

An Evaluation of the Lokpal as India's Anti-Corruption Authority

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Abstract-

Corruption in public life is a problem that has long existed in many nations. India is not exempt from the corruption issue either. It is among the most significant obstacles in the path of achieving efficient governance. Thus, it has been discussed and advocated that an Ombudsman organization be established, particularly at the national level to combat corruption. Nevertheless, the laws creating the Lokpal, an Ombudsman, did not take effect until the second decade of the twenty-first century. In order to provide up mechanisms for the examination and prosecution of cases of public official corruption, the Lokpal and Lokayukta Act, 2013 was passed. Even though the Lokpal system in India is still in its infancy, it is crucial to examine how it operates in order to understand its potential and efficacy. Thus, this article tries to analyse the functioning of Lokpal of India from its inception till the present. Examining the effectiveness of the Act, this research study evaluates the authority, power and duties of the Lokpal and Lokayukta critically in light of the judicial input.

In order to conduct a thorough evaluation of pertinent literature and to analyse the Act and its implementation, the research article employs a mixed-methods methodology. In addition to considering the judiciary's influence on the efficacy of the Lokpal, the research also considers their respective roles, functions and powers. As a criticism of the Act, it draws attention to its flaws and restrictions.

Introduction-

An important piece of anti-corruption legislation in India is the Lokpal and Lokayukta Bill. The goal of the law is to establish an independent body that will investigate claims of corruption made against elected officials and public servants. This body would be referred to as the Lokpal at the federal level and the Lokayukta at the state level. When the first Lokpal Bill was introduced in the parliament in the 1960s, India's robust anti-corruption laws were mandated. However, institutional and political opposition prevented it from becoming law. When social activist Anna Hazare went on a hunger strike in 2011 to seek the enactment of a robust anti-corruption law, the demand for a Lokpal gained pace. The movement had a great deal of public support, which greatly increased the pressure on the government to take action. The government assembled members of civil society and government to create a joint committee to write a new Lokpal Bill in response to the public outrage. In August 2011, the Lokpal and Lokayukta Bill was submitted in the parliament, following the committee's June 2011 report submission.

Before the legislation was ultimately approved in December 2013, it went through numerous iterations and discussions in the legislature. It was, nevertheless, further contested before the Supreme Court, which ordered the administration to amend the legislation to increase its efficacy. Ultimately, the Lokpal and Lokayukta Act, 2013 underwent operational amendments in July 2016. With the exception of situations involving national security, the act created the Lokpal as an independent statutory agency to look into allegations of corruption involving public employees and elected officials, including the prime minister. Additionally, the act created the state-level corruption investigation bodies known as Lokayuktas.

Although the Lokpal and Lokayukta Act was passed into law, its execution has been sluggish. The Lokpal has not yet been completely operationalized as of early 2023, and there are still open jobs in the organization for various important posts. Nevertheless, the act continues to be a noteworthy turning point in India's history and in the nation's struggle against corruption.

Need for Lokpal-

Our anti-corruption procedures have a number of flaws, which is why, despite a mountain of evidence against the corrupt, there is rarely any real investigation or prosecution of them, and they go unpunished. The corrupt are ultimately shielded by the entire anti-corruption apparatus.

1) Insufficient Self-Sufficiency- The majority of our agencies, including the CBI, state vigilance departments, internal vigilance divisions inside different departments, the state police's Anti-Corruption Branch, and others, are

not autonomous. They frequently report to the same individuals who are either the accused's direct accusers or are likely to be swayed by them.

2) Helpless- While some organizations, such as the CVC or Lokayuktas, are autonomous, they lack authority. They now function as advisory bodies. They offer the governments two different types of advice: either they prosecute the officer in court or they apply departmental fines. Experience has shown that top officers or ministers are rarely listened to when they offer advice.

3) Lack of Transparency and Internal Accountability- These anti-corruption organizations also struggle with a lack of internal transparency and accountability. There isn't currently a distinct and reliable system in place to monitor whether employees of these anti-corruption organizations become corrupt. That's the reason crooked people rarely end up in jail, even with so many agencies. Today, corruption is a zero-risk, high-profit industry. There isn't a single thing that discourages corruption. Additionally, there are a number of serious flaws in our anti-corruption legislation that ultimately shield the unscrupulous.

Salient features of the Lokpal and Lokayuktas Act, 2013-

1). The Lokpal and Lokayuktas Act of 2013 established a central Lokpal with the authority to hear corruption complaints involving all members of Parliament and central government workers. Though they operate at the state level, the Lokayuktas perform identical duties as the Lokpal.

