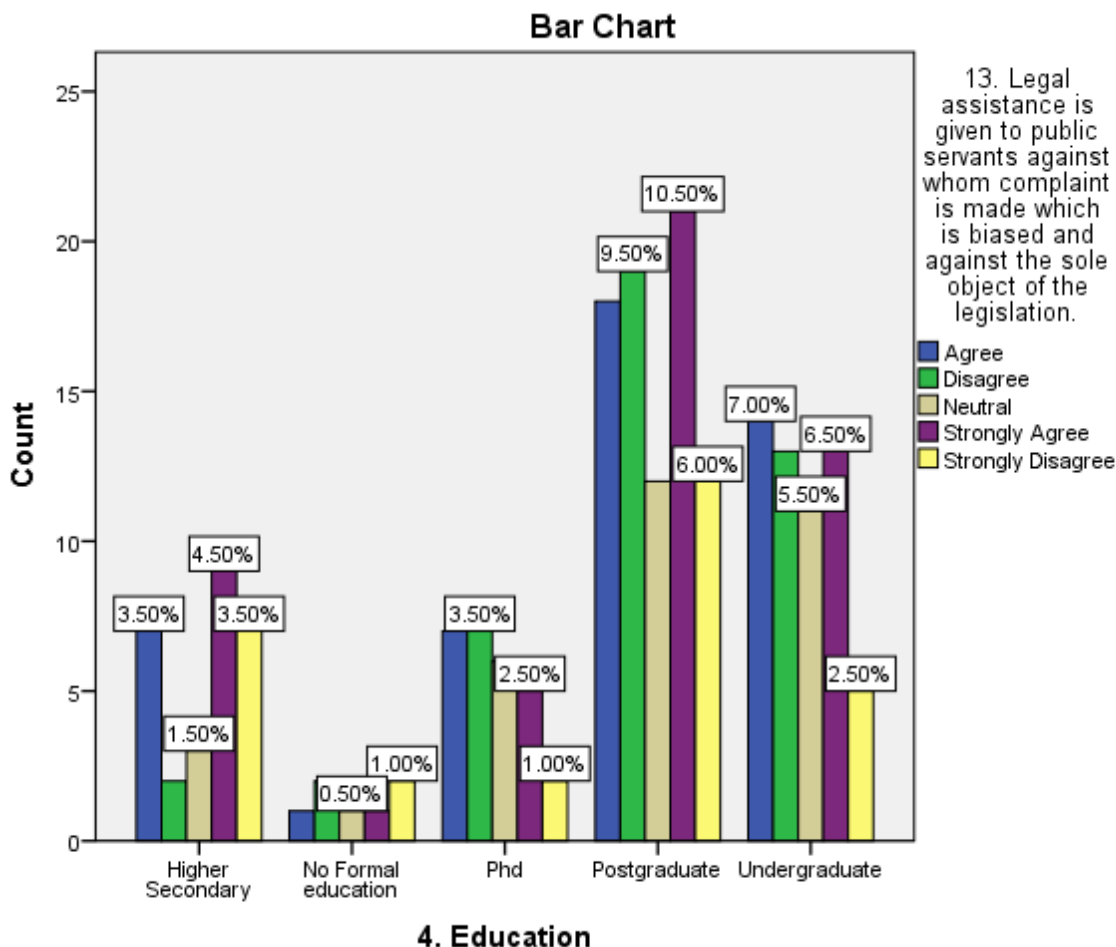


Figure 4:



Legend : In **Figure 4** the probability of legal assistance given to public servants against whom a complaint is made is biased and against the sole objective of the legislation is compared with the Education of the respondents.

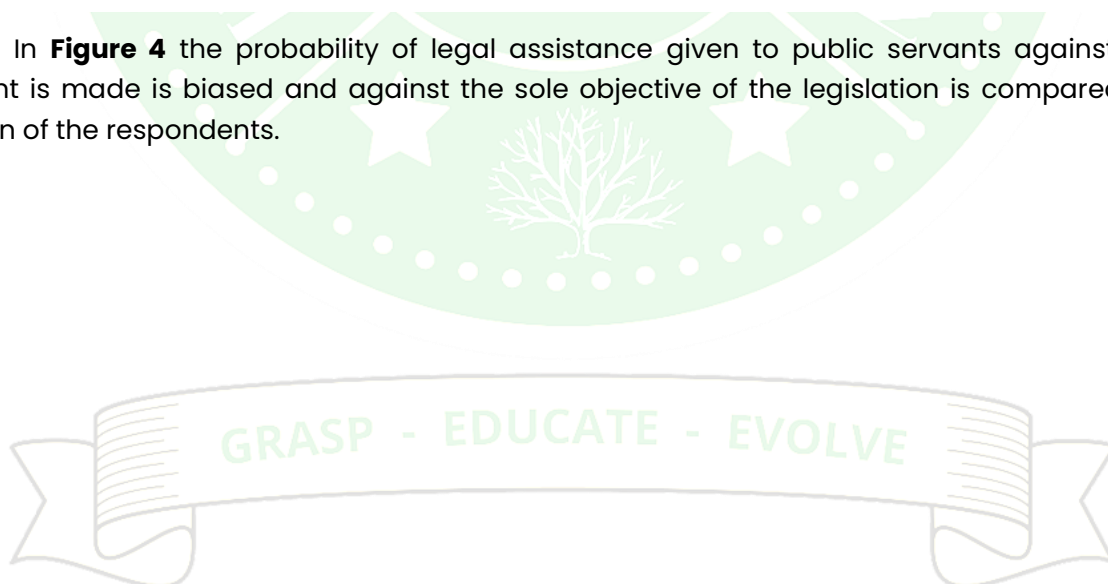
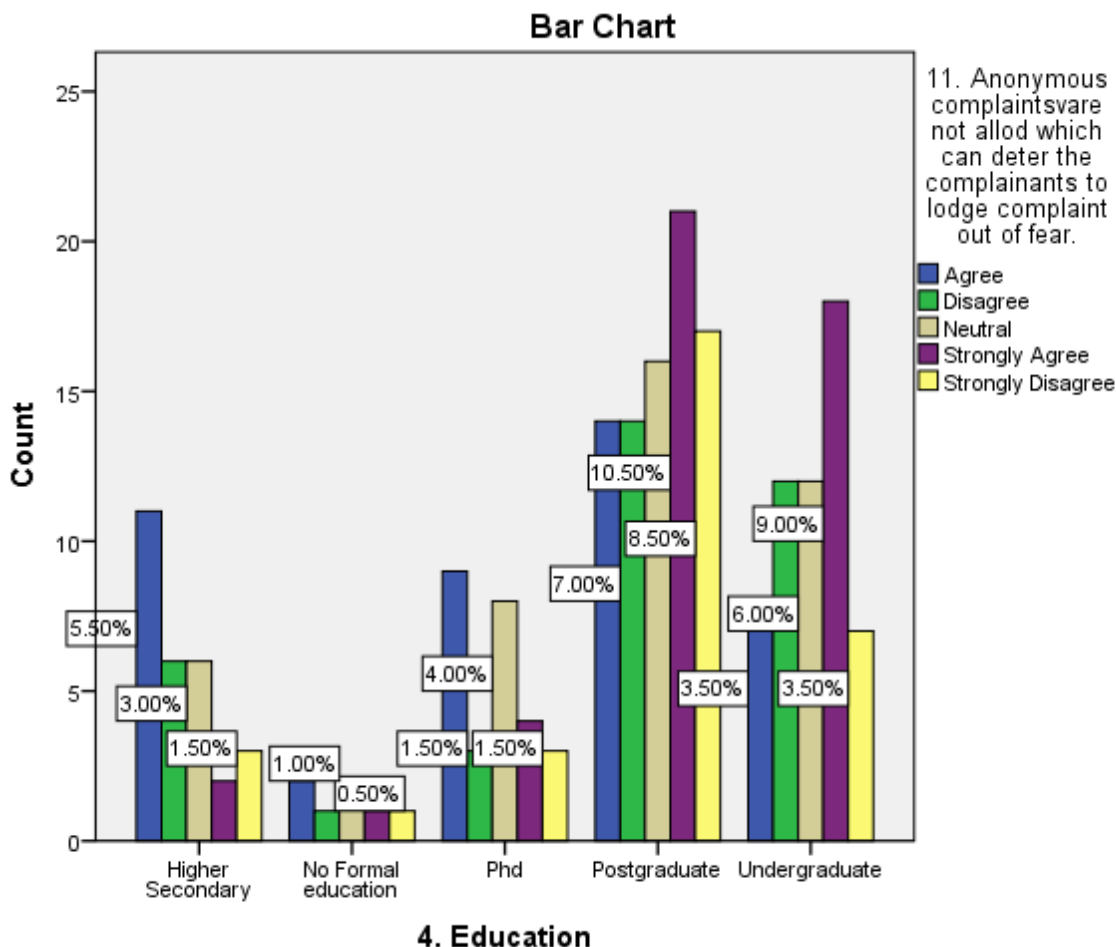


