

A STUDY ON THE CORRUPTION AUTHORITIES IN INDIA – SPECIAL REFERENCE TO LOKPAL AND LOKAYUKTA

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BEST CITATION – MADHUMITHA K, A STUDY ON THE CORRUPTION AUTHORITIES IN INDIA – SPECIAL
REFERENCE TO LOKPAL AND LOKAYUKTA, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (3) OF 2024, PG. 439-
444, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT:

In India, corruption tends to be an ongoing obstacle to the growth and governance, deteriorating both the advancement of democratic institutions and the economy. Corruption erodes confidence, hinders progress in the economy and makes inequality worse. This article offers a comprehensive look of India's anti-corruption initiatives, highlighting the intricacies and potency of prevailing frameworks. It focuses on significant bodies like the Lok Pal and Lok Ayukta assesses how effective they are in combatting corruption, the potential difficulties faced by these institutions including absence of complete administrative and operational support, both entities have boundaries on their authority and jurisdiction, which might make it more challenging for them to handle cases. Inquiries and decisions are further delayed by lengthy legal procedures and bureaucratic stagnation. Their fairness and impartiality may be compromised by political involvement and their overall impact could be hampered by insufficient financing and low public education. All these aspects altogether weaken the Lokpal and Lok Ayukta's capacity to effectively combat corruption and hold public servants responsible. This study analyzes the structural problems that hinder anti-corruption attempts, evaluates how they affect trust between the public and government.

Key words: Corruption, Lok Pal, Lok Ayukta, Public servants, Fairness.

INTRODUCTION:

Administrator's misconduct impedes administration's competence to accomplish its mission and like termites it gradually weakens a country's foundation. A primary contributor of this is corruption. Lokpal and Lokayukta are crucial instruments to cultivate an accountable culture in Government, empower citizens and maintain purity in the public sector. Their existence affirms the dedication to uphold justice for individuals impaired by unethical behavior and to battle against corruption.

The concept of legislative ombudsman was first put forward by India's law minister, Ashok Kumar Sen, in 1960's. The terms Lokpal and Lokayukta was coined by Dr. L.M. Singhvi. In 1966,

the First Administrative Reforms Commission advocated the establishment of self-governing bodies to address allegations concerning administrators, ranging from Prime minister, Chief ministers, Union ministers, Cabinet ministers at the federal and state levels. Despite being authorized by the Lok Sabha in 1968, the Lokpal bill expired upon the collapse of the house and has been repeatedly stalled in its passage till 2011. The Lokpal and Lokayukta bill were adopted in 2013 as a consequence of mounting demands from the Anna Hazare campaign – "India Against Corruption". Further the bill got assent from the President on January 1, 2014 and was enforced on January 16, 2014.

Lokpal and Lokayukta in India

The Lokpal serves at the union level and the Lokayukta serves at the state level. The two entities are headed by a board of judges or former judges, and they have the authority to look into and bring charges against matters involving corruption. The Lokpal and Lokayukta looks into any suspected violations of the 1988 Prevention of Corruption Act.

Section 3 of the Lokpal and Lokayuktas Act, 2013 provides for the establishment of a Lokpal at the national level to inquire into allegations of corruption against public servants. Section 63 of the Lokpal and Lokayuktas Act, 2013 mandates the establishment of Lokayuktas in each state to address corruption at the state level, within a period of one year from the commencement of the act.

A state-level body called the Lokayukta handles claims from individuals about official misconduct and money laundering. It emerges upon the state legislature's adoption of the Lokayukta Act, and a reputable person is assigned to the post. By virtue of the Lokayukta and Upalokayukta Acts, Maharashtra became the first state to set up this governing body in 1971. Many states had established Lokayukta as statutory authorities prior to the passing of the Lokpal and Lokayukta Act, 2013.

