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The Riddle of Lokpal

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ABSTRACT

Corruption is not a new term for India, soon after independence there was a battle between the corrupt and justice. India is among the corrupt states of the world. The corruption in the public sector is a hurdle towards the nation development. India is hoping to become a super power but it is only possible after countering corruption in its systems. Welfare schemes, developmental projects etc by the government can reach to the masses if and only if the corruption is removed from the system. Jan Lokpal or people's ombudsman is one such Act that has potential of not only fastening the inquiry against corruption but also can prosecute them. No matter whether the person is head of state or is a poor peasant. This Act will form two independent bodies one at the state level and other at the centre. Both these bodies will be independent and there will be interruption by anybody on its functionaries. However it is yet to get finalised and the details about its background and current scenario is discussed in this article.

Keywords: Lokpal, Lokayuktas, Corruption, inquiry.

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BACKGROUND

The making of lokpal dates back to four decades. The term ‘lokpal’ was coined by Dr. L. M. Singhvi in 1963². This concept was firstly proposed by Ashoke Kumar Sen in early 1960s. The first Jan Lokpal Bill was proposed by Adv Shanti Bhushan in 1968 and passed in the 4th Lok Sabha in 1969, but it did not get passed from Rajya Sabha because the Lok Sabha was dissolved and the bill lapsed. Many versions were reintroduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and 2008 but never got passed. In the year 2011 during the winter session of the parliament Lok Sabha passed this controversial bill but it was stopped by Rajya Sabha. It was four decades after the first Bill that Lokpal and Lokayukts Act was passed in the year 2013. The main reason was the public pressure on the corruption charges facing UPA government. The movement was initiated by Anna Hazare and others such as Kiran Bedi and Arvind Kejriwal. Then under the pressure of public and social activists the UPA government brought the Bill and it was passed after several hurdles.

S No.	Timeline	Events
1	1963	The public ombudsman to counter corruption in public sector first of all came into parliamentary debate
2	1966	The first ARC recommended the setup of two independent authorities at the central and state level each meant to look after the complaints about public functionaries.
3	1968--2011	The different versions of Lokpal were presented in the parliament but never got passed.
4	2004	Lokpal was included in Common Minimum Programme of the newly formed UPA government.
5	2009-2010	Series of mega corruption scandals shook the nation
6	2011	Group of Ministers formed to suggest measures to tackle corruption and examine the proposal of a Lokpal bill
7	April 2011	Civil society launched Lokpal movement under the leadership of Anna Hazare
8	July 2011	Joint drafting committee failed to arrive at the consensus on the proposed Bill. The government proposed its own version of the Bill in the parliament.
9	8 th Aug 2011	Bill was referred by the Lok Sabha to the standing committee.
10	16 th Aug 2011	Anna Hazare was arrested and this led to the mass protest on the streets of Delhi. He was released within 12 hours. ¹⁰
11	27 th Aug 2011	Parliament passed historic ‘sense of the house’ resolution accepting in principle major demands of the civil society for a tougher lokpal bill.
12	December 2011	Lokpal bill was passed in the lok sabha on 27 th December
13	May 2012	The bill was referred to a select committee by Rajya Sabha
14	July-August 2012	Public protest was launched by Team Anna
15	October 2012	Anna Hazare dissolved his team. Arvind Kejriwal formed his political party namely Aam Aadmi Party(AAP)
16	November 2013	AAP won Delhi assembly elections.
17	17 th December 2013	Rajya Sabha passed the bill
18	18 th December 2013	Lok Sabha passed the modified lokpal Bill
19	1 st January 2014	Enactment of the lokpal bill.
20	17 th January 2014	Applications were invited for filling the post of Chairperson and eight post of the members
21	May 2014	A new government was formed by BJP
22	27 th September 2018	Search committee was constructed chaired by retired SC justice Ranjana

		Desai.
23	17 th January 2019	SC requested the search committee to prepare its panel by the end of February.
24	30 th January 2019	Anna Hazare begins his fast for the formation of Lokpal at the Centre and Lokayuktas in the states, at Ralegan Siddhi.
25	7 th March 2019	Next date of hearing at supreme court of India.

