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# LOKPAL AND LOKAYUKTA: RE-DEFINING THE SOCIO-POLITICAL DYNAMICS IN INDIA

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S. Rasheetha, M.L., Ph.D in Law (Pursuing), Assistant Professor, Government Law College, Vellore

## ABSTRACT

The paper delves into the concept and establishment of the institution of Lokpal, aimed at inquiring into allegations of corruption against certain public functionaries. Corruption, a form of dishonesty by those entrusted with authority for personal gain, is a rampant issue that affects both public and private sectors, including Non-Governmental Organizations (NGOs). This paper focuses primarily on political corruption and discusses the evolution of the Lokpal and Lokayukta Act, 2013, an anti-corruption statute, which seeks to establish an institution for investigating allegations of corruption against public officials. The analysis includes the composition, functioning, and powers of the Lokpal, along with its role in ensuring accountability within government institutions.

## 1. Introduction to Lokpal and Lokayukta:

Corruption, in its many forms such as bribery and embezzlement, has plagued public and private institutions alike, leading to a demand for an independent body to investigate such matters. Lokpal, which literally means "caretaker of the people" (lok – people, pal – caretaker), is an anti-corruption authority or ombudsman representing the public interest. The concept of the Lokpal is borrowed from the Swedish model of ombudsmen. The Lokpal has jurisdiction over all members of Parliament and central government employees, investigating cases of corruption. The Jan Lokpal movement, spearheaded by social activist Anna Hazare, played a crucial role in the enactment of the Lokpal and Lokayukta Act, 2013, which came into effect on January 16, 2014. Maharashtra was the first state to introduce the Lokayukta institution, providing an early model for the national act.

## 2. Objectives of the Paper:

This paper seeks to address several key aspects of the Lokpal institution:

- Definition of Lokpal and Lokayukta.

- The composition and structure of the Lokpal.
- How the Lokpal functions.
- The salient features of the Lokpal Act.
- The effectiveness and potential shortcomings of the Act.

### **3. Composition of the Lokpal:**

The Lokpal is a statutory, multi-member body with no constitutional backing. It consists of a chairperson and up to eight members. The chairperson can be one of the following:

- The former Chief Justice of India.
- A former Supreme Court judge.
- An eminent person with exceptional knowledge and at least 25 years of expertise in fields related to anti-corruption policy, public administration, vigilance, finance, law, and management.

The eight members are divided into judicial and non-judicial categories. Half of the members must be judicial members, and a minimum of 50% of members must belong to Scheduled Castes, Scheduled Tribes, and Other Backward Classes. Judicial members must be former judges of the Supreme Court or Chief Justices of High Courts, while non-judicial members are experts with specialized knowledge in relevant fields. The chairperson cannot be a Member of Parliament (MP), Member of Legislative Assembly (MLA), or anyone convicted of a moral turpitude-related offence.

The term of office for the Lokpal chairperson and members is five years or until the age of 70, whichever comes first. The salary and allowances are equivalent to that of a Supreme Court judge.

### **4. Structure of the Lokpal:**

The Lokpal comprises several key officials appointed by the chairperson, including:

1. Secretary to the Lokpal
2. Director of Inquiry
3. Director of Prosecution

### **5. The Working of the Lokpal:**

Upon receiving a complaint, the Lokpal decides whether to proceed with the investigation. If so, a preliminary inquiry is initiated, either through its Inquiry Wing or other agencies like the Central Bureau of Investigation (CBI). The inquiry must be completed within 90 days, with an extension of up to another 90 days if warranted. If the public servant is found guilty, the Lokpal can grant sanction for prosecution or departmental proceedings. If innocent, the Lokpal may close the case and initiate action against the complainant for making false allegations.

### **6. Powers of the Lokpal:**

The Lokpal is endowed with several powers to ensure thorough investigation and action:

1. It can issue directions to the CBI.
2. It has the authority to sanction CBI searches and seizures.
3. Its Inquiry Wing has powers akin to those of a civil court.
4. It can recommend the suspension or transfer of public servants accused of corruption.
5. It can direct the preservation of records during investigations.
6. It can supervise the work of other agencies involved in corruption cases.

### **7. Special Courts:**

The Central Government is required to establish special courts to hear and decide corruption-related cases, based on the recommendations of the Lokpal. The courts must complete trials within one year, extendable by three months. These courts expedite the process of delivering justice in corruption cases.

## 8. Complaints Against the Lokpal:

The Lokpal Act stipulates that complaints against the Lokpal's chairperson or members cannot be investigated by the institution itself. If a complaint is filed, it may lead to the removal of the chairperson or members by the President, after a Supreme Court inquiry. Misconduct by the Lokpal's officials can result in significant penalties, including compensation to the affected public servant.

## 9. Challenges and Gaps in the Lokpal Act:

Despite the Act's comprehensive nature, some gaps remain:

- **Whistleblower Protection:** The Act does not adequately promote whistleblowing, a significant demand from the Jan Lokpal Bill.
- **State Lokayuktas:** The Act provides only minimal guidance on the establishment of state-level Lokayuktas, leaving states to define their own procedures.
- **Judicial Exemption:** The judiciary is not brought under the jurisdiction of the Lokpal, which limits its ability to address corruption within the judiciary.

## 10. Recommendations and Suggestions:

To strengthen the Lokpal framework, the following suggestions are put forward:

- **Whistleblower Protection:** The inclusion of stronger provisions for the protection of whistleblowers would empower citizens to report corruption without fear of retaliation.
- **Expansion of Jurisdiction:** The judiciary should also fall under the purview of the Lokpal, ensuring accountability across all branches of government.
- **Reform in Prime Minister's Jurisdiction:** The current limitations on investigating allegations against the Prime Minister should be reviewed to ensure transparency and accountability, particularly for matters unrelated to national security.

## 11. Conclusion:

The Lokpal and Lokayukta Act, 2013, is a significant step towards curbing corruption in India.

While it marks a major breakthrough in the fight against corruption, its effectiveness largely depends on its implementation. An open and transparent appointment process, along with strong institutional support, will be crucial in ensuring that the Lokpal can function effectively. However, for the Lokpal to be truly successful, comprehensive reforms addressing the gaps in its functioning and jurisdiction must be pursued.