As per section 44 of the Lokpal and Lokayuktas Act, 2013, Public officials must declare all of their assets, which comprises those belonging to their spouses and dependent children on an annual basis. To find any anomalies or unreported wealth, Lokpal and Lokayukta can regularly audit and verify the stated assets. With the aid of these asset information, they are able to look into claims of misconduct or corruption. The Lokpal and Lokayukta is also permitted to seize assets and perks gained via corruption under specific conditions.

Jurisdiction of Lokpal in India – Insight

The Lokpal and Lokayuktas Act of 2013 established a crucial framework for combating

corruption within India's political landscape, specifically targeting public servants such as the Prime Minister, ministers, Members of Parliament, and central government staff across various categories (A, B, C, and D). This comprehensive legislation empowers the Lokpal to investigate allegations of corruption against these officials, ensuring accountability at the highest levels of government.

Notably, the Act grants the Lokpal the authority to probe into suspicions surrounding the Prime Minister. However, there are important limitations in place: inquiries are prohibited when the allegations relate to matters of national significance, including space, nuclear power, public order, security, or foreign relations. Furthermore, initiating proceedings against the Prime Minister requires the approval of two-thirds of the entire Lokpal bench, along with a formal recommendation from the bench itself. This stipulation underscores the careful balance between oversight and the protection of sensitive governmental functions.

Should a review of the Prime Minister's actions occur, it is conducted confidentially, with the understanding that if the Lokpal chooses to dismiss the allegations, the transcripts of the investigation will remain sealed and inaccessible to the public. This confidentiality serves to safeguard both the integrity of the investigation and the reputation of the individuals involved, though it also raises questions about transparency and public trust.

In addition to its investigatory powers, the Lokpal is empowered to supervise and provide directives to the Central Bureau of Investigation (CBI), reinforcing its role as a pivotal agency in the fight against corruption. The Lokpal Investigative Department is endowed with authority comparable to that of a civil court, allowing it to conduct thorough investigations into corrupt practices effectively. This judicial-like authority enhances the credibility of the Lokpal's processes and findings. Moreover, the Lokpal has the power to seize assets, income, and benefits obtained through illicit means,

albeit under specific constraints. This capability is crucial for deterring corrupt practices, as it directly targets the financial incentives that drive many instances of wrongdoing. Additionally, the Lokpal can recommend the suspension or transfer of public servants implicated in corruption, demonstrating its proactive approach to maintaining ethical standards within the public service.

To further ensure the integrity of preliminary investigations, the Lokpal can issue orders preventing the destruction of relevant records. This provision is vital for preserving evidence and facilitating a thorough examination of allegations, ultimately contributing to a more transparent and accountable governance framework. Together, these provisions empower the Lokpal to serve as a formidable watchdog against corruption in India's public sector.

Jurisdiction of Lokayukta in India – Insight

The jurisdiction of the Lokayukta varies significantly across Indian states, leading to different levels of accountability for public officials. In states like Maharashtra, Uttar Pradesh, Rajasthan, and Bihar, the Chief Minister is not held accountable to the Lokayukta, whereas in Himachal Pradesh, Andhra Pradesh, Madhya Pradesh, and Gujarat, the Chief Minister is subject to scrutiny. Generally, ministers and senior government officials fall under the Lokayukta's purview, with Maharashtra uniquely extending this accountability to former ministers and civil servants. The Lokayukta is empowered to access essential records and materials from public agencies, conduct searches of residences and workplaces of accused officials, and visit governmental departments under investigation. Additionally, if the state government raises concerns, the Lokayukta can examine the actions of public employees. While it can recommend punitive actions against wrongdoers, the final decision rests with the state government, which can either accept or reject these recommendations. This framework highlights the varied mechanisms of accountability and oversight in

different states, influencing the effectiveness of the Lokayukta in combating corruption.