2). When it comes to allegations of corruption against any public person, including the prime minister's office, the offices of the Lokpal and Lokayuktas handle the case while providing appropriate protections. The Lokayukta and the Lokpal both handle allegations of corruption against the government and its officials. In fact, they both carry out investigations and hold trials based on the results of such investigations.

3). Since the legislation does not specify the scope of the establishment of a Lokayukta and its powers for each state, a number of distinct Lokayuktas, some with greater authority than others, have been established. A suggestion has been made to implement the Lokayukta uniformly across all Indian states in order to create uniformity. According to the Act, all states must establish offices for the Lokpal and/or Lokayukta within a year of its passage. In contrast, the Lokpal will have a chairperson and up to eight members, of which 50% will be judges and the remaining 50% will be women, minorities, and members of SC/ST/OBCs.

4). The recently passed Lokpal Act allows for the attachment and confiscation of any property that a government official has acquired by dishonest means, even while legal action against the individual is pending.

5). All public officials are required by the Lokpal Act to disclose their personal assets and liabilities, as well as those of their dependents. As a matter of fact, the aforementioned Act provides protection to any government official who discloses information, and as a supplementary measure, the Whistle Blowers Protection Act has also been passed.

Powers and Functions of Lokpal-

The following are the roles and authority of the Lokpal and Lokayukta:

- **Investigation:** The Prime Minister and all other government officials, including members of Parliament, who are suspected of corruption, are among those who are the focus of investigations by the Lokpal and Lokayukta. They are also able to look into complaints made against public employees who work for government-owned businesses or receive funding from the government.
- **Prosecution:** Public servants who have been charged with corruption in court may face legal action from the Lokpal. This includes submitting evidence and charging documents.
- **Asset Forfeiture:** Assets acquired via unethical means may be seized by the Lokpal and Lokayukta. This covers cash as well as other assets like real estate.
- **Prevention:** To stop corruption, the Lokpal and Lokayukta might suggest alterations to official procedures and policies. They may also suggest modifications to the legislation to bolster efforts to combat corruption.
- **Protection for Whistleblowers:** Whistleblowers who expose corruption may be shielded from reprisals from their employers or other parties by the Lokpal and Lokayukta.
- **Grievance Redressal:** Concerns about public officials, such as unpaid salaries, pensions, and other benefits, can be brought before the Lokpal and Lokayukta.
- **Raising Public Awareness:** Through public education campaigns, seminars, and workshops, the Lokpal and Lokayukta can raise public awareness of corruption and its effects on society.

In conclusion, the Lokpal and Lokayukta have the authority to look into and prosecute cases of corruption, suggest modifications to laws to stop corruption, shield informants from harm, settle complaints, and raise public awareness of corruption. These authorities are intended to guarantee that public servants are answerable for their deeds and that the government functions openly and in the public interest.

Prevailing Challenges or Limitations-

- The biggest flaw is the exclusion of the judiciary from the scope of the Lokpal.
- Even after nearly ten years since the Lokpal Act's inception, there is still a dearth of office bearers.
- Lokpal is not immune to political influence because the appointing committee itself is made up of members from political parties.
- The lack of constitutional support for the Lokpal and insufficient appeal mechanisms are present. Additionally, whistleblowers were not granted tangible protection under the 2013 Act.
- The complaint against corruption cannot be registered more than seven years after the date on which the offense mentioned in such a complaint is alleged to have been committed. The provision for initiation of inquiry against the complainant if the accused is found innocent will only discourage people from complaining.
- Due to the lack of a Leader of the Opposition in Parliament, it took the National government almost five years to establish a Lokpal to look into allegations of corruption involving public employees. The administration of justice process has been excessively delayed as a result of this unrealistic approach.
- the Lokpal are frequently accused of being toothless bodies. They can only look into cases that are presented to them by the government or the courts; they are not allowed to take independent action. The demise of the Lokpal and Lokayukta's authority is further compounded by a shortage of personnel and resources.
- As mentioned in the provision to the Section 20, before opening an investigation, the Lokpal must first ask the public servant under investigation to provide an explanation in order to determine whether there is a strong case. Thus, prior to opening an investigation, the Lokpal has to examine the public servant's justification.