Figure 5:



Legend : In **Figure 5** the probability that anonymous complaints are not allowed which can deter the complainants to lodge complaints out of fear is compared with the Education of the respondents.

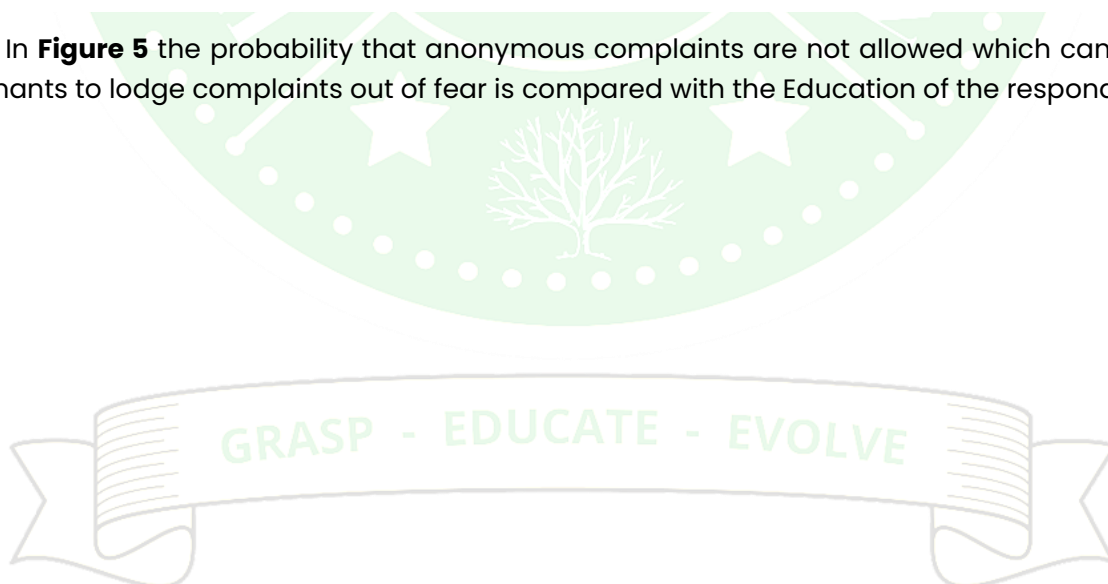
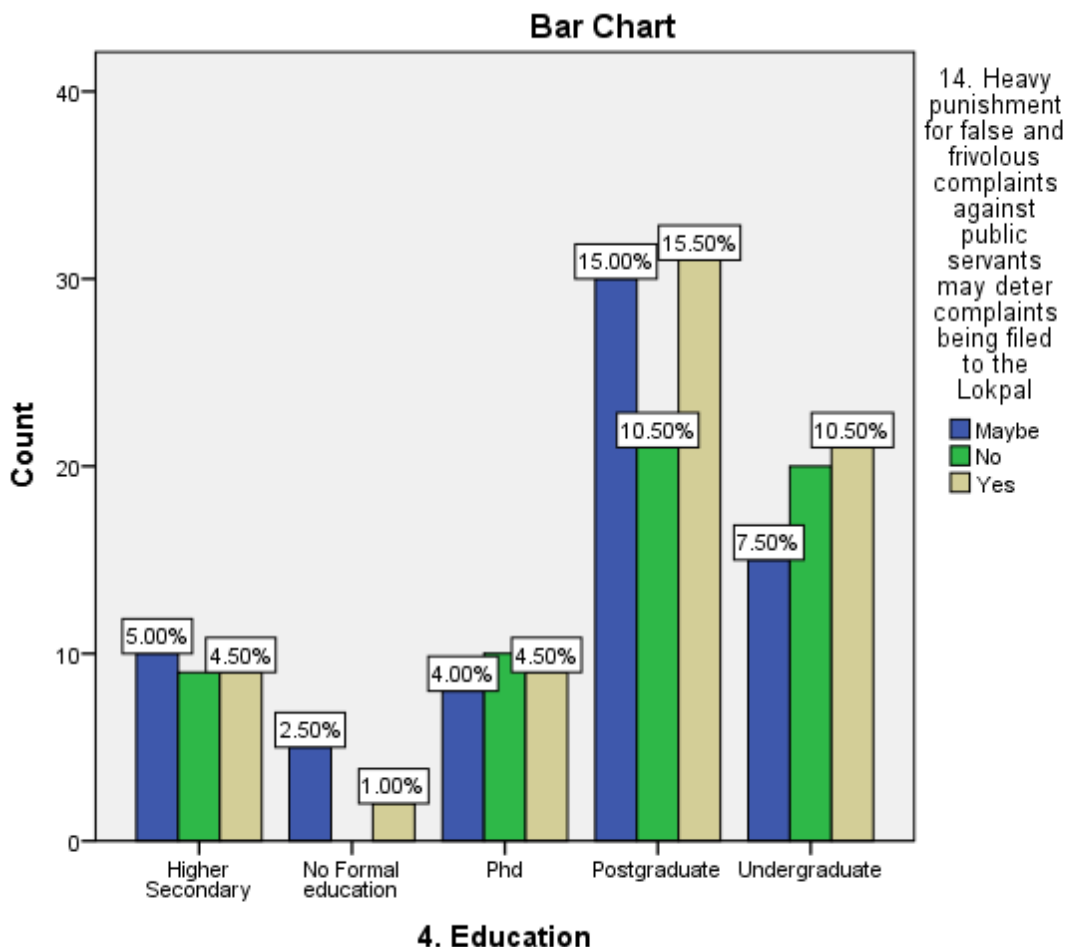


Figure 6:



Legend : In **Figure 6** the probability of Heavy punishments for false complaints can deter complaints being filed is compared with the Education of the respondents.

