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ABOUT US

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THE CORRUPTION AND MALADMINISTRATION

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CONTEXT OF MALADMINISTRATION

The Office of the Ombudsman was established under the Ombudsman Act 1980. The Ombudsman is an independent and non-partisan office holder who oversees public administration, which includes not only the public health service, but also the Civil Service and Local Authorities. The Office deal with specific complaints from the public about administrative Injustice and maladministration it has the power to investigate, report upon, and make recommendations about individual cases and administrative procedures and it seeks solutions to problems by a process of investigation and conciliation.

ABSTRACT

This study aims to determine the boundaries between implementing a government agency (bestuurhandeling) that harms quality state finances as maladministration or is a criminal act of corruption. Normative juridical research methods. The results of the study show that not all companies are carried out by public officials who are financial sources of corruption. In determining the boundaries between acts of maladministration and acts of the body or government officials must avoid discretionary actions that contain legal ribbons such as: fraud (deception), manipulation, misdirection (misrepresentation), concealment of facts, breach of trust, subterfuge (subfunction), or circumvention of regulations (illegal violation).

COST OVER YEARS**Recurring cost of lokpal over the year**

Year	Cost of lokpal (recurring)	Status of bill
1968	₹300,000	The Fourth Lok Sabha dissolved before the bill could be passed by the Rajya Sabha. The bill lapsed.
1971	₹2 million	This bill lapsed on dissolution of the Fifth Lok Sabha.
1977	₹2.5 million	The Sixth Lok Sabha dissolved just before the recommendations of the Joint Select Committee could be considered.
1985	₹2.5 million	This bill was withdrawn by the government.
1989	₹3.5 million	This bill lapsed on dissolution of the Ninth Lok Sabha.
1996	₹10 million	The Standing Committee presented its report to Parliament on 9 May 1996. However, the Lok Sabha was dissolved before government could finalise its stand.
1998	₹10 million	The Twelfth Lok Sabha was dissolved before government could take a view on the recommendations made by The Parliamentary Standing Committee.
2001	₹15 million	The Lok Sabha was dissolved. Hence, the bill lapsed.

2011/2012	The Government's version of Lokpal does not have any financial memorandum.	Passed by the Lok Sabha and Rajya Sabha. Rajya Sabha passed the bill on 17 December 2013. Lok sabha passed the bill on 18 December 2013.
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The Lokpal and Lokayuktas Act, 2013

- The **Lokpal and Lokayukta Act, 2013** provided for the establishment of Lokpal for the Union and Lokayukta for States.
- These institutions are **statutory bodies** without any constitutional status.
- They perform the function of an "ombudsman" and inquire into allegations of corruption against certain public functionaries and for related matters.

Why do We need such Institutions?

- Maladministration is like a termite which slowly erodes the foundation of a nation and hinders administration from completing its task. Corruption is the root cause of this problem.
- Most of the anti-corruption agencies are hardly independent. Even Supreme Court has been termed CBI as a "caged parrot" and "its master's voice".
- Many of these agencies are advisory bodies without any effective powers and their advice is rarely followed.
- There is also the problem of internal transparency and accountability. Moreover, there is not any separate and effective mechanism to put checks on these agencies.
- In this context, an independent institution of Lokpal has been a landmark move in the history of Indian polity which offered a solution to the never-ending menace of corruption.

What is the Background of their Formation?

- In 1809, the institution of ombudsman was **inaugurated officially in Sweden**.
- In the 20th century, Ombudsman as an institution developed and grew most significantly after the Second World War.

