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## RESEARCH ARTICLE

### Going to Lokpal: A Path of Corruption-free society

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#### Abstract

The meaning of public services will be realized only when the integrity in public services are to be maintained. The problem of corruption in the developing countries retards the development of nations and more efforts are being taken nowadays by the government to remove corruption. This paper deals with an idea of Lokpal in India. It discusses the journey of Lokpal in India. In the history of Indian legislature, the bill has taken lengthiest period to pass. Worldwide near about 160 countries are going with Ombudsman and they have it in every sector of life. After a long struggle, we got it. A question arises, whether it will be successful? The paper focuses on the same issue. The success and proper utilization of the institute will be depended upon the man who will get appointed on the post.

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## INTRODUCTION

With the initiation of numerous welfare and developmental programmes as a result of State planning after attainment of independence of India, the state's role in the management of public affairs has been increasing. Over the time on account of increase in annual plan expenditure, there has been stupendous expansion in size, function and importance of bureaucracy. It is extended to cover all the dimensions of human activity. The modern society is complex and bureaucracy continues to grow unabated. (Jain, R. B.) Administrative machinery influences every aspect of common man's life in numerous ways such as executive control and orders, permits, licenses, delivery of inputs and social services etc. The devolution and decentralization of authority to the echelons of bureaucracy is still to take root firmly.

Although various legislative, judicial and administrative mechanisms are available for redressing of public grievances, these have many limitations. They are not easily accessible to large section of people living in village. In addition, the judicial methods are cumbersome, time consuming, expensive and saddled with archaic procedures. (The Hindu) From a common man's point of view they lack speedy redressal of their grievances and litigation may take even many years. When the law court was not adequate to control the bureaucracy, judicial tribunals were created to keep them under check and the tribunals answerable to the highest courts viz., the High court, Supreme Court. Even this has not proved effective since once again the court continue to be the final arbiter in the disputes. In all the situations, Ombudsman-type machinery was recommended in India.

The Administrative Reforms Commission recommended the concept of the institution of Lokpal based on the pattern of Ombudsman in Scandinavian countries in October 1966. The Commission in its report pointed out inadequacies in the existing arrangement of redressal of citizen's grievances and recommended the need for introduction of new machinery on the public outcry against corruption, existence of widespread inefficiency and unresponsiveness of the administration to attend promptly to complaints. (ARC Report) It feel the need of providing the institution of Lokpal and Lokayukta with a view to remove general discontent among the people and provide a prompt sense of satisfaction and to ensure public confidence in the efficiency and integrity of the public services.

Another reason behind is international-India as a member of UNO, is committed to pursue the policy of Zero Tolerance against Corruption. India has ratified the United Nations Convention Against Corruption by deposit of

Instrument of Ratification on 9th May 2011.(The Hindu.) This Convention imposes a number of obligations, some mandatory, some recommendatory and some optional on the Member States. The Convention, inter alia, envisages that State Parties ensure measures in the domestic law for criminalization of offences relating to bribery and put in place an effective mechanism for its enforcement. The obligations of the Convention, with reference to India, have come into force with effect from 8th June 2011. As a policy of Zero tolerance against Corruption Lokpal seeks to establish in the country as a more effective mechanism to receive complaints relating to allegations of corruption against public servants including Ministers; MPs, Chief Ministers, Members of Legislative Assemblies and public servants and to inquire into them and take follow up actions. Under the aforesaid Convention the Lokpal will be a more effective.

The institution of Lokayukta is enacted first at Orissa and implemented first in Maharashtra. Lokayukta is an outcome of the commitment of the state to give clean administration and to make the public services more accountable. The state of Maharashtra became pioneer to introduce the concept of Ombudsman by enacting The Maharashtra Lokayukta and Upa-Lokayukta Act, 1972. Nearly 17 states are going with Lokayukta before enactment for Lokpal. After enactment of Lokpal a question arises on existence of Lokayukta.

Lokpal is an official who is designated to assist to overcome the delay, injustice or impersonal delivery of services. One can complaint it about services, rights, any question concerning services or maladministration. One can lodge a complaint to access appropriate services better and making services better. The word is derived from the Sanskrit word lok means people and pala means protector or caretaker. So Lokpal is a caretaker of people. In Mahabharata Lord Krishna used a word for himself, as a caretaker of the people. The word Lokpal for Ombudsman type institute was coined by C. D. Deshmukh, the then Finance Minister in 1959 followed by L. M. Singhvi in 1963 in the Loksabha for a first time. (Pohekar)

While going to the necessity of Lokpal, allied one must know about the world Ombudsman experience.