Features of Jan Lokpal Bill

1. Lokpal and Lokayuktas will set up for centr and state respectively, both will be independent bodies³.
2. Any minister or bureaucrat will not be able to influence the investigation of Lokpal. It will be as independent as Supreme Court and Election Commission.
3. Cases against corrupt people will be entertained as soon as possible. Investigations in any case will have to be completed in one year. Trial should get completed in successive year so that the corrupt politician, officer or judge is sent behind the bars within two years.
4. The loss will be recovered at the time of the conviction of corrupt person⁴.
5. Lokpal will impose financial penalty on the guilty officers, which will be given as compensation to the complainant for late work⁴.
6. The members of the Lokpal will be selected by Judges and other constitutional members and not by politicians to ensure that no corrupt person will manage to get into Lokpal. The procedure of selection will be completely transparent⁵.
7. Any complaint against the officer of Lokpal will be investigated and the officer will be dismissed under 2 months, entire process will be completely transparent³.
8. The Lokpal will have all the necessary powers to investigate and prosecute any public servant. CVC, departmental vigilance and anti-corruption branch of CBI will be merged into Lokpal.
9. Lokpal will ensure security for those who are victimised for being active against corruption.
10. People can approach Lokpal for passport, ration card or voter ID card if not being made by the respective departments. And also in case where police is not registering their case or any other work not completed under prescribed time. Lokpal will also entertain the corruption cases like road scam, government fund scams etc and it will complete its investigation in one year, trial will be done in the another one year and guilty must be sent to jail within 2 year.

LOKPAL AND LOKAYUKTAS ACT

The Lokpal and Lokayukta Act, 2013 was enacted on 1st January 2014. It provides the established body to be known as the Lokpal which will be headed by a Chairperson, who is or has

been a chief justice of India; or is or has been a judge of the Supreme Court or an eminent personality who fulfils eligibility criteria as fixed⁹. And it will comprise other members also but not more than eight in number. Out of those eight members 50% are to be judicial members, provided that not less than 50% of the members belong to the scheduled castes, scheduled tribes, OBCs, minorities and women.

For the states, the Act says: 'Every state shall have an established body to be called as Lokayukta for the state, if not established, constituted or appointed, by the law made by the legislature of state, to deal with complaints relating to corruption against certain public functionaries, within a period of one year from the date of commencement of this act'.

It will also have an inquiry wing, headed by the Director of Inquiry, for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable underneath the Prevention of Corruption Act, 1988. It will also be having a "Prosecution Wing headed by the Director of Prosecution for the purpose of prosecution of public servants in relevance to any grievance by the Lokpal under this Act". All this is to deal with the complaints against the public servants and chairperson and members of the Lokpal. Prime Minister of India also comes under the definition of "public servant".

JURISDICTION OF LOKPAL

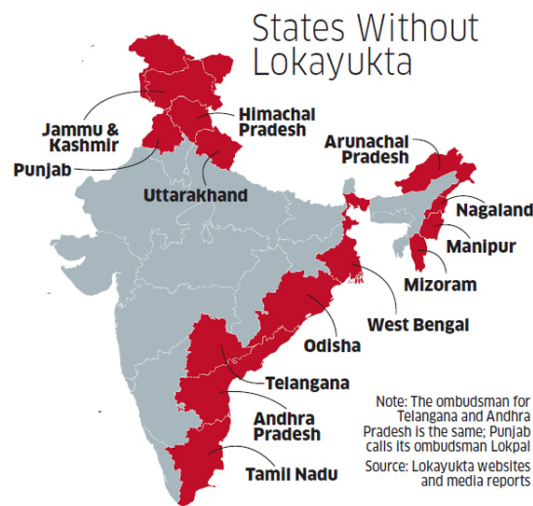
The Lokpal covers a wide range of public servants viz., from Prime Minister and MPs to group A, B, C and D officers of the central government. Lokpal will cause inquiry or will inquire any case of corruption complaints against any public servant in any matter connected with or any allegation of corruption. However in the case of Prime Minister the Act says it does allow a Lokpal inquiry against PM on the allegations which relates to international relations, external and internal security, public order, atomic energy and space. Also, any inquiry against PM will not be initiated unless the full bench of Lokpal considers the initiation of inquiry and at least 2/3rd of the members approve it. Such an inquiry against the PM is to be held under the camera surveillance and if Lokpal comes to the conclusion that the case deserves to be dismissed, the records of the inquiry will not be published and will be made available for anyone.

