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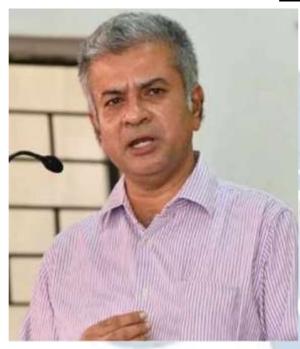
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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LEGAL

AND LOKAYUKTAS ACT

ANALYSIS AND EFFECTIVENESS OF THE LOKPAL

AUTHORED BY - LAP PRATAP HARIHARA VARMA

ABSTRACT

Corruption remains one of the most significant challenges to democratic governance, economic

development, and public trust in India. The Lokpal and Lokayuktas Act, 2013, was enacted to

establish independent anti-corruption bodies—Lokpal at the central level and Lokayuktas at the

state level—to investigate and prosecute public officials involved in corruption. This paper

critically examines the legislative journey, salient features, and implementation challenges of the

Act. While the Act was a landmark reform driven by public movements such as India Against

Corruption, its effectiveness remains limited due to delays in the appointment of Lokpal, lack of

autonomy for investigative agencies, and weak enforcement mechanisms at the state level. The

paper also compares the Indian ombudsman system with global anti-corruption bodies,

highlighting best practices that could strengthen the Lokpal's functioning. Despite its

shortcomings, the Lokpal remains an essential tool in India's fight against corruption, necessitating

reforms such as greater independence for investigative agencies, a uniform structure for

Lokayuktas across states, and enhanced public awareness mechanisms. By addressing these

challenges, India can move closer to a transparent, accountable, and corruption-free governance

system.

Keywords: Lokpal, Lokayukta, Corruption, Enforcement, Ombudsman

INTRODUCTION

The Lokpal and Lokayuktas Act, 2013, is a pivotal legislative measure aimed at curbing corruption

in India. It establishes an independent body, the Lokpal, at the national level, and Lokayuktas at

the state level to investigate allegations of corruption against public officials. This Act emerged

from widespread public demand for accountability and transparency in governance,

particularly in the wake of the India Against Corruption movement. The primary goal of this research is to evaluate the effectiveness of the Lokpal and Lokayuktas Act in achieving its

objectives and addressing the challenges it faces.¹

Corruption, in its myriad forms, poses a formidable threat to societal progress and equitable development. It erodes public trust, distorts resource allocation, hinders economic growth, and undermines the very foundations of democracy. In India, the challenge of corruption is particularly acute, given the country's vast size, complex bureaucratic structures, and diverse socio-economic

landscape.

The Lokpal and Lokayuktas Act was envisioned as a powerful instrument to combat this menace by creating an institutional framework capable of impartially investigating allegations of corruption, irrespective of the position or power of the accused. By establishing the Lokpal at the national level and Lokayuktas at the state level, the Act aimed to decentralize the anti-corruption

mechanism, making it more accessible to citizens across the country.

This research delves into a comprehensive evaluation of the Lokpal