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LOKAYUKTA SYSTEM IN INDIA: ACRITIQUE

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ABSTRACT

The system of Lokayukta was introduced in India through a bill in 1968. This institution is an anti corruption buero who's main purpose is curb corruption among the politicians and government officials. The role of Lokayukta, the authority appointed under the Lokayukta and Upa Lokayukta Act, 1971 is very wide. The authority has got the power to investigate the matter before it but, no power to punish. Reports of the Lokayukta only recommendatory. The author here has concluded the article with the recommendation that to have corrupt free nation, transparency in administration certain measures have to adopted.

KEYWORDS

Lokayukta, Corruption, Democracy, Transparency, Human Rights,

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INTRODUCTION

The Lokayukta is an anti-corruption organization where public official is appointed to investigate citizen's complaints against government. Agencies in India. Lokayukta cannot be dismissed nor transferred by the government once appointed; he can be removed only by passing impeachment motion by the state assembly. Such institutions were first conceptualized by the Administrative Reforms Commission headed by Morarji Desai in its report published in 1966. It recommended the creation of two independent authorities - the Lokpal at the centre and the Lokayuktas in the states. The first Lokpal Bill was introduced in Parliament in 1968 but

it lapsed with the dissolution of Lok Sabha. Later Bills also met a similar fate. Though the Lokpal could not be created as a national institution, the interest generated led to the enactment of various state legislations. Maharashtra became the first state to create a Lokayukta in 1972. Presently more than 50% of the states have Lokayuktas, though their powers, and consequently their functioning varies significantly across states. Along with the Income Tax Department and the Anti-Corruption Bureau, Lokayukta helps people to realize corruption among the Politicians and Government Officials. Maharashtra was the first state to introduce *The Lokayukta and Upa-Lokayuktas Act in 1971*. This was followed by similar acts being enacted by states of Orissa, Rajasthan, Bihar, Uttarpradesh, Karnataka, Madhyapradesh, Andhrapradesh, Gujarat, Kerala and Delhi. Maharashtra Lokayukta is considered as weak due to lack of, staff, funds and no independent investigating agency. Karnataka Lokayukta is considered as the most powerful Lokayukta in the country. There are no Lokayuktas in Jammu Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tamilnadu, Tripura. The latest Lokayukta was established in Goa.

Role of Lokayukta

Corruption is pervasive in the system of governance in India, undermining the effectiveness of all institutions of governance. It is the fundamental problem that undermines the very social fabric and the political and bureaucratic structure of Indian society. Corruption is a major crisis which has serious implications on protection of the rights of individuals as well as development of nation. The high level of corruption in India has been widely understood as a major impediment in improving the quality of governance. Corruption and mal-administration are the two maladies that affect the efficiency of administration. Corruption is the result of maladministration and sometimes it precedes maladministration.

Corruption is internationally recognized a major problem, capable of endangering stability and security of society, threatening social, economic and political development and undermining the values of democracy and morality. It has assumed alarming

proportions resultantly public funds going into private hands leading to enrichment of bribe givers and bribe takers. Corruption does not mean only taking bribe. Corruption and mal-administration are like twin sisters each acts in complement to the other.

Supreme Court also said that corruption in a civilized society is a disease like cancer and if not detected in time, will malignise the polity of the country leading to disastrous consequence. It is like plague, it is contagious and if not controlled, spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being Corruption in public life is a gross violation of human rights. It is anti-people, anti-development, and anti-national. Rampant corruption is major national malady. It is the single big factor retarding the progress of our country, responsible for millions to live below poverty line despite astronomical amount being spent on development. It is garbage which is required to be removed otherwise it would hamper development of the country and bring bad name to the nation. Indians face corruption in almost every sector of life. Corruption is anti-national, anti-poor, anti-economic development and anti-life. Rampant corruption is a major national malady. The Central Government as well as the State Governments are anxious to eradicate it because there is realization that it is a great hurdle on the path of progress because out of the huge plan outlays, very little goes to the people whose upliftment is essential for ushering the egalitarian society. This apart, it stalls the pace of development in other sectors too. It is necessary to eradicate corruption strongly otherwise development would be delayed considerably in India. It includes improper and selfish exercise of power and influence attached to a public office due to the special position one occupies in public life. India, face this problem; as a result, it assumes status of mega industry, where some people thrive at the cost of public exchequer resultantly imparting the developmental activities of the State. The United Nations Convention against corruption (2003) signed/ratified by the member countries to deal firmly with corruption. Secretary General stressed that corruption violates the socio-economic human rights of the people especially in