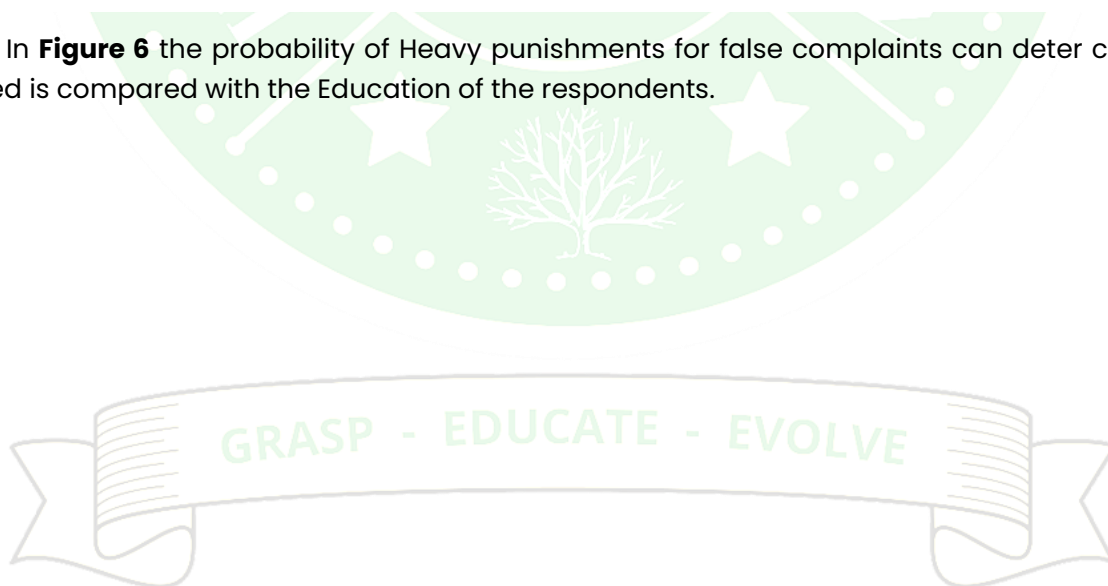
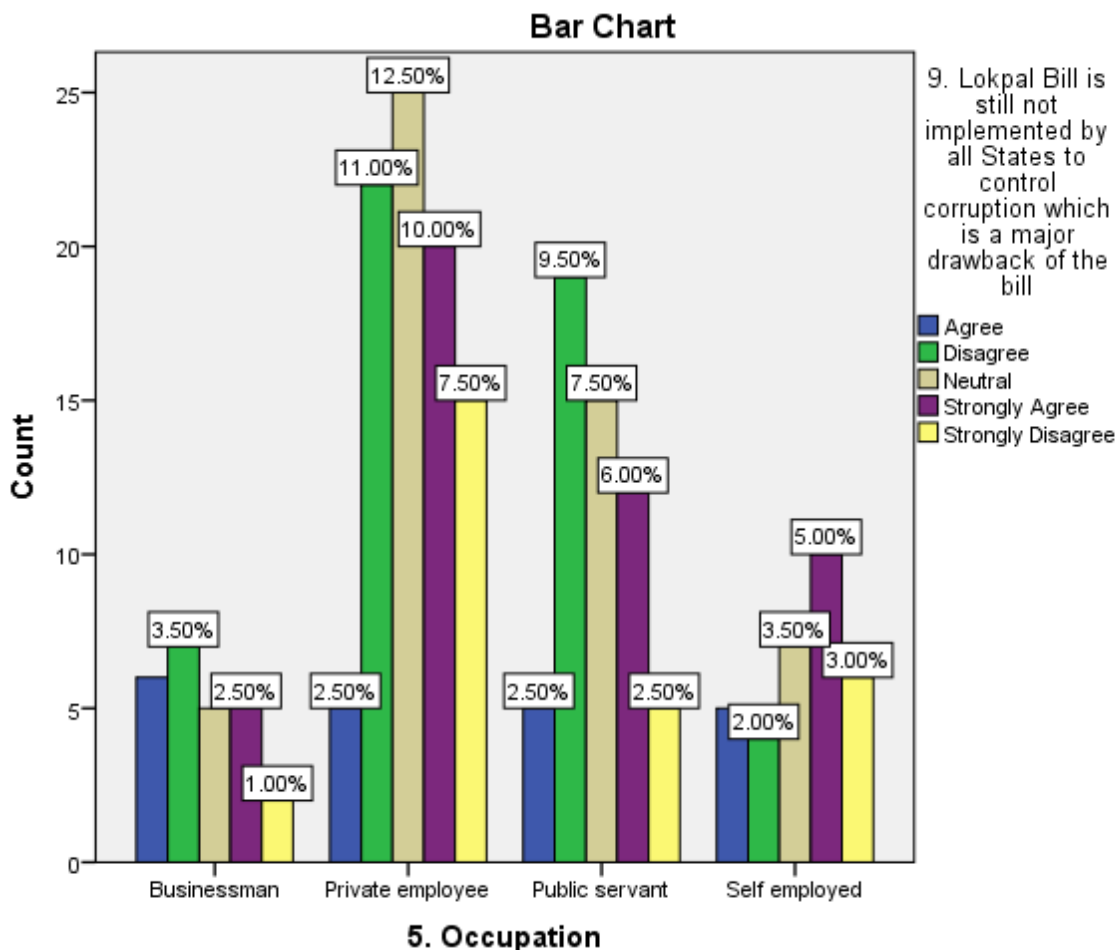


Figure 7:



Legend : In **Figure 7** the probability of Lokpal Bill is still not implemented by all states to control corruption which is a major drawback of the bill compared with the Occupation of the respondents.