#### 1. World Ombudsman Experience

The world has been experiencing the problem of maladministration and corruption. The common man is a victim. An urgent need for a watchdog over the government is as old as the government itself. In 1711, the concept of Justitie Kansellor was originated in Sweden. After independence in 1809, it obtained Constitutional status. The reason behind was to check the Royal Officers disregard for law who were King's men in the Parliament. The concept of Lokpal is based on the concept of Ombudsman.

##### 1.1 Ombudsman Experience in Sweden

Ombudsman is a household word in Sweden. A Swedish word-Ombud means 'Commissioner or Agent'. It is derived from the Old Norse Umbodh means to charge a Commission. In Old Norse, Umbodhsmaðr was a deputy who looked after the interests and legal affairs of a group of such a trade union or business. (<http://www.Law.Ualberta.com>) Swedish Ombudsman is a world classic institution, which is independent, impartial and economically viable in terms of seeking help on corrupt practices. Hence, it has inspired confidence in public. After Sweden, many Scandinavian countries followed by the European, African, Australian countries adopted the concept.

It is observed that the countries those are implementing Ombudsman properly are less corrupt and most peaceful, whereas, the countries those are not having it or not implementing it properly are most corrupt and very unpeaceful. World wide it is a hallmark characteristic of Ombudsman that it is independent, impartial, easily accessible and user-friendly. India has Ombudsman at banking sector, insurance sector and Times Group. But the Scandinavian, European, African, Australian countries have it in each sphere of life-Parliament, Local government, insurance, banks, school, universities, prisons, hospitals even for the mental health and retardation, there is separate Ombudsman. It is very popular as it helps to correct negligent, defective, irregular, abusive and insufficient behavior that constantly affects the personal and corrective rights of individuals. (Rowat Donald)

#### 2. Ombudsman in India

In India, there was a continuous demand for Lokpal since 1966. The Bill was kept in Loksabha and Rajyasabha for many times and was defeated due to different reasons. In 1969, 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005, 2008, 2011 and 2013 it was kept in the Houses. There was a continuous struggle by Anna Hazare and his team for the Act. Finally, on December 18, 2013 it was sanctioned in the floor of both Houses and enacted in 2014. The Bill seeks to establish an anti-corruption watchdog.

The nature of Lokpal will be as follows:

- 1) The Lokpal consists of a Chairperson and a maximum of eight members.
- 2) The 50% Lokpal members shall be judicial members.
- 3) The Lokpal Chairperson or member shall not be connected with any political party.
- 4) One member will be an eminent jurist nominated by the President.

- 5) All ministers including Prime Minister with some safeguards and senior public servants are taken in its ambit excluding the public servants under Army, Navy and Coastal guard.
- 6) All entities receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of 10 lakh rupees per year are brought under the jurisdiction of Lokpal.
- 7) It provides adequate protection for honest and upright Public Servants.
- 8) Lokpal will have power of superintendence and direction over any investigation agency for cases referred to them by Lokpal.
- 9) Lokpal have powers of civil court in certain cases.

The selection of Chairperson and members of Lokpal shall be through a Selection committee. It will consist of Prime Minister, Speaker of Lok Sabha, Leader of Opposition in the Lok Sabha, Chief Justice of India or sitting Supreme Court Judge nominated by CJI, Eminent jurist to be nominated by the President of India on the basis of recommendations of the four members of the Selection Committee. No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee. The Selection Committee shall for the purposes of selecting the Chairperson and Members of the Lokpal and for preparing a panel of persons to be considered for appointment can constitute a Search Committee consisting of at least seven persons of standing and having special knowledge and expertise in the matters relating to anti-corruption policy, public administration, vigilance, policy making, finance including insurance and banking, law and management or in any other matter which, in the opinion of the Selection Committee, may be useful in making the selection of the Chairperson and Members of the Lokpal provided that not less than fifty percent of the members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and women.

The Lokpal:

- 1) Will Superintend and direct over the Delhi Special Police,
- 2) Will Search for and to seize the related documents to the enquiry,
- 3) Can summon and enforce the attendance of any person,
- 4) Can receive evidence on affidavits,
- 5) Can requisite any public record or copy thereof from any court or office for enquiry.

The Lokpal can utilize the services of any officer organization or investigation agency of the Central Government or any State Government for the purpose of conducting any preliminary inquiry or investigation.

Whoever makes any false and frivolous or vexatious complaint under the Act shall be punished with imprisonment for a term for nearly one year and fine which may extended to one lakh rupees.

Now the time has come to get a corruption-free society; off course, it again is depended upon a person who will adorn the Chair. A person of dignity, clean and free from any pressure is a constraint for the proper utilization of Lokpal in India.

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