

A STUDY ON ORIGIN AND DEVELOPMENT OF OMBUDSMAN IN INDIA

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Abstract

This study explores the origin and development of the ombudsman institution in India, highlighting its journey from a concept rooted in Scandinavian governance to its unique adaptation within the Indian context. The idea of the ombudsman was introduced in India in the 1960s, primarily to address grievances against public authorities and enhance governmental accountability. The research delves into the establishment of the Lokpal and Lokayuktas, key institutions modeled after the ombudsman, designed to investigate corruption and maladministration in public services. It examines the historical, political, and social factors that shaped these institutions, including the influence of social movements and public demand for greater transparency and justice. Through case studies and analysis, the study assesses the effectiveness of the ombudsman in India, identifying both successes and challenges. It highlights the role of the Lokpal in combating corruption and the significance of state-level Lokayuktas in addressing local issues. Additionally, the research discusses ongoing challenges, such as bureaucratic resistance, limited public awareness and also the study emphasizes the critical role of the ombudsman in promoting good governance in India and suggests recommendations for strengthening its impact in the future.

Introduction

The concept of the ombudsman, originating from the Swedish term for "representative," has evolved into a crucial mechanism for ensuring accountability and protecting citizens' rights in various governance systems worldwide. In India, the emergence and development of the ombudsman institution reflect the nation's commitment to addressing grievances and enhancing transparency within public administration. This study delves into the historical context, legislative framework, and operational dynamics of the ombudsman in India, tracing its origins from post-independence reforms to its current role in contemporary governance. The establishment of the ombudsman in India was influenced by global trends in administrative justice and the need to safeguard individual rights against state excesses. This research aims to analyze

the significant milestones in the evolution of the ombudsman institution, including key legislation such as the Lokpal and Lokayuktas Act of 2013, which marks a pivotal moment in the institutional framework for addressing corruption and maladministration. By examining the ombudsman's role in promoting good governance, this study will also highlight the challenges and opportunities faced by the institution in effectively serving the public interest. Ultimately, this exploration seeks to contribute to a deeper understanding of the ombudsman's significance in Indian democracy and its potential for further development in the pursuit of justice and accountability.

Ombudsman

Before we enter into the concept, we should know about Ombudsman, its origin, development and functions

Meaning

In India, the term "ombudsman" refers to an official or institution appointed to investigate and address complaints made by individuals against public authorities or government agencies. The primary purpose of the ombudsman is to ensure accountability, transparency, and fairness in governance by providing a mechanism for redressal of grievances. The most notable ombudsman institution in India is the **Lokpal**, established at the national level to address corruption and maladministration, particularly among public servants. Additionally, each state in India can establish a **Lokayukta** to serve a similar purpose at the state level. These institutions play a crucial role in protecting citizens' rights and promoting good governance by investigating complaints, recommending actions, and ensuring that public authorities act within the law.

In other words, it is an independent official appointed to investigate and resolve complaints made by individuals against government agencies, public authorities, or organizations. The ombudsman's primary role is to ensure accountability, transparency, and fairness in governance by addressing grievances, recommending remedies, and promoting justice for citizens. The position typically involves examining cases of maladministration, corruption, or violations of rights, thereby acting as a mediator between the public and the government.

Origin and Development

In Sweden

The concept of the ombudsman originated in Sweden in 1809, making it one of the earliest examples of this type of institution in the world. The Swedish ombudsman, or "Justitieminister," was appointed to investigate complaints against government officials and to ensure that they were acting lawfully and fairly. King Charles XIII of Sweden played a crucial role in the establishment of the ombudsman. He

recognized the need for a mechanism to address grievances against government officials and to ensure that the law was being upheld. In 1809, he appointed a new Minister of Justice, Lars Gustaf von Geijer, who was tasked with creating a system to investigate complaints against public officials. The early years of the ombudsman in Sweden was primarily responsible for investigating complaints against government officials at the national level. However, over time, the ombudsman's role expanded to include investigations of complaints against local government officials and public corporations.

In Finland

The ombudsman concept in Finland was introduced in 1919 with the establishment of the Chancellor of Justice (Justitiekansler). This office was created in response to concerns about the accountability of government officials and the need for an independent mechanism to address grievances from citizens. The Chancellor of Justice has since played a significant role in the Finnish administrative system. It investigates complaints against central and local government agencies, as well as other public bodies. The Chancellor of Justice has the power to make recommendations for the redress of grievances and to highlight systemic problems within the public sector. The Finnish ombudsman has been praised for its effectiveness in promoting good governance and accountability. It has helped to expose wrongdoing, improve administrative practices, and protect citizens' rights.