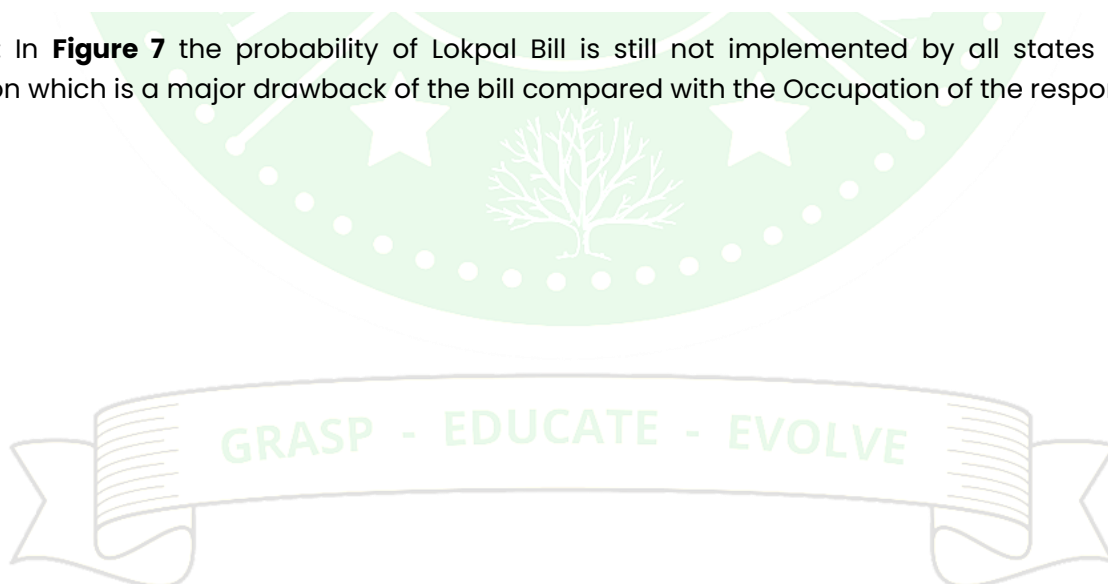
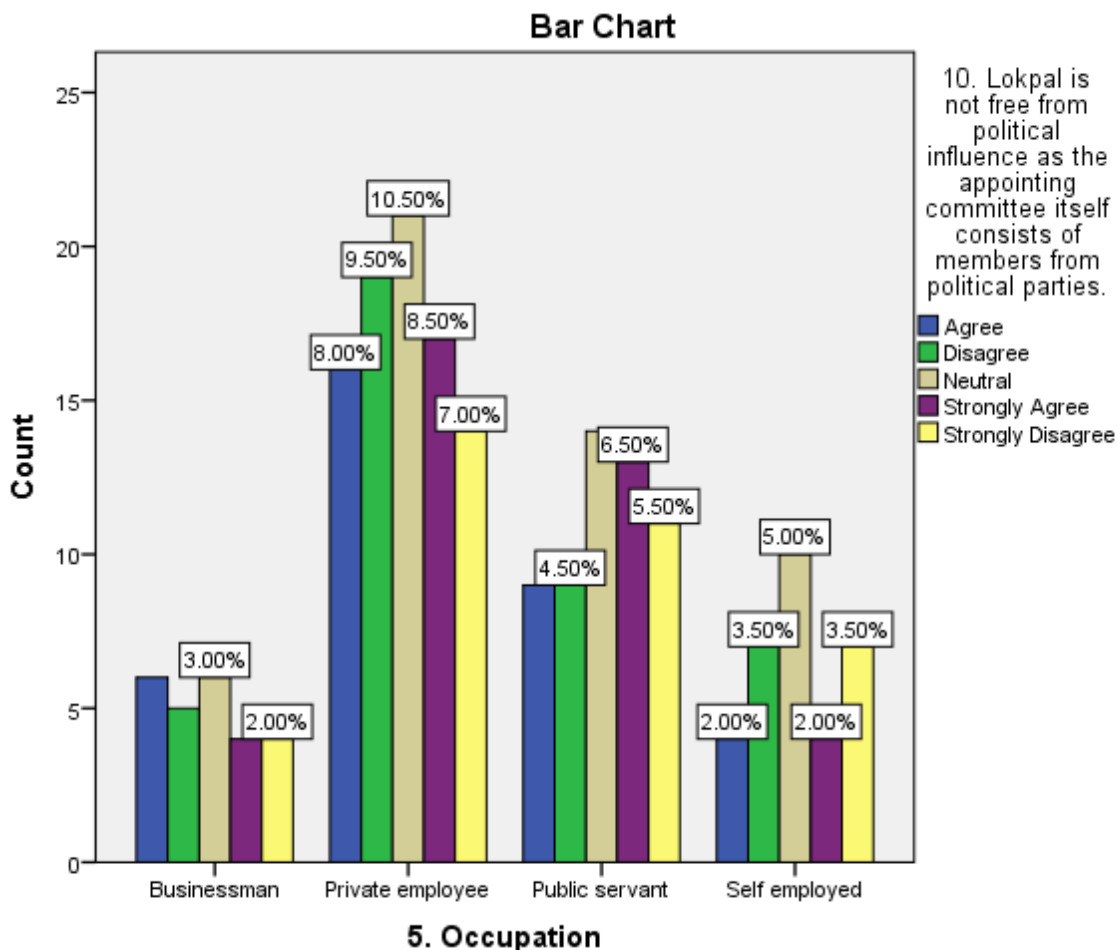


Figure 8:



Legend : In Figure 8 the probability of Lokpal is not free from political influence is compared with the Occupation of the respondents.