- **New Zealand and Norway adopted this system in the year 1962** and it proved to be of great significance in spreading the concept of the ombudsman.
- In 1967, on the recommendations of the **Whyatt Report of 1961, Great Britain adopted the institution of the ombudsman** and became the first large nation in the democratic world to have such a system.
- In 1966, Guyana became the first developing nation to adopt the concept of the ombudsman. Subsequently, it was further adopted by Mauritius, Singapore, Malaysia, and India as well.
- In India, the concept of constitutional ombudsman was **first proposed by the then law minister Ashok Kumar Sen in parliament in the early 1960s.**
- The term Lokpal and Lokayukta were **coined by Dr. L. M. Singhvi.**
- **In 1966, the First Administrative Reforms Commission recommended the setting up of two independent authorities-** at the central and state level, to look into complaints against public functionaries, including MPs.
- In 1968, Lokpal bill was passed in Lok Sabha but lapsed with the dissolution of Lok Sabha and since then it has lapsed in the Lok Sabha many times.
- Till 2011 eight attempts were made to pass the Bill, but all met with failure.
- In 2002, the Commission to **Review the Working of the Constitution** headed by **M.N. Venkatachaliah recommended the appointment of the Lokpal and Lokayuktas**, also recommended that the PM be kept out of the ambit of the authority.
- In 2005, the **Second Administrative Reforms Commission chaired by Veerappa Moily** recommended that the office of Lokpal should be established without delay.
- In 2011, the government formed a Group of Ministers, chaired by Pranab Mukherjee to suggest measures to tackle corruption and examine the proposal of a Lokpal Bill.
- "India Against Corruption movement" led by Anna Hazare put pressure on the United Progressive Alliance (UPA) government at the Centre and resulted in the passing of the Lokpal and Lokayuktas Bill, 2013, in both the Houses of Parliament.
- It received assent from President on 1 January 2014 and came into force on 16 January 2014.

What are the Key Provisions of the Lokpal and Lokayuktas (Amendment) Act, 2016?

- It amended the Lokpal and Lokayukta Act, 2013.
- It also amended section 44 of the 2013 Act that deals with the provision of furnishing of details of assets and liabilities of public servants within 30 days of joining the government service.
- It replaces the time limit of 30 days, now the public servants will make a declaration of their assets and liabilities in the form and manner as prescribed by the government.

OMBUDSMAN

The meaning of Ombudsman is-an official appointed to investigate individuals' complaints against maladministration, especially that of public authority. The precise meaning of the term Ombudsman is grievance officer. An Ombudsman is a public officer whose function is to investigate the grievances, raised by citizens regarding maladministration of the authority. In other words if there are gross lapses in the functioning of the public administration the citizens have power to lodge complaint against the concerned authority. He is an officer of parliament.

Powers and Functions:

- (1) An important function of Ombudsman is to protect the rights and freedoms of citizens and needless to say that primarily for this purpose the post of ombudsman was instituted
- (2) In the Scandinavian countries the ombudsman has another function. The ombudsman shall have the power to supervise the general civil administration. On this point the duty of ombudsman is closely connected with the public administration.
- (3) In many states Ombudsman or institution like this supervises the general administration. It is also called general surveillance of the functioning of the government.
- (4) In some countries the Ombudsman enjoys enormous power. For examples in Sweden the Ombudsman has been empowered to investigate the cases of corruption (in any form) not only against the government officers but also against the judges of the highest court
- (5) In UK the Parliamentary Commissioner (British type of Ombudsman) also acts as a Health Commissioner. In 1974 the British parliament enacted a law to enhance the jurisdiction of Parliamentary Commissioner to the level of local government. The local councilors can lodge complaints against the local body and can seek redressed of grievances.

(6) An important function of Ombudsman is the exercise of discretionary powers. The discretionary powers are really vast and how to use these powers depend upon the person concerned. Discretionary powers include corruption, negligency, inefficiency, misbehaviour etc.

OMBUDSMAN IN INDIA

The functions of the ombudsman which were successful in the other countries inspired the established of Local and Lokayuktas in India also. Local is the Indian Ombudsman and Lokayuktas is the State Ombudsman. In 1962, M.C. Setalvad suggested the idea of establishing an Ombudsman at the All India Lawyers' Conference. The Administrative Reforms Committee made a proposal to the Government in 1968. In 1971, the bill was again introduced, however to end up in failure.

Composition of the Lokpal

The office of Lokpal Comprises of a Chairman and upto 8 members. The chairman of the Lokpal can be current or former judge of the Supreme Court or the chief justice of High Courts. Or An eminent person i.e. he is a person of neat and clean image and outstanding ability having special knowledge and expertise of not less than 25 years in the matters relating to;

- 1) Anti Corruption Policy
- 2) Public administration
- 3) Vigilance

Powers of Lokpal is given under section 25 of the Act, 2013. If the Lokpal receives a complaint under the prevention of corruption act 1988, then it can initiate the investigation. If the complaint found true in the investigation then the Lokpal can ask the government to take disciplinary action against the accused public servants or can file a corruption case in a special court.

Criticism:

May lead to further bureaucratic delay and inefficiency if corrupt bureaucrats introduce red tape in order to extort more bribes. Such inadequacies in institutional efficiency could affect growth indirectly by lowering the private marginal product of capital and investment rate.