

Examrace

Competitive Exams: Political Science Study Material Lokpal and Lokayukta

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Lokpal and Lokayukta

- The Indian Lokpal is synonymous to the institution of Ombudsman existing in the Scandinavian countries. The office of the ombudsman originated in Sweden in 1809 AD, and adopted eventually by many nations as a bulwark of democratic government against the tyranny of officialdom.
- Ombudsman is a Swedish word that stands for an officer appointed by the legislature to handle complaints against administrative and judicial action.
- Traditionally the ombudsman is appointed based on unanimity among all political parties supporting the proposal.
- The incumbent, though appointed by the legislature, is an independent functionary-independent of all the three organs of the state, but reports to the legislature.
- The Ombudsman can act both on the basis of complaints made by citizens, or suo moto. It can look into allegations of corruption as well as mal-administration.

The Need

- The existing devices for checks on elected and administrative officials have not been effective, as the growing instances of corruption cases suggest.
- The Central Vigilance Commission (CVC) is
- designed to inquire into allegations of corruption by administrative officials only.
- The CBI, the premier investigating agency of the country, functions under the supervision of the Ministry of Personnel
- Public Grievances and Pensions (under the Prime Minister) and is therefore not immune from political pressures during investigation.
- Indeed, the lack of independence and professionalism of CBI has been castigated by the Supreme Court often in recent times. All these have necessitated the creation of
- Lokpal with its own investigating team in earliest possible occasion.
- Therefore, there is a need for a mechanism that would adopt very simple, independent, speedy and cheaper means of delivering justice by redressing the grievances of the people.

- Examples from various countries suggest that the institution of ombudsman has very successfully fought against corruption and unscrupulous administrative decisions by public servants, and acted as a real guardian of democracy and civil rights.

The Lokpal

In early 1960s, mounting corruption in public administration set the winds blowing in favour of an Ombudsman in India too. The Administrative Reforms Commission (ARC) set up in 1966 recommended the constitution of a two-tier machinery of a Lokpal at the Centre, and Lokayukts in the states. The ARC while recommending the constitution of Lokpal was convinced that such an institution was justified not only for removing the sense of injustice from the minds of adversely affected citizens but also necessary to instill public confidence in the efficiency of administrative machinery. Following this, the Lokpal BiH was for the first time presented during the fourth Lok Sabha in 1968, and was passed there in 1969. However, while it was pending in the Rajya Sabha, the Lok Sabha was dissolved, resulting the first death of the bill. The bill was revived in 1971, 1977, 1985, 1989, 1996, 1998, 2001 and most recently in 2004. Each time, after the bill was introduced to the house, it was referred to some committee for improvements a joint committee of parliament, or a departmental standing committee of the Home Ministry and before the government could take a final stand on the issue the house was dissolved. The Lokpal was visualized as the watchdog institution on ministerial probity. Broadly the provisions of different bills empowered the Lokpal to investigate corruption cases

against political persons at the Central level. Some important features of the Lokpal Bill are the following:

Objective

Is to provide speedy, cheaper form of justice to people.

Members

Lokpal is to be a three member body with a chairperson who is or has been a chief justice or judge of the Supreme Court; and its two other members who are or have been judges or chief justices of high courts around the country.

Appointment

The chairperson and members shall be appointed by the President by warrant under his hand and seal on the recommendation of a committee consisting of the following persons. Its not clear whether the committee has to make a unanimous decision or a majority decision will do.

1. The Vice-President
2. The PM
3. Speaker of LS
4. Home Minister

5. Leader of the House, other than the house in which PM is a member

6. Leaders of Opposition of both the houses.

Independence of the Office

In order to ensure the independence of functioning of the august office, the following provisions have been incorporated:

- Appointment is to be made on the recommendation of a committee.
- The Lokpal is ineligible to hold any office of profit under Government of India or of any state, or similar such posts after retirement.
- Fixed tenure of three years and can be removed only on the ground of proven misbehavior or incapacity after an inquiry made by CJI and two senior most judges of SC
- Lokpal will have its own administrative machinery for conducting investigations.
- Salary of Lokpal is to be charged on the Consolidated Fund of India.
- PM relation to latter's functions of national security and public order. Complaints of offence committed within 10 years from the date of complaint can be taken up for investigation, not beyond this period.
- Any person other than a public servant can make a complaint. The Lokpal is supposed to complete the inquiry within a period of six months. The Lokpal has the power of a civil court to summon any person or authority. After investigation, the ombudsman can only recommend actions to be taken by the competent authority.
- He can order search and seizure operations.
- He shall present annually to the President the reports of investigation and the latter with the action taken report has to put it before the both houses of parliament.
- It may be noted that the Lokpal is supposed to investigate cases of corruption only, and not address himself to redressing grievances in respect of injustices and hardship caused by maladministration.

The Current Situation

- The present UPA government has planned to bring the Judiciary within the purview of Lokpal; this is one reason why the Bill has been referred to the Group of Ministers.
- The political fraternity is understandably opposed to a Lokpal, since the purported target of the Lokpal is mainly the politicians themselves.
- The publicly stated reason for the current delay is that some important issues are as yet unresolved. Primarily, these are: Whether the office of the Prime Minister be brought under the purview of Lokpal: It appears likely that the revised bill will include the Prime Minister within the Lokpal's purview, with proper safeguards that would exclude any

possibility of conspiracy to scandalise the PM. Whether the Lokpal should have its own investigation machinery, or if it should depend on the existing ones: Making the Lokpal solely dependent on the existing investigating bodies would amount to empowering the office of Lokpal in theory, but making it pointless in practice.

Lokayuktas in the States

- There are as many as 17 states where the institution of Lokayukta has been constituted, beginning with Orissa in 1971.
- However the power, function and jurisdiction of Lokayuktas are not uniform in the country.
- In some states it has been applicable to all the elected representatives including the CM.
- In some other states legislators have been deliberately kept out of his purview.
- Lokayuktas have not been provided with their independent investigative machinery making them dependent on the government agencies, which leaves enough scope for the politicians and the bureaucrats to tinker with the processes of investigation.

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