STRUGGLES IN ENFORCEMENT OF THESE BODIES IN INDIA

India's implementation regarding the Lokpal and Lokayukta institutions is an essential step towards the battle against corruption and strengthening governmental transparency. Yet it came with many obstacles along the way. These organisations are meant to hold public officials accountable, but they frequently run into problems including bureaucratic resistance, lack of political will, and inadequate funding. Their efficacy is further complicated by the disparities in jurisdiction and power throughout states. Examining the difficulties in implementing the Lokpal and Lokayukta makes it clear that these issues must be addressed in order to promote an ethical and accountable public service culture.

For instance, the Lokpal and Lokayuktas Act, 2013 prescribes in Section 63 that every state has to constitute a Lokayukta within a year of the Law's establishment, which was delayed in most of the states. Even though once these organisations began operating, political leaders and state authorities continue to weaken them by not offering sufficient staff, funds, or amenities. Furthermore, many Lokayuktas lack crucial positions of power, for instance prosecuting and Suo Motu power, and a number of state-level regulations are still not updated to comply with the 2013 Lokpal and Lokayukta Act.

Further, the below are some of the reasons why these institutions were faced struggles in its enforcement and implementation;

Constitutional and Statutory Limitation;

The Lokpal and Lokayukta Act faces significant challenges due to its ambiguous provisions, which are often open to varied interpretations, complicating effective implementation. Additionally, jurisdictional conflicts arise when overlaps occur with existing anti-corruption

legislation and organizations, creating uncertainty about authority and accountability. Furthermore, the Lokpal, as a statutory agency, lacks the power and effectiveness of constitutional bodies like the Election Commission of India. This was underscored in the case of *Sudha Devi K. v. District Collector*⁷⁹², where the court clarified that the Lok Ayukta and Upa Lok Ayukta do not serve as appellate or supervisory bodies over other statutory forums. Each statute defines its own remedies, necessitating adherence to specific procedural guidelines, and the Lok Ayukta Act does not grant the authority to override decisions made by these other statutory bodies. This limited scope hampers the overall efficacy of the Lokpal and Lokayukta in addressing corruption effectively.

Political Exploitation;

Political exploitation poses a significant threat to the effectiveness of the Lokpal in India. Political party influence can severely undermine the Lokpal's operational capabilities; parties may refuse to cooperate or interfere in the appointment procedures, which compromises the institution's integrity. Additionally, the requirement for political approval in Lokpal appointments can further erode its independence. The concentration of executive power and ongoing political pressures may lead to a lack of autonomy, raising concerns about potential interference in investigations. This situation is particularly troubling when it comes to high-profile cases, as the fear of political repercussions could deter thorough inquiries, ultimately undermining the Lokpal's original intent to combat corruption effectively.

Administrative Barriers

The effectiveness of the Lokpal is further hindered by several infrastructural and procedural challenges. One major issue is the insufficient infrastructure within the Lokpal office, which often lacks the necessary personnel and resources to operate efficiently.

This shortfall is exacerbated by bureaucratic delays that can significantly slow down investigations, ultimately diminishing the Lokpal's capacity to act decisively against corruption. Additionally, the Lokpal's inability to take *Suo motu* cognizance of cases limits its scope; it can only respond to written complaints regarding specific public servants, leaving it powerless to act on information from media reports or anonymous tips. As a result, the Lokpal's role in addressing corruption is constrained, as proactive measures are not within its purview, requiring external complaints to trigger any investigative actions.

Public Knowledge and Involvement

The Lokpal faces significant challenges that impede its effectiveness, primarily due to insufficient infrastructure and procedural limitations. The Lokpal office often lacks the necessary personnel and resources to operate efficiently, which hampers its ability to respond swiftly to corruption allegations. Additionally, bureaucratic delays pose a major obstacle; slow administrative processes can prolong investigations, further diminishing the Lokpal's efficacy. Compounding these issues is the restriction on the Lokpal's ability to take *Suo motu* cognizance of cases. It can only act on written complaints concerning specific public servants, leaving it powerless to respond to information from media reports or anonymous tips. This reliance on formal complaints restricts the Lokpal's proactive capacity, ultimately limiting its role in addressing corruption effectively.