In Denmark

The concept of the ombudsman in Denmark originated in the mid-20th century, inspired by the Swedish model established in 1809. Sweden's ombudsman was designed to oversee government actions and protect citizens' rights, addressing grievances related to public administration. Recognizing the need for similar oversight, Denmark took steps to enhance government accountability. The formal establishment of the ombudsman in

Denmark occurred with the **Ombudsman Act of 1954**, which created the office of the Parliamentary Ombudsman. This legislation marked a significant development in Danish governance, empowering the ombudsman to investigate complaints against public authorities and ensure compliance with the law. The first Parliamentary Ombudsman, Hans G. Rørdam, was appointed in 1955. His leadership helped define the office's functions and raise public awareness about its importance. The ombudsman was tasked with investigating cases of maladministration, discrimination, and violations of citizens' rights, providing a crucial check on governmental power. One of the key features of the Danish ombudsman is its independence from the government, which is vital for impartial investigations and maintaining public trust. While the ombudsman cannot issue binding decisions, they can make recommendations to improve administrative practices. Over the years, the role of the ombudsman has expanded to encompass various sectors, including local government and healthcare. The office has also embraced modernization, utilizing technology to enhance accessibility and streamline complaint processes. Today, the ombudsman plays a vital role in promoting transparency and accountability within Danish governance, ensuring that citizens have a mechanism to voice their concerns and seek redress, thereby upholding democratic values and human rights.

In Norway

The origin of the ombudsman in Norway can be traced back to the early 20th century, inspired by Sweden's pioneering model established in 1809. The Swedish system aimed to enhance accountability in government, and Norway sought to adopt similar principles to safeguard citizens' rights. The formal establishment of the ombudsman role in Norway occurred in 1962 with the creation of the **Parliamentary Ombudsman (Sivilombudsmannen)**. This office was established through the Ombudsman Act,

which empowered the Ombudsman to investigate complaints against public authorities and promote transparency in administrative practices. The Norwegian Parliament (Storting) appointed the Ombudsman, ensuring independence from the executive branch of government. Initially, the focus of the Parliamentary Ombudsman was on overseeing public administration, addressing issues such as maladministration, inefficiency, and unfair treatment of citizens. The Ombudsman was tasked with investigating complaints from individuals who believed they had been wronged by government actions or decisions. Over time, the role expanded to include broader responsibilities, such as promoting human rights and social justice. The Ombudsman began addressing matters related to vulnerable groups, including children, the elderly, and individuals with disabilities. This evolution reflected a growing recognition of the importance of protecting individual rights in various social contexts. In addition to the Parliamentary Ombudsman, Norway also established specialized ombudsmen, such as the **Children's Ombudsman** and the **Ombudsman for Patients**, further enhancing the system's capacity to address specific issues.

In India

The concept of the ombudsman in India traces its roots to the 1960s and 1970s, inspired by the Swedish model established in 1809. The Swedish ombudsman was created to address citizens' grievances against government actions, promoting accountability in public administration. In India, discussions on establishing an ombudsman-like institution began gaining momentum with the First Administrative Reforms Commission in 1966, which recommended such a body to tackle bureaucratic inefficiencies and corruption. However, it wasn't until the late 20th century that the idea gained significant traction. The Lokpal and Lokayuktas Act, enacted in December 2013, marked a pivotal moment in this evolution. This legislation created the Lokpal at the central level, aimed at investigating

corruption complaints against high-ranking public officials, including the Prime Minister. Lokayuktas were established at the state level for similar purposes. The Lokpal is composed of a chairperson and members from diverse backgrounds, including law and public administration, intended to bring a broad perspective to its functioning. The establishment of the Lokpal was fueled by public movements, notably the Anna Hazare-led campaign in 2011, which galvanized widespread support for stronger anti-corruption measures. The Lokpal is empowered to conduct inquiries, recommend actions, and promote transparency, thus addressing the growing demand for accountability in governance.

Lokpal

The Lokpal is an anti-corruption ombudsman at central level in India, established to address complaints against public officials and promote accountability within the government.

Qualifications

1. Chairperson:

- Must be a former Chief Justice of India or a former judge of the Supreme Court.

2. Members:

- Must have a proven track record in areas such as law, public administration, social work, or management.
- At least half of the members must be from among the minority communities, and one must be a woman.

3. Age and Tenure:

- Members should have special knowledge, minimum experience of 25 years in field and not less than 40 years of age.
- The term is five years, and they are not eligible for reappointment.

Powers

1. Investigative Authority:

- The Lokpal can initiate inquiries into allegations of corruption against public officials.
- It has the power to summon documents, witnesses, and require statements.

2. Recommendation:

- After investigations, the Lokpal can recommend appropriate action, including prosecution or disciplinary measures against officials found guilty of corruption.