Actions to be taken to improve Lokpal and Lokayukta's Governance-

- Given that the members of the appointment committee are affiliated with political parties, the Lokpal is not immune to political influence. The appointment of members of the Lokpal and Lokayukta must be free from political influence in order to improve their governance, and where appropriate procedures may be followed, they must be selected by competent authorities.
- The chairman of the body and the members are likely to support the ruling party in the absence of the opposition leader. The leader of the opposition is regarded as a special invitee while choosing the Lokpal members. In the absence of an opposition leader of that kind, the chairman and members of Lokpal would be more accommodating to the ruling party. There should be an opposition leader in order to prevent this kind of favoritism.
- Despite being established as statutory bodies, the Lokpal and Lokayukta lack any established guidelines for their functioning. A specified code of procedure must be adhered to in order to increase the uniformity in the way such bodies operate.
- The public must be held accountable for the actions of Lokpal and Lokayukta, and they should be transparent and grant citizens the right to access information.
- There must be a financial and administrative separation between Lokpal and Lokayukta.
- State and municipal government organizations are largely responsible for the corruption that harms the general public, particularly the impoverished and marginalized. As a result, it is crucial to establish functional Lokayuktas at the state level that function similarly to the Lokpal at the central level. It is crucial that the L&L Act be sufficiently changed to allow for the establishment of Lokayuktas in a manner similar to the Lokpal in order to combat corruption.
- Additionally, a method that enables the courts to eradicate corruption within their own walls will be required by the system. Legitiators and jurists can collaborate to discover solutions that work without stepping on each other's toes.

E- governance in Lokpal for efficiency and transparency-

In every facet of its operations, the Lokpal of India has embraced e-governance to boost outreach, efficiency, and transparency.

1). Electronic Annual Performance Appraisal Report- The extensive performance appraisal dossier that the Central Government maintains for every employee is the foundation of the online system known as the electronic Annual

Performance Appraisal Report (SPARROW). The purpose of this system is to make it easier for officers to electronically file their annual performance appraisal reports online.

2). Electronic Movement of Files (E-Office)- E-office system has been fully implemented in the Secretariat of the Lokpal of India. Now there is no physical movement of administrative files in the secretariat. A Disaster Recovery System is also in place, which ensures that files are not lost in case of a disaster. During the lockdown due to the pandemic, office work was not disrupted. All the staff and officers could work from home using E-Office.

3). Library Management System (E-Granthalaya)-The Indian Lokpal office now uses the E-Granthalaya Library Management System.

4). Pension Sanction & Payment Tracking System (Bhavishya)- The Bhavishya is an online Pension Sanction & Payment Tracking System that has been implemented in the Office of Lokpal of India to ensure the payment of all retirement dues and delivery of Pension Payment Order to retiring employees on the day of retirement itself.

5). Visitors Management System (Swagatam)- The Swagatam e-visitors Management System has been implemented in the office of Lokpal of India to maintain the visitor's details.

6). Electronic Human Resource Management (E-HRMS) The E-HRMS (Human Resource Management System) has been implemented in the Secretariat of the Lokpal of India. This system aims to provide a generic, product based solution to the organization for better management of personnel through electronic service record.

RESULTS AND SUGGESTIONS

Although some detractors of the Act have argued that it lacks authority, we believe that Lokpal as an institution has enormous potential, provided that the implementation process is done properly. After the Act was passed, Lokayuktas were supposed to be established in each state; but, despite the passage of time, this hasn't happened. Second, the Act places the Prime Minister's office under Lokpal's purview and puts the Prime Minister in the Selection Committee. It consistently runs counter to the Act's intent. In light of the judiciary's reluctance to address the issue, a supervisory body for the Lokpal and Lokayuktas should be established, excluding the judiciary. To ensure that the issues can be handled objectively, this committee may be made up of lawyers and other experts in corruption who have little stake in passing laws.

In *Common Cause, a Registered Society V. Union of India and ors*[10], the Apex Court has repeatedly voiced optimism that the proposed Lokpal and Lokayuktas will “strengthen the current legal and institutional structure” to tackle corruption. Throughout the decision, references to “zero tolerance against corruption” were made. The judiciary praised the legislative action and expressed hope that it will result in the creation of a more robust anti-corruption monitoring body in India. The judiciary duly referenced the following statement from Justice Krishna Iyer's Special Courts Bill, 1978: “Law is what law does, not what law says, and the moral gap between word and practise menaces people's trust in life and law.”

It would be an immense tragedy if democracy were to disappear. The public and media, however, don't share the same optimism. Although there was a lot of anticipation for the Lokpal's establishment, it has not only fallen short of expectations but the hype has also been baseless, which begs the question of whether the idea was sound in the first place.

Most of the complaints received thus far have been petty or outside the scope of the Ombudsman's jurisdiction. In addition, fewer complaints—even trivial ones—have been filed.

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