the developing countries because funds meant for roads, wells, hospital, schools and other basic necessities are siphoned off and deposited in safe havens abroad. In 2011, India ranked 95th in the Corruption Perceptions Index of Transparency International. Some of the survey shows that corruption in India had threatened to derail growth. According to a report by Washington-based Global Financial Integrity, India lost \$462 billion post-Independence in illicit financial flows due to tax evasion, crime and corruption.

The institution of Lokayukta is an adequate remedy to prevent corruption and maladministration. While considering the grievances of individuals against administration, Lokayukta gets an opportunity to look into the process of administration and its merits and flaws. This conveys a message to the administration that an independent authority capable of giving certain directions against them is constantly watching their activities. In this way, it tries to bring purity in administration and remedy, the grievances of individuals and make the administration accountable. However, it is not a panacea for curing all the evils of corruption and maladministration. But we cannot misjudge the role of Lokayukta in preventing corruption and maladministration and its assistance in vindicating the grievances of common man. It maintains transparency in administration and keeps the administration within their limits, and thereby facilitates the socio economic development of the country.

Lokayukta investigates cases of corruption, where substantiated, recommend action. He is a great check on corruption, brings about transparency in the system, and makes administrative machinery citizen friendly. His functions largely depend upon jurisdiction vested in him and facilities provided for taking cognizance of citizens' grievances promptly, through simple, informal mechanism devoid of technicalities.

Karnataka Lokayukta Act 1986

The Karnataka Lokayukta is widely considered as the most active among the state anti-corruption units. It was first set up in 1986 under the Karnataka Lokayukta Act 1984. The Act was recently amended

by the state government following the resignation of the Lokayukta, Justice Santosh Hedge. He demanded additional powers for strengthening the role of Lokayukta in India- especially the power to investigate suo-motu. Following the amendment, the Lokayukta has been given the suo motu powers to investigate all public servants except the CM, Ministers, Legislators and those nominated by the government.

Following are the main provisions of the Karnataka Lokayukta Act:

- The public servants who are covered by the Act include the CM, Ministers, Legislators and all officers of the state government including the heads of bodies and corporations established by any law of the state legislature.
- The body is constituted for a term of five years and consists of one Lokayukta and one or more Upalokayuktas. All members must have been judges, with either the Supreme Court or some High Court.
- Members are appointed on the advice of the CM in consultation with the Chief Justice of the Karnataka High Court, the Chairman of the Karnataka Legislative Council, the Speaker of the Karnataka Legislative Assembly, and the Leader of Opposition in both Houses.
- Investigations involving the CM, Ministers, Legislators and those nominated by the government must be based on written complaints; other public servants can be investigated suo-motu.
- Reports of the Lokayukta are recommendatory. It does not have the power to prosecute.

The Lokpal Bill

The word was derived from the Sanskrit words "Lok" (people) and "Pala" (protector/caretaker), meaning 'Caretaker of People'. The Lokpal Bill has deceptive history, or rather a checker past. It becomes even more significant to discuss its journey till now after the Upper House of the Parliament finally passed the bill on 17th December and sent it to Lok Sabha for review. The Lokpal Bill got

popularity by common people with the advent of Anna Hazare on the stage in 2011, but its roots were sown almost five decades ago in 1963 when the term Lokpal was coined and the bill was first introduced in the lower house five years later. For common people it can also be considered as a proposed anti-corruption law that demands establishment of an institution of Ombudsmen to inquire into corruption allegations against government officials. The present Lokpal Bill is several versions older than what it was in 1968. Its clauses have become more incisive and inclusive with the passage of time. An attempt is made to analysis the upside and downside of the government's proposed Lokpal Bill.