3. Intervention:

- The Lokpal can intervene in cases of corruption in public sector undertakings and has the authority to investigate complaints against employees in these entities.

4. Protection of Whistleblowers:

- The Lokpal has the responsibility to protect whistleblowers, ensuring they are not subjected to retaliation or harassment.

Functions

1. Complaint Redressal:

- The primary function is to receive and investigate complaints related to corruption and misconduct by public officials.

2. Inquiry and Investigation:

- Conduct inquiries into complaints and gather evidence for proper adjudication.

3. Reporting:

- The Lokpal must submit an annual report to the government, detailing the complaints

received, investigations conducted, and actions taken.

Qualifications

4. Promotion of Integrity:

- It also plays a role in promoting ethical conduct and integrity in public services through awareness and advocacy.

1. Appointment:

- Lokayukta is usually appointed by the Governor of the respective state.

2. Qualifications:

- Must be a retired Chief Justice of a High Court or a retired judge of a High Court.

- Alternatively, they can be a person with significant experience in public administration or law.

Importance

1. Combating Corruption:

- The Lokpal serves as a crucial mechanism for tackling corruption, thus enhancing public trust in government institutions.

3. Age:

- There are typically no specific age requirements, but they must possess the requisite legal knowledge and experience.

2. Accountability:

- It holds public officials accountable for their actions, ensuring that no one is above the law.

Powers

3. Empowering Citizens:

- By providing a platform for citizens to lodge complaints, the Lokpal empowers individuals to seek redressal and justice.

1. Investigative Authority:

- Lokayukta has the authority to investigate allegations of corruption and misconduct against public servants, including ministers, bureaucrats, and local government officials.

4. Strengthening Democracy:

- The existence of the Lokpal promotes transparency and good governance, which are essential for a healthy democracy.

2. Summoning and Inquiries:

- It can summon documents, witnesses, and require statements during investigations.

5. Enhancing Governance:

- It contributes to a culture of accountability and ethical behavior in public administration, ultimately leading to improved governance.

3. Recommendations:

- Following investigations, the Lokayukta can recommend disciplinary action, prosecution, **or other appropriate measures against those found guilty.**

Lokayukta

The Lokayukta is an anti-corruption ombudsman at the state level in India, designed to address grievances related to corruption and maladministration by public officials.

4. Advisory Role:

- It can also advise the government on policies and practices to promote integrity and prevent corruption.

Functions

1. Complaint Handling:

- The primary function is to receive and investigate complaints regarding corruption or maladministration by public officials.

2. Conducting Inquiries:

- Lokayukta conducts inquiries into the complaints received, gathering evidence and testimonies.

3. Reporting:

- It submits periodic reports to the state government, detailing findings and recommendations based on inquiries.

4. Public Awareness:

- Lokayukta promotes awareness about anti-corruption measures and ethical governance among citizens.

Importance

1. Combating Corruption:

- Lokayukta plays a crucial role in fighting corruption at the state and local levels, thereby enhancing public confidence in government institutions.

2. Accountability:

- It holds public officials accountable for their actions, ensuring adherence to ethical standards and legal norms.

3. Empowering Citizens:

- The existence of the Lokayukta empowers citizens by providing a mechanism to report grievances and seek justice against corrupt practices.

4. Strengthening Democracy:

- By promoting transparency and accountability, the Lokayukta contributes to the overall health of democracy in the state.

5. Good Governance:

- The Lokayukta's functions promote good governance, ensuring that public resources are used effectively and ethically for the benefit of citizens.

Conclusion

The study of the origin and development of the ombudsman in India reveals a significant evolution in the framework of public accountability and citizen rights. Beginning with the inspiration drawn from the Swedish model, India's journey toward establishing the Lokpal and Lokayukta demonstrates a growing recognition of the need for mechanisms to address corruption and maladministration in governance. From initial recommendations by the Administrative Reforms Commission to the eventual establishment of the Lokpal and state-level Lokayuktas, this evolution reflects a response to public demand for transparency, integrity, and accountability in government. The Lokpal, specifically, represents a crucial step in addressing high-level corruption, while Lokayuktas enhance similar efforts at the state and local levels. Despite the progress made, challenges remain in terms of operational effectiveness, resource allocation, and public awareness. The success of these institutions will depend on their ability to function independently, efficiently, and transparently, as well as on the continued support and engagement of citizens. The development of the ombudsman concept in India is a testament to the nation's commitment to good governance and the protection of citizens' rights. As these institutions evolve, they hold the potential to significantly impact the landscape of accountability in public administration,

fostering a culture of ethical governance that is essential for a vibrant democracy.

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