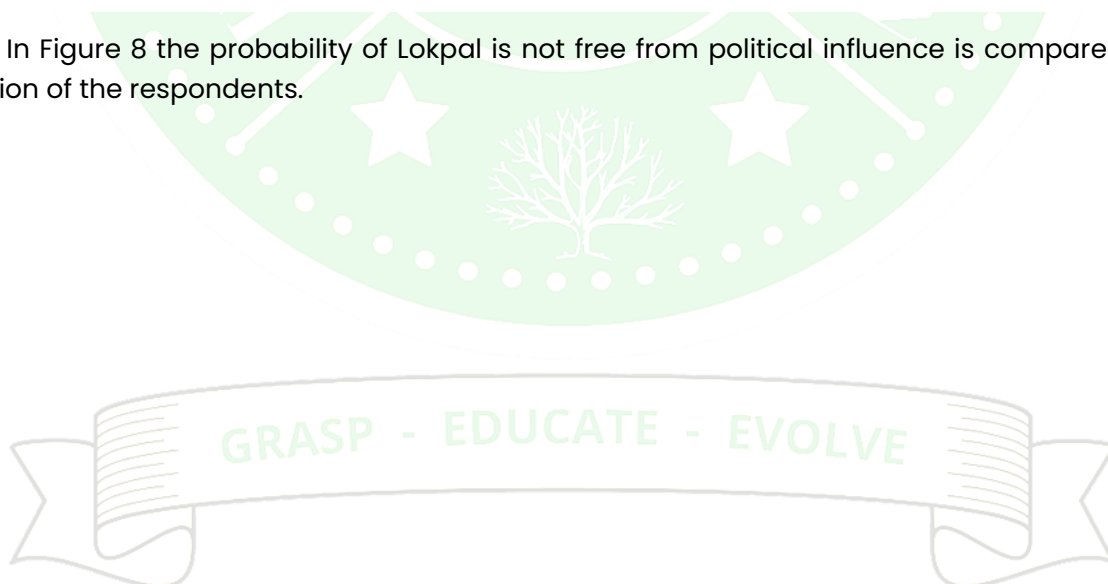
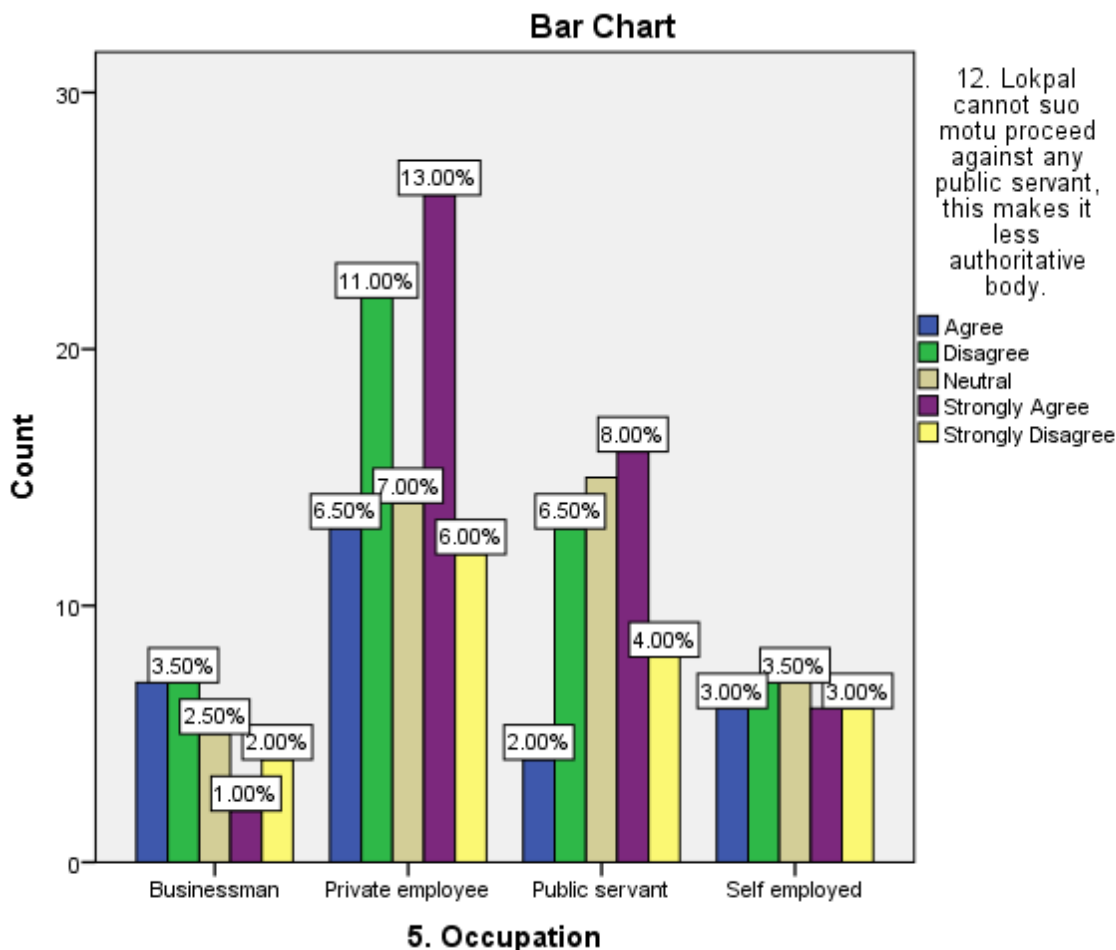


Figure 9:



Legend : In Figure 9 the probability of Lokpal cannot suo motu proceed against any public servant, this makes it less authoritative body is compared with the Occupation of the respondents.

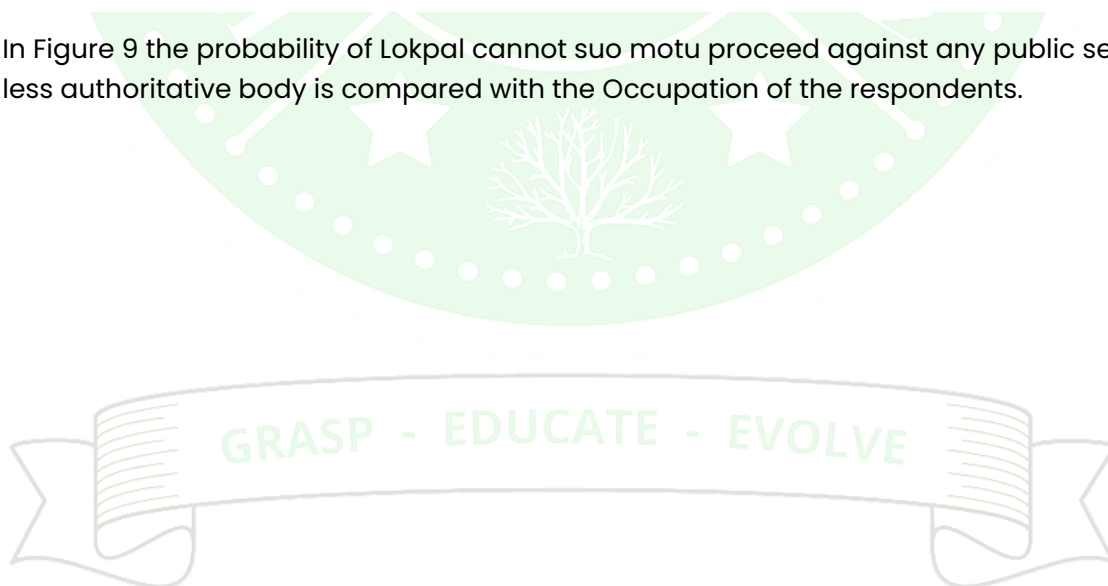
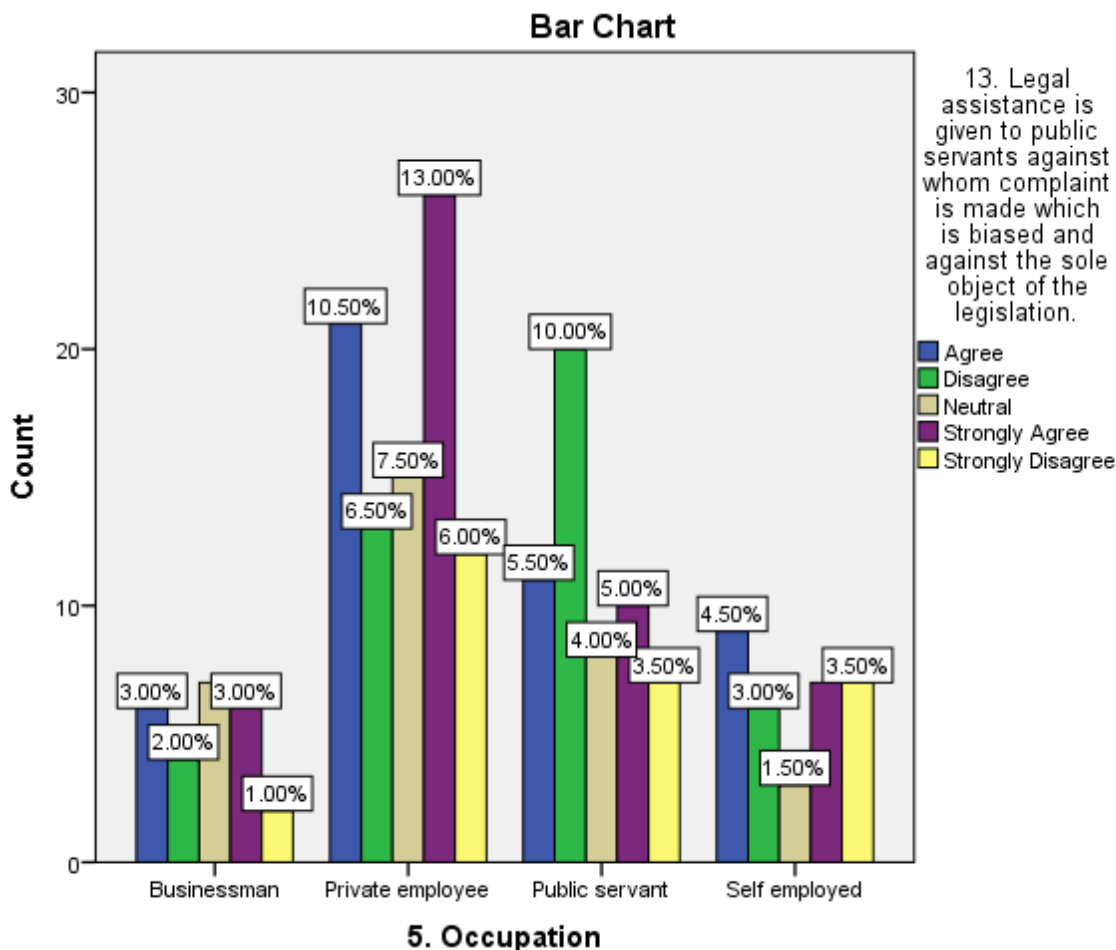