Its Advantages

- The clauses are aimed at tackling a major socio-political problem - corruption.
- This Bill proposes to give decision making power to highly qualified individuals.
- This bill has been in the pipeline for almost five decades, people across generations had faith in this legislation.
- It is expected that the corruption cases will witness a speedy conclusion and the decision will be swifter.
- Moreover, people will not get lost in the size of Indian judiciary system and they can count on a single entity to report crime and get their grievances redressed.

Its Disadvantages

- The bill prevents Lokpal from receiving complaints of corruption from common people.
- Proposed Lokpal Bill treats the institution only as an advisory body. It makes it completely toothless.
- Lokpal is deprived of police powers and therefore it cannot register an FIR.
- Lokpal bill talks about punishment for 'frivolous' complaints., but the Ombudsman will not have the power to send the corrupt public servants to jail!.
- Lokpal Bill proposes jurisdiction only on MPs, Ministers and PM and not on officers. This will surely create a bottleneck.

- PM who deals with foreign affairs, security and defence, Lokpal have no power to probe any case against them, therefore, no scrutiny is possible by lokpal.

RECOMMENDATION

- Make Lokayukta the nodal agency for receiving all corruption complaints.
- Accord Lokayukta jurisdiction over State-level probe agencies
- To avoid Corruption, bring bureaucrats under the ambit of the Lokayuktas.
- To grant powers of search and seizure and to initiate contempt proceedings.
- Provide Lokayukta administrative and financial autonomy.
- Bring NGO funded by the government under Lokayukta's jurisdiction.

CONCLUSION

"Corruption will be out one day, however, much one may try to conceal it; and the public can, as its right and duty, in every case of justifiable suspicion, call its servants to strict account, dismiss them, sue them, in a law court or appoint an arbitrator or inspector to scrutinize their conduct, as it likes. However the Lokayukta system is not uniform in India. It varies state wise. Lokayuktas have been denied with their independent investigative machinery Institution of Lokpal has not as yet been created at the Centre although efforts have been made since, 1959 while Institution of Lokayuktas has been established by many States through State Legislations. They are restricted for inquiry into complaints of corruption against public servants only. He protects Citizens' Right against mal-administration, corruption, delay, inefficiency, non-transparency, abuse of position, improper conduct etc. The procedure to be followed is informal and inexpensive; technicalities do not come in way. Complaint is supported by affidavit, making out case for inquiry. He is representative of Legislature, powerful friend of citizens to act against official's action, inaction or corruption. But not anti-administration, rather helps in humanizing relations between the public and the administration, a step forward in establishing an 'Open Government'

securing respect for the rule of law, Lokayukta system is considered as a an educator, who aims at propagating the prevention of corruption, inefficiency and mal-administration in governance of the country. He is, therefore, a check on corruption. An amendment to the Constitution has been proposed to implement the Lokayukta uniformly across Indian states. The proposed changes will make the institution of Lokayukta uniform across the country as a three-member body, headed by a retired Supreme Court judge or high court chief justice and comprising the state vigilance commissioner and a jurist or an eminent administrator as other members. Although certain amendments are being made on the bill, some sections of the social activists are yet to consider it as strong enough to rise up to the occasion. The institution of Lokayukta is an adequate remedy to prevent corruption and maladministration. While considering the grievances of individuals against administration, Lokayukta gets an opportunity to look into the process of administration and its merits and flaws. This conveys a message to the administration that an independent authority capable of giving certain directions against them is constantly watching their activities. In this way, it tries to bring purity in administration and remedy, the grievances of individuals and make the administration accountable. However, it is not a panacea for curing all the evils of corruption and maladministration. But we cannot misjudge the role of Lokayukta in preventing corruption and maladministration and its assistance in vindicating the grievances of common man. It maintains transparency in administration and keeps the administration within their limits, and thereby facilitates the socio economic development of the country.

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CONFLICT OF INTEREST

We declare that we have no conflict of interest.

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