Group A, B, C and D are defined as such as in the Prevention of Corruption Act, 1988. But any complaint against Group A and B will come to Lokpal after an inquiry. While for Group C and D officers the Chief Vigilance Commissioner will investigate and report to Lokpal⁸.

LOKAYUKTAS IN STATE

There are almost 17 states where the institution of Lokayukta has been deep-seated, beginning with Orissa state in 1971. However the power, function and jurisdiction of Lokayuktas don't seem to be uniform in the country. In some states it has been applicable to all the elected representatives including the CM. While other states legislators are deliberately kept out of his range. Often, lacunae have been left in legislation creating the office, apparently to keep the elected representatives outside meaningful jurisdiction of the Lokayukta, even when the laws seem to incorporate them. Lokayuktas haven't been supplied with their freelance fact-finding machinery creating them smitten by the govt. agencies, which leaves enough scope for the politicians and also the bureaucrats to tinker with the processes of investigation⁷.

Despite provisions that have rendered the Lokayuktas toothless, competent office-holders have tried to use the office for the public good. In Karnataka, especially, the Lokayukta, despite small budgets and limited authority, has emerged as a figure of some respect, visiting government offices regularly and proactively examining corrupt practices. Here too, however, MLAs remain beyond his jurisdiction.



Map showing Indian states without Lokayuktas.

THE SEARCH COMMITTEE

After the bill was passed on 1st January 2014, the applications were invited on 17th January 2014 for filling the post of Chairperson and eight posts of other members. And on the same day the search committee rules were also notified, but the appointments to the committee were not made. The same year, the NGO Common Cause filed a petition in the Supreme Court, and later a contempt petition over the delay. The search committee was constituted on 27th September 2018 chaired by retired Supreme Court justice Ranjana Desai. The members of the committee are Justice Sakha Ram

Singh Yadav, former SBI Chief Arundhati Bhattacharya, retired IAS officer Ranjit Kumar, former Gujarat Police head Lalit K Panwar, former judge of Allahabad High Court Shabbir husein S Khandwawala; Prasar Bharati chairperson A Surya Prakash and ISRO Head AS Kiran Kumar. On 17th January 2019 the Supreme Court requested the committee to prepare its panel by the end of the next month and set 7th March 2019 as the next date of hearing⁶. As soon as the search committee submits its recommendation for the Lokpal and its members, a selection committee will consider the names and will forward it to the President of India for his consideration. The selection committee is chaired by Prime Minister of India and other members are the Lok Sabha speaker, leader of opposition in the Lok Sabha, the Chief Justice of India or a judge of Supreme Court appointed by him and an eminent jurist appointed by President. Under the Lokpal and Lokayukta Act, the state wing of the Lokpal i.e., Lokayukta is to be appointed within one year of the passing of the Act. However several states have not yet appointed such an institution.

CONCLUSION

India ranks 81 in world corruption index(2017)¹ and needs laws to counter it. Having such a huge population with so much diversity, this nation is not easy to run and it becomes difficult to tackle corruption for the government. With increasing crime and criminal activities there is a must need of an independent organisation to look at the probes regarding corruption. Being highlighted in Rafale Scam, Coal scams etc the people are in no mood to trust government run bodies to minimise corruption of the country. Efforts have been made a long time back but an effective result is yet to come. It is expected that the corruption graph of the country will decrease after proper implementation of the Act. The Act provides power and strength to the body not only to investigate the complaint but also have a prosecution wing to prosecute the convict it is the demand of time and needs to be implemented as soon as possible.

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