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Lokpal Bill

Historical Perspective

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The concept of a constitutional ombudsman was first proposed by the Law Minister Ashoke Kumar Sen in parliament in the early 1960s. The first Jan Lokpal Bill was proposed by Mr Shanti Bhushan in 1968 and passed in the 4th Lok Sabha in 1969, but could not pass through the Rajya Sabha. Subsequently, lokpal bills were introduced in 1971, 1977, 1985, again by Ashoke Kumar Sen while serving as Law Minister in the Rajiv Gandhi cabinet; 1989, 1996, 1998, 2001, 2005 and in 2008, yet they were never passed. 42 years after its first introduction, the Lokpal Bill is still pending in India.

The Lokpal Bill provides for filing complaints of corruption against the prime minister, other ministers, and MPs with the ombudsman. The Administrative Reforms Commission (ARC) recommended the constitution of Lokpal, convinced that such an institution was justified, not only for removing the sense of injustice from the minds of deeply affected citizens, but also to instill public confidence in the efficiency of the administrative machinery.

Following this, the Lokpal Bill 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, and so the bill was not passed at that time.

The bill was revived several times in subsequent years, most recently in 2011. 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 again. Several conspicuous flaws were cited in the 2008 draft of the Lokpal Bill. The basic idea of the lokpal is borrowed from the Office of Ombudsman, which has the Administrative Reforms Committee of a lokpal at the Centre, and lokayukta(s) in the states.

Anna Hazare fought for this bill to get passed and it did on Dec 27, 2011, around 9:30 with modifications (proposed as the Jan Lokpal Bill). However, Hazare and his team, as well as other political parties, claimed that the Lokpal Bill passed is weak and would not serve its intended purpose so the proposed bill by the ruling Congress Party has yet to get accepted from the Rajya Sabha. As of Dec 29, 2011, the bill has been deferred to the next parliamentary session amid lots of drama and disruption by the LJP, RJD and SP parties. The media at large and the opposition parties have claimed the situation to be staged.

The success of a democracy and the realization of its socio economic goals depend on the extent to which the grievances of the citizens are redressed. The earliest democratic institutions created in the world for the redressal of public grievances was the Scandinavian institution of Ombudsman. The institution of ombudsman in Indian context is referred to as Lokpal or Lokayukta.

The modern state has taken up the activities in all the areas of human endeavour be it developmental (socio economic nation building), non-developmental (policing, law and order etc) or symbolic (celebrating national

holidays, maintaining museums etc). The rising footprint of the government has meant greater interaction with the citizens and thus greater chances of corruption, favoritism, harassment and abuse of authority. This makes the setting up of an independent institution of ombudsman/Lokpal a clear necessity. It is in this backdrop that the rising demand for a Lokpal by the members of the civil society (Team Anna) must be seen.

Sweden was the first country to set the institution of ombudsman in 1809. This later spread to other Scandinavian countries like Finland, Denmark and Norway. The Sweden model of Lokpal where this institution germinated has very broad powers. It is an institution appointed by the legislature to look into corruption, abuse of discretion, discourtesy, nepotism and inefficiency. Thus the Team Anna cannot be completely criticized for demanding power for the Lokpal beyond the corruption cases. But it should also be kept in mind that India is huge as compared to Scandinavian countries and thus the number of cases coming to Lokpal can get unmanageable. The Sweden model of Lokpal can prosecute any erring official including the judges but can only recommend the punishment to higher authorities and not inflict any punishment by itself.

In Indian context it was the first Administrative Reforms Commission headed by Morarji Desai that first recommended setting up of Lokpal and Lokayuktas in 1966. The first ARC proposed to keep judiciary out of the preview of Lokpal and included ministers and secretaries of central and state governments. Since then there has been eight official attempts to create this

institution by way of legislation. The first such attempt was by Indira Gandhi government in 1968.

While central government is still debating the establishment of such institutions many state governments have already set up Lokayuktas. The first state to do so was Maharashtra in 1971. Orissa passed such an act in 1970 but it came into force only in 1983. The model of Lokayukta varies in different states widely and so does its power and authority. Some states have given suo motu power of investigation to Lokayukta while the others have not. Some states like Uttar Pradesh and Gujrat have judicial qualification prescribed for the institution while states like Bihar and Maharashtra have no such criteria. Chief Minister is included in the Lokayukta's jurisdiction in states like Himachal Pradesh and Madhya Pradesh while it is excluded from states like Bihar and Orissa. Thus this wide variation calls for some broad uniform enabling law from the central government within which the states can pass their own acts.

Significant changes have taken place in the politico administrative realities of India since its "Tryst with Destiny" started more than sixty years ago. At the turn of 21st Century our administration seems to be mired in the charges of corruption, dishonesty, nepotism, elitism and self aggrandizement. An independent and effective Lokpal will act as the bulwark of democratic government against the tyranny of officialdom. It will be the keeper of public conscience which will increase the faith of citizens in rule of law and help in maturing of our democracy.