

Lokpal

A Lokpal is an anti-corruption authority or body of ombudsman who represents the public interest in the Republic of India. The current chairperson of Lokpal is Pinaki Chandra Ghosh. The Lokpal has jurisdiction over central government to inquire into allegations of corruption against its public functionaries and for matters connected to corruption.

The term “Lokpal” was coined by Dr. L.M. Singhvi in 1963. The concept of a constitutional ombudsman was first proposed in parliament by Law Minister Ashoke Kumar Sen in the early 1960s. The first Jan Lokpal bill was first proposed by Adv. Shanti Bhusan in 1968 and passed in the 4th Lok Sabha in 1969, but did not pass through the Rajya Sabha. After forty five years of its first introduction and after ten failed attempts, the Lokpal Bill was finally enacted in India on 18th December 2013.

The Lokpal Bill provides for the filling, with the ombudsman, of complaints of corruption against the prime minister, other ministers, and MPs. Anna Hazare fought to get this bill passed and it did pass on 27 December 2011, with some modifications. These were proposed as Jan Lokpal Bill. However, Hazare and his team, as well as other political parties, claimed that the Lokpal Bill passed was weak, and would not serve its intended purpose. So the proposed bill by the ruling Congress Party has yet to be accepted in the Rajya Sabha. As on December 2011, the bill has been deferred to the next parliamentary session, amid much controversy and disruption by the LJP, RJD and SP parties. The media at large, and the opposition parties claimed the situation had been staged.

The Lokpal and Lokayuktas Act were passed in 2013 with amendments in parliament, following the Jana Lokpal movement led by Anna Hazare. The Lokpal is responsible for enquiring into corruption charges at the national level while the Lokayukta performs the same function at the state level. As of March 2019, and ever since the related Act of parliament was passed in India and Retired Supreme Court judge Pinaki Chandra Ghosh is appointed as the first Lokpal of India by a committee consisting of Prime Minister Narendra Modi and Chief Justice of India Ranjan Gogoi and Lok Sabha speaker Sumitra Mahajan on 23rd March 2019.

Features of the Jana Lokpal Bill

- 1) An institution called Lokpal at the centre and Lokayukta in each state will be set up.
- 2) Like the Supreme Court and Election Commission, they will be completely independent of governments. No minister or bureaucrat will be able to influence their investigations.
- 3) Cases against corrupt people will not linger on for years anymore and investigations in any case will have to be completed in one year. Trial should be completed in the next one year, so that the corrupt politician, officer or judge is sent to jail within two years.
- 4) The loss that a corrupt person caused to the government will be recovered at the time of conviction.

- 5) If the work of any citizen is not done in a prescribed time, in any government office, Lokpal will impose a financial penalty on the guilty officers, which will be given as compensation to the complainant.
- 6) The entire functioning of Lokpal/Lokayukta will be completely transparent.
- 7) It will be the duty of the Lokpal to provide protection to those who are being victimized for raising their voice against corruption.

Powers and functions

The Lokpal has jurisdiction to inquire into allegations of corruption against who is or has been Prime Minister, or a Minister in the Union government, or a Member of Parliament, as well as officials of the Union government under Groups A,B,C and D. also covered are chair persons, members, officers and directors of any board, corporation, society, trust or autonomous body either established by an Act of Parliament or wholly or partly funded by the Union or State government.

The Lokpal, however, cannot inquire into any corruption charge against the Prime Minister if the allegations are related to international relations, external and internal security, public order, atomic energy and space, unless a full Bench of Lokpal, consisting of its chair and all members, considers the initiation of probe, and at least two-thirds of the members approve it.

A complaint under the Lokpal Act should be in the prescribed form and must pertain to an offence under the Prevention of Corruption Act against a public servant. When a complaint is received, the Lokpal may order a preliminary inquiry by its Inquiry Wing, or refer it for investigation by any agency, including the CBI, if there is a prima facie case. The Lokpal, with respect to central government servants, may refer the complaints to the Central Vigilance Commission (CVC). The CVC will send report to the Lokpal regarding officials falling under Groups A and B; and proceed as per the CVC Act against those in Groups C and D.

The inquiry wing or any other agency will have to complete its preliminary inquiry and submit a report to the Lokpal within 60 days. It has to seek comments from both the public servant and “the competent authority”, before submitting its report. There will be a ‘competent authority’ for each category of public servant. For instance, for the Prime Minister, it is the Lok Sabha, and for other Ministers, it will be the Prime Minister.

A Lokpal Bench consisting of no less than three members shall consider the preliminary inquiry report; and after giving an opportunity to the public servant accused of corruption for his/her defence, decide whether it should proceed with the investigation. It can order a full investigation, or initiate department proceedings or close the proceedings.

After investigation, the agency ordered to conduct the probe has to file its investigation report in the court of appropriate jurisdiction, and a copy of the report has to be filed before the

Lokpal. A Bench of at least three members will consider the report and may grant sanction to the Prosecution Wing to proceed against the public servant based on the agency's charge sheet.

The Lokpal will have a secretary, who will be appointed by the Lokpal Chairperson from a panel of names prepared by the Union government. The secretary will be of the rank of Secretary of the Government of India. Until these officers are appointed, the government will have to make available officers and staff from its Ministries and Departments to conduct preliminary inquiries and pursue prosecution.

Public servants will have to declare their assets and liabilities in a prescribed form. If any assets found in their possession is/are not declared, or if misleading information about these are furnished, it may lead to an inference that assets were acquired by corrupt means. For public servants under the state governments, the states have to set up Lakayuktas to deal with charges against their own officials.