Figure 10:



Legend : In Figure 10 the probability of legal assistance given to public servants against whom a complaint is made is biased and against the sole objective of the legislation is compared with the Occupation of the respondents.

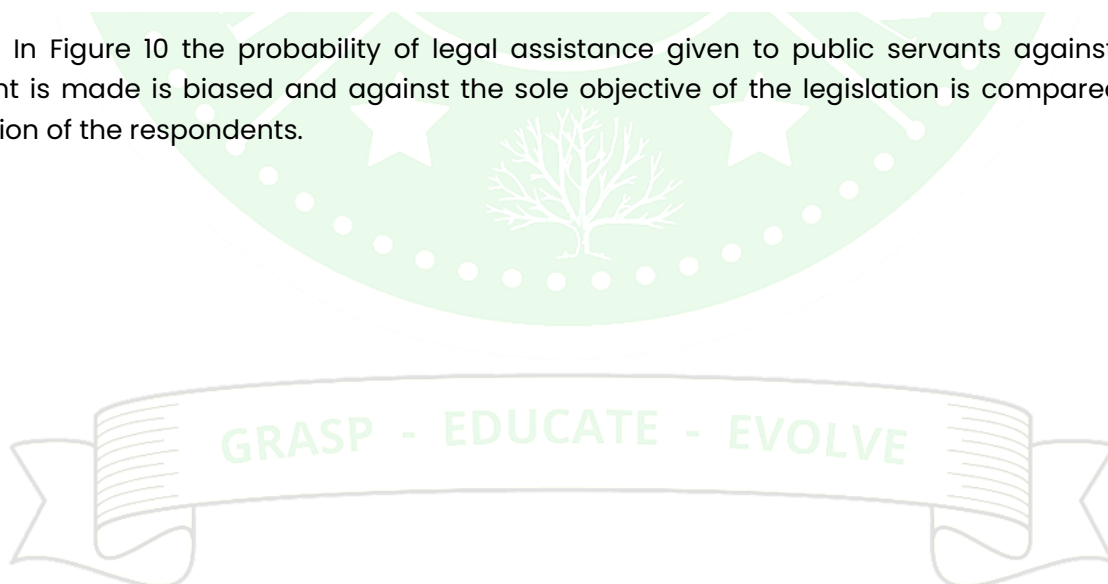
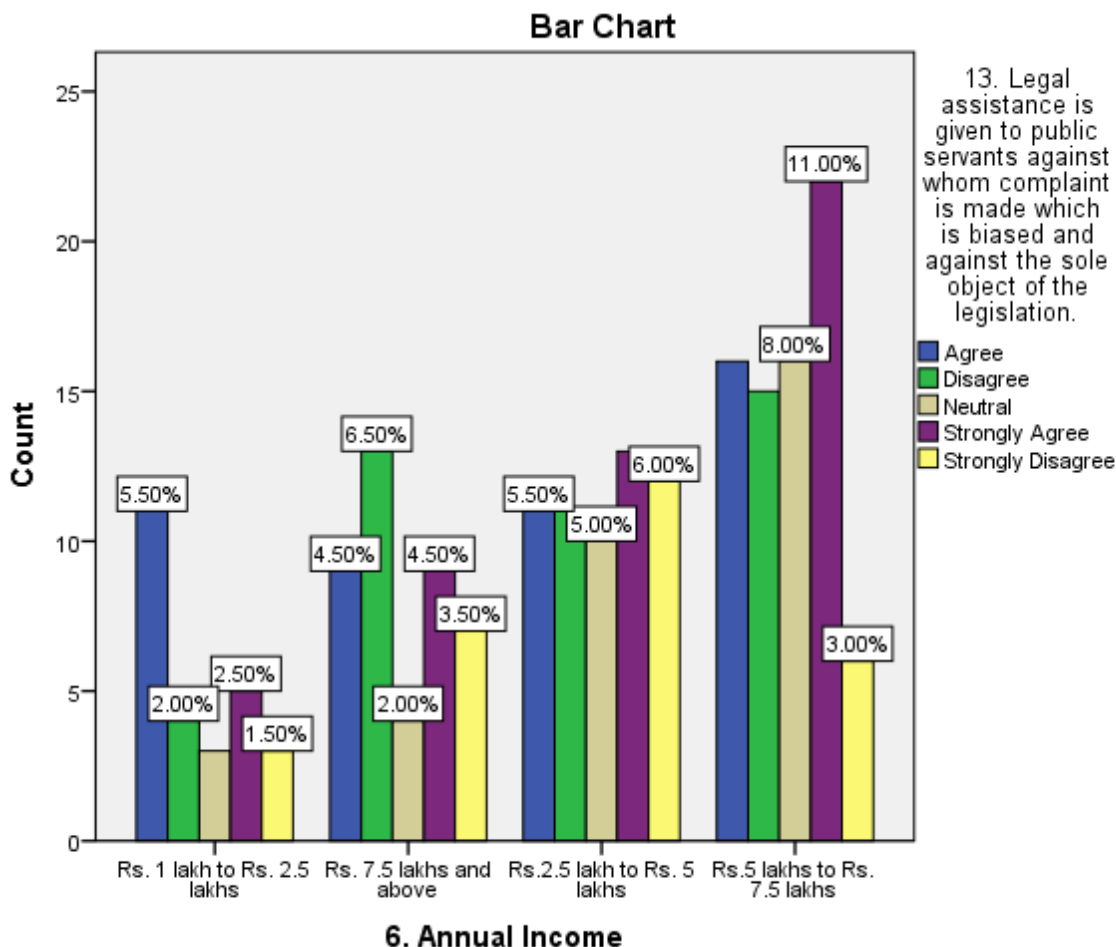


Figure 11:



13. Legal assistance is given to public servants against whom complaint is made which is biased and against the sole object of the legislation.

