

# Lokpal

March 28, 2019

## In news

India gets its first Lokpal

## Placing it in the syllabus

Statutory, regulatory and various quasi-judicial bodies

## Static dimensions

- History of Lokpal acts
- Provisions of Lokpal and Lokayuktas act 2013
- Difference between Lokpal, CVC and CBI

## Current dimensions

- Appointment of New Lokpal

## Content

### What is lokpal

The word “Lokpal” is derived from the sanskrit word “loka” meaning people and “pala” meaning protector or caretaker. Together it means “protector of people”. The aim of passing such a law is it to eradicate corruption at all levels of the Indian polity.

A Lokpal (“caretaker of people”) is an anti-corruption authority or body of ombudsmen who represents the public interest in the Republic of India.

### History of Lokpal acts in brief

- **1963:** The idea of an ombudsman first came up in

parliament during a discussion on budget allocation for the Law Ministry.

- **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.
- **1968-2011:** The Lok Pal Bill was introduced in parliament 8 times but was not passed.
- **2002:** The Commission to Review the Working of the Constitution (headed by Shri M.N. Venkatachiliah) recommended the appointment of the Lok Pal and Lokayuktas; also recommended that the PM be kept out of the ambit of the authority.
- **2005:** The second Administrative Reforms Commission (chaired by Shri VeerappaMoily) recommended that office of Lok Pal be established without delay.
- **2011:** The government formed a Group of Ministers, chaired by Pranab Mukherjee to suggest measures to tackle corruption and examine the proposal of a Lok Pal bill.
- **2013:** The Lokpal and Lokayuktas Bill, 2011 was passed by both the houses of Parliament in 2013 and came into force in January 2014.
- **2016:** Lok Sabha agreed to amend the Lokpal Act and Bill was sent to the Standing Committee for review.

## **Provisions of the act**

### **Composition and membership qualifications**

It has eight members, out of the maximum eight members, half will be judicial members. Minimum fifty per cent of the Members will be from SC / ST / OBC / Minorities and women.

### **Judicial Member**

The judicial member of the Lokpal should be

- either a former Judge of the Supreme Court
- or a former Chief Justice of a High Court

### **Non-Judicial Member**

The non-judicial member should be an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

Under the 2013 Act, the Lokpal should consist of a chairperson and such number of members, not exceeding eight, of whom 50% should be judicial members. The selection procedure for these posts is the same as that for the chairperson. The Act states that not less than 50% of the members of the Lokpal should be from among persons belonging to the SCs, the STs, OBCs, minorities and women. The same rules apply members of the search committee.

### **Appointment system**

A search committee will prepare a panel of candidates, a selection committee will recommend names from among this panel, and the President will appoint these as members.

### **Composition of Search committee**

**Headed by-** former Supreme Court judge **Ranjana Prakash Desai**

**Members-** former chief of State Bank of India (SBI) Arundhati Bhattacharya, PrasarBharati chairperson Surya Prakash, former Indian Space Research Organisation (ISRO) head A S Kiran Kumar, former Allahabad High Court judge Sakha Ram Singh Yadav, former Gujarat Police head Shabbirhusein S Khandwawala, retired IAS officer of Rajasthan cadre Lalit K Panwar and Ranjit Kumar.

**Selection committee(appointed by selection committee)**

The names proposed by the search committee would be scrutinised by the selection committee headed by Prime Minister and comprising of Speaker of Lok Sabha, leader of opposition in Lok Sabha, Chief Justice of India or a sitting Supreme Court judge nominated by CJI and an Eminent jurist to be nominated by President of India on basis of recommendations of the first four members of the selection committee through consensus.

### **Powers and functions**

- The Lokpal will have the power of superintendence and direction over any investigation agency including CBI for cases referred to them by the ombudsman.
- As per the Act, the Lokpal can summon or question any public servant if there exists a prima facie case against the person, even before an investigation agency (such as vigilance or CBI) has begun the probe. Any officer of the CBI investigating a case referred to it by the Lokpal, shall not be transferred without the approval of the Lokpal.
- An investigation must be completed within six months. However, the Lokpal or Lokayukta may allow extensions of six months at a time provided the reasons for the need of such extensions are given in writing.
- The Lokpal can award fine up to Rs. 2 lakh for “false, frivolous or vexatious” complaints.

### **Other features of the Lokpal act 2013**

- The Lokpal Act provides for setting up of an anti-corruption ombudsman called Lokpal at the Centre and Lokayukta at the State-level.
- The ambit of Lokpal would cover all categories of public servants, including the Prime Minister with the exception of armed forces.
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exception of armed forces.

- The Lokpal Act mandated the states to institute Lokayukta within one year of the commencement of the Act.
- Lokpal will also have powers of superintendence and direction over any investigation agency including CBI for cases referred to them by the Lokpal.

**How is it different from CVC and CBI**

CVC and Lokpal	CBI and Lokpal
<ul style="list-style-type: none"> <li>· A false complaint filed with lokpal could attract a fine of Rs 1 lakh or jail term, while CVC doesn't have such a harsh approach towards false complaints.</li> <li>· Besides, lokpal cannot enquire into complaints that are older than seven years from the time of an alleged irregularity, whereas the CVC Act does not have any such cut-offs.</li> <li>· amendments to Section 8 of the CVC Act, 2003 were made recently through the Lokpal and Lokayuktas Act, 2013 (1 of 2014) by inserting new sections 8A and 8B empowering the Commission to enquire into references made by the Lokpal in respect of members of Group 'B', 'C', 'D' services of the central government and such level of officials or staff of the corporations, companies, societies and local authorities owned by the central government</li> <li>· Moreover Lokpal will have powers of superintendence and direction over it.</li> <li>· (In the present form in which the Lokpal Bill has been enacted, and the form in which CVC is already enacted and functioning, there are certain common areas where CVC has jurisdiction and Lokpal also has jurisdiction – and in some areas, it looks like CVC is reporting to Lokpal. )</li> </ul>	<ul style="list-style-type: none"> <li>· <b>Lokpal</b> has the power to superintend over, and to give direction to CBI.</li> <li>· It has power to authorise CBI for search and seizure operations</li> <li>· CBI works with Lokpal as a inquiry wing(Though Lokpal has its separate wing)</li> </ul>

**Why delay in appointing new Lokpal and how it was solved?**

- One of the members on the selection committee for appointing the Lokpal is the leader of the opposition. Since the post is vacant (no opposition party won the requisite 10% of Lok Sabha seats in 2014), the government has said it cannot appoint a Lokpal till the law is amended to include the leader of the single largest opposition party. This unique situation called for an amendment to the existing Lokpal Act to change the Leader of Opposition to Leader of the largest Opposition party.
- Contempt of court proceedings initiated against the government for its inability to implement the Lokpal and Lokayuktas Act of 2013 may have pushed the present appointment.
- Union government in pursuit to the order of the supreme court appointed the retired Supreme Court judge Pinaki Chandra Ghose as India's first Lokpal.

## Manifest Pedagogy

The issue of Lokpal has been in news since the movement against corruption by Anna Hazare movement. To get a holistic view of this topic it has to be read along with articles on CBI, CVC and recent amendments made to Prevention of Corruption Act 1988