Judicial Delays

The legal landscape in India presents significant hurdles for addressing corruption effectively, primarily due to overloaded courts and procedural delays. The slow pace of the judicial system results in prolonged trials, leading to postponed justice in corruption cases. Additionally, lengthy appeals can further discourage timely action against wrongdoers, allowing those guilty of corruption to evade

⁷⁹² *Sudha Devi K. v. District Collector*, 2017 SCC Online Ker 1264

punishment. Compounding these issues is the strict limitation that only complaints regarding corrupt acts reported within seven years are eligible for consideration by the Lokpal and Lokayukta. Complaints received beyond this timeframe fall outside their jurisdiction, which restricts the ability to address historical corruption cases and diminishes the overall efficacy of these institutions in combating corruption.

SUGGESTIONS

To effectively combat corruption, it is essential to enhance the ombudsman institution by improving its functional autonomy and staffing. This effort should be accompanied by increased transparency, expanded access to information, and the empowerment of citizens and community groups, alongside strong leadership willing to be accountable to the public. Simply appointing a Lokpal is insufficient; the government must also address the underlying issues that have led to calls for such an institution. Merely expanding investigative agencies may increase bureaucratic size without enhancing governance. The government's mantra of **"less government and more governance"** should be genuinely embraced. Additionally, the Lokpal and Lokayukta must maintain financial, administrative, and legal independence from those they investigate and prosecute. Appointments to these positions should be made transparently to reduce the risk of unsuitable candidates. Lastly, there is a pressing need for a network of decentralized institutions with proper accountability mechanisms to prevent the excessive concentration of power in any single entity.

To effectively address corruption, it is crucial to bolster the ombudsman institution by enhancing its functional autonomy and ensuring sufficient manpower. Simply appointing a Lokpal is not adequate; the government must confront the underlying issues that have prompted public demand for such an entity. Increasing the number of

investigative agencies may expand the government but won't necessarily lead to better governance. The government's principle of "less government and more governance" should be genuinely practiced.

Additionally, the Lokpal and Lokayukta must operate with financial, administrative, and legal independence from those they are tasked with investigating and prosecuting. Appointments to these positions should be made transparently to reduce the risk of unsuitable candidates. Furthermore, there is a pressing need for a range of decentralized institutions equipped with appropriate accountability measures to prevent the overconcentration of power in any single authority.

CONCLUSION

The proposed legislation includes several key provisions aimed at enhancing the effectiveness of the Lokpal and addressing corruption. First, it states that no prior sanction will be needed to initiate prosecution in cases investigated by the Lokpal or those initiated under its direction and approval. A high-powered committee, led by the Prime Minister and including the Leader of the Opposition in the Lok Sabha and the Chief Justice of India, will recommend the selection of the CBI Director.

Additionally, the bill includes provisions for the confiscation of property obtained through corrupt means, even while prosecutions are ongoing. The Lokpal will serve as the final appellate authority regarding public authorities' decisions related to public service provisions and grievance redressal involving findings of corruption. It will also have oversight and direction over any investigative agency, including the CBI, for cases referred to them.

To ensure timely proceedings, the bill establishes specific timelines: a preliminary inquiry must be completed within three months (extendable by an additional three months), investigations must be concluded in six months (extendable by another six months), and trials

should be wrapped up within one year (with a possible extension of one year).

Furthermore, the legislation proposes to increase penalties under the Prevention of Corruption Act, raising the maximum punishment from seven to ten years and the minimum from six months to two years. It also aims to provide legal support for asset declarations by public servants and seeks to amend various existing laws, including the Commissions of Inquiry Act, 1952, the Prevention of Corruption Act, 1988, the Code of Criminal Procedure, 1973, the Central Vigilance Commission Act, 2003, and the Delhi Special Police Establishment Act, 1946.

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