- Agree
- Disagree
- Neutral
- Strongly Agree
- Strongly Disagree

Legend : In Figure 11 the probability of legal assistance given to public servants against whom a complaint is made is biased and against the sole objective of the legislation is compared with the Annual Income of the respondents.

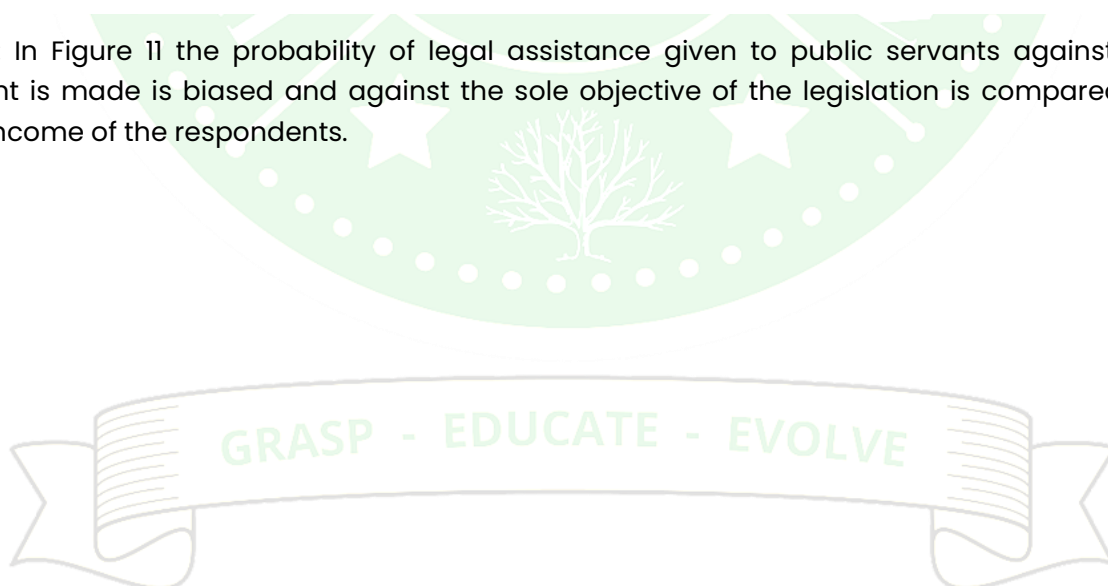
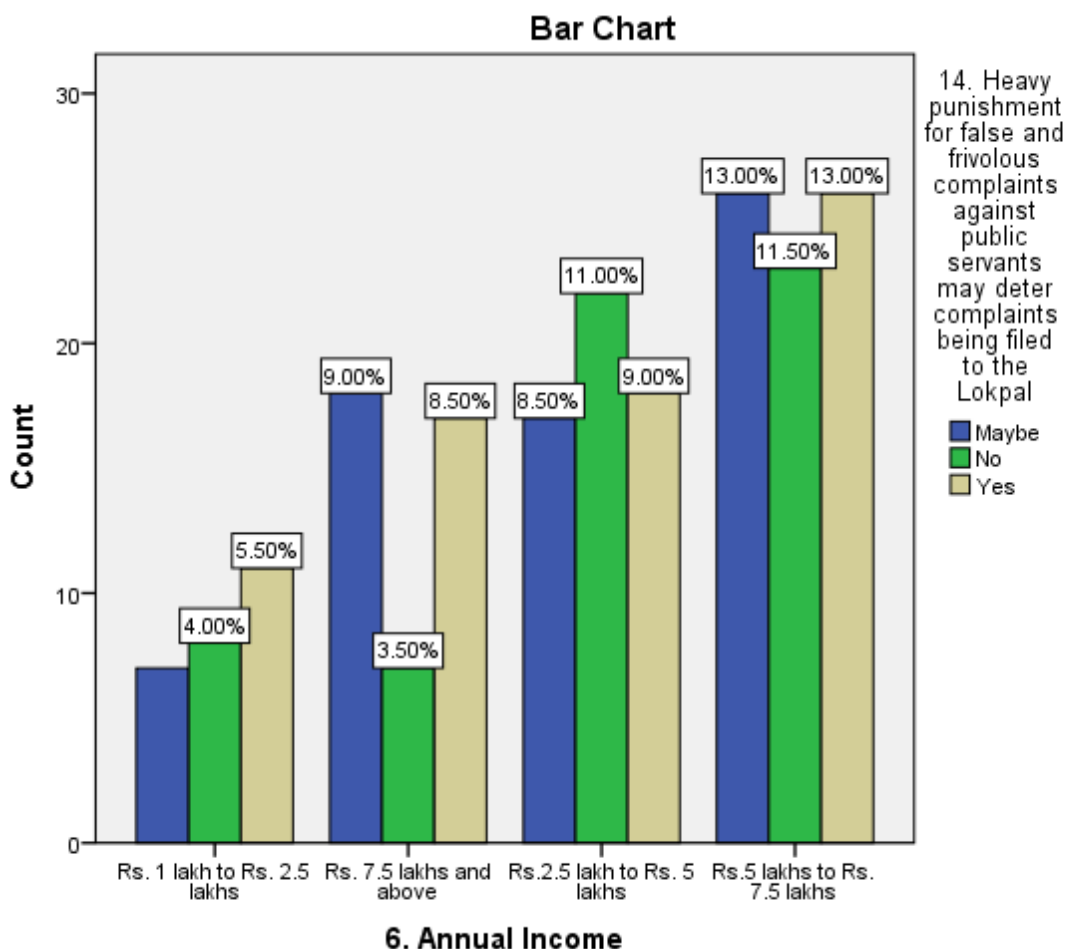


Figure 12:



Legend : In Figure 12 the probability of Heavy punishments for false complaints can deter complaints being filed is compared with the Annual Income of the respondents.

Result:

From **Figure 1** we can see that aged 25 to 40 have said lack of transparent law upto 10% and aged 40 to 55 have said lack of adequate penalties for corruption upto 10.5%. From **Figure 2** we can see that respondents aged 40 to 55 have given 4 grade at 5.5%, respondents aged 25 to 40 have given 2 grade at 6.5% and respondents aged 18 to 25 have given 9 grade at 2.5% that lokpal is a powerful tool to control corruption. From **Figure 3** we can see that post graduate respondents have strongly agreed upto 9%, undergraduate respondents have strongly agreed upto 8.5%. The Higher secondary and no formal education respondents have disagreed upto 4% that

Lokpal Bill is still not implemented by all states to control corruption which is a major drawback of the bill.

From **Figure 4** we can see that the postgraduate respondents have strongly agreed to it upto 10.5%, undergraduate have agreed to it upto 7% and the higher secondary have strongly agreed upto 4.5% that legal assistance is given to public servants against whom complaint is made is biased. From **Figure 5** we can see that the postgraduate students have strongly agreed upto 10.5%, the undergraduate students upto 9% and the Higher secondary students have agreed upto 5.5% that anonymous complaints are not allowed which can deter the complainants to

lodge complaints out of fear. From **Figure 6** we can see that many of the postgraduate respondents have said Yes upto 15.5%, the undergraduate respondents have said Yes upto 10.5% and the Phd respondents have said Yes upto 4.5%. From **Figure 7** we can see that the private sector respondents have strongly agreed upto 10% and disagreed upto 11%. The self-employed have strongly agreed upto 5%. The public sector respondents have disagreed upto 9.5% and stayed neutral upto 7.5% that Lokpal Bill is still not implemented by all states to control corruption which is a major drawback of the bill. From **Figure 8** we can see that the Public sector respondents have strongly agreed upto 6.5%, self employed have stayed neutral upto 5% and the nearly 8.5% of private sector respondents have strongly agreed that Lokpal is not free from political influence. From **Figure 9** we can see that the private sector employees have strongly agreed to it upto 13%, the public servants have strongly agreed upto 8% and the businessman have agreed upto 3.5% that Lokpal cannot suo motu proceed against any public servant, this makes it a less authoritative body. From **Figure 10** we can see that many of private sector respondents have strongly agreed upto 13% and agreed upto 10.5%. The public servants have disagreed upto 10%. The self employed have agreed upto 4.5% and strongly agreed upto 3.5% that legal assistance given to public servants against whom a complaint is made is biased and against the sole objective of the legislation. From **Figure 11** we can see that the respondents earning from Rs. 5 lakhs to Rs. 7.5 lakhs have strongly agreed upto 11%. The respondents earning between Rs. 2.5 to Rs. 5 lakhs have strongly agreed upto 6% that legal assistance is given to public servants against whom complaint is made is biased. From **Figure 12** we can see that respondents earning Rs. 7.5 lakhs and above have Yes upto 8.5%, respondents earning between Rs.5 lakhs to Rs. 7.5 lakhs have said Yes upto 13% that Heavy punishments for false complaints can deter complaints being filed.

Discussion:

From **Figure 1** we can see that most of the respondents below the age group of 45 have said that not enough punishment is given this means that they find it hard to make a complaint about the corruptive practices. This shows that there are a lot of loopholes in the system and it makes the corrupt to support each other to sustain in the department. From **Figure 2** we can see that many of the middle aged respondents have rated that lokpal is not a powerful tool to control corruption. This shows that many are not aware and that the middle aged respondents are still sure that the system is still corrupted. From **Figure 3** we can see that the undergraduate and postgraduate respondents have agreed as they know the importance of lokayukta and their effectiveness, whereas the higher education and the no formal education respondents could have the preoccupation that the lokpal bill even if implemented in states would not be the solution. From **Figure 4** we can see that most of the respondents have said that the legal assistance given cannot be a fair trial as the complainant has to spend money to have a legal representative whereas the one who is corrupt doesn't have to. This can make the public feel that the efforts taken can go in vain as the system includes everybody in it except the people. From **Figure 5** we can see that there is a system where people are not able to complain and get their justice. This goes against the fundamentals of democracy as anonymity is very much important in such cases. There can be big shots and politicians working behind these public servants so it can threaten to move against such people and make complaints. From **Figure 6** we can see that Heavy Punishments have made the respondents feel that they can easily be charged for it even if they were telling the truth. According to Lord Acton "Power corrupts and absolute power corrupts everything". In a hierarchical administrative system the corruption dwells at each level so revealing one level of it can expose the whole system so there

is a possibility that the whole system can try to save the corrupt whole from being caught. From **Figure 7** we can see that many of the respondents have the private and public sector respondents have disagreed with the statement. This shows that they either are not aware of the lokpal bill or they have no faith that corruption will be curbed. However, it isn't only when the government does all the job the citizens have a duty to address the issue which can pressurize the legislatures to implement it. From **Figure 8** we can see that many of the respondents feel that lokpal is not free from political influence. Even though the appointment is done by the president and the governor, the selection committee comprises the prime minister and the chief minister. These groups of politicians and the judges recommend the candidates to the president at the center and the governor at the state. This can make it hard to prosecute the PM or CM. From **Figure 9** we can see that many of the respondents have strongly agreed that lokpal cannot suo moto proceed in a case thus it makes it a less authoritative body. According to the study conducted by M.E.Dimick, G.O. Dimock and L.W.Koenig, it was observed that 90% of the work done in the clerical level is approved at the top level, so an integral approach has to be studied, that is why the 'clerk' or 'babu' is considered as the kingpin of Indian administration. Thus we can see that there are corrupt practices even at lower levels of work and lokpal not having power makes it less authoritative. From **Figure 10** we can see that many of the respondents have agreed that legal assistance given to the government sector workers is unfair as the complainant has to suffer a lot by filing a complaint to hiring a lawyer to get justice, this can hinder the justice that is served to the people. From **Figure 11** we can see that many of the respondents who earn above Rs. 5 lakhs per annum have strongly agreed to the statement, this shows that they might have had the experience in dealing with corrupt offices and having the need to pay money to get work done. This shows that justice

cannot be easily attained by people from lower income class and they might not get equal opportunity for it. From **Figure 12** we can see that many of the respondents have agreed to the statement. This shows that the respondents have a fear that they will be charged falsely for things they have not done. This can create a bureaucratic attitude among the servants and result in the decision making being only with them.

Limitation:

Collection of data via offline method only on a particular place and particular time is limiting the researcher to collect data from the vast field. Since the data is collected on offline mode wherein all respondents were not willing to respond and open up the researcher could only come to a conclusion only by limited responses obtained from willing respondents.

Suggestions and Recommendations:

The institution of the ombudsman must be strengthened in respect of functional autonomy and workforce availability to fight against corruption. The appointment of Lokpal is not the real solution to problems. Instead, the government should focus on eliminating the root causes because of which the general public is demanding a Lokpal. There should be complete transparency when nominating a Lokpal and Lokayukta as it will increase the chances for the right person to be appointed. Moreover, Lokpal and Lokayukta must be financially, administratively and legally independent of those whom they are called upon to investigate and prosecute. There is a need for a multiplicity of decentralized institutions with appropriate accountability mechanisms, to avoid the concentration of too much power, in any one institution or authority.

Conclusion:

The analysis shows that the majority of the respondents have liked the lokpal bill. Also many of the respondents have agreed that the legal assistance given to the corrupts will not be a fair trial, as there is a lot of chance that the

corrupt might frame the complainant for false complaints. There's also heavy punishment for false or frivolous complaints which might make the public hesitate to lodge a complaint. There should be changes in the Act to accept even the anonymous complaints if they have proper evidence. This can increase the faith of the people in the system. Emphasis must thus be placed on preventing corruption by tackling the root causes that give rise to it through undertaking economic, political and institutional reforms. Anti-corruption enforcement measures such as oversight bodies, a strengthened police force and more efficient law courts will not be effective in the absence of a serious effort to address the fundamental causes. There is a need for a multiplicity of decentralized institutions with appropriate accountability mechanisms, to avoid the concentration of too much power, in any one institution or authority. Another observation that may be useful to bear in mind is that corruption is most prevalent where there are other forms of institutional weaknesses, such as political instability, bureaucratic red tape, and weak legislative and judicial systems. The important point is that corruption and such institutional weaknesses are linked together and that they feed upon each other. So, getting rid of corruption helps a country to overcome other institutional weaknesses, just as reducing other institutional weaknesses helps to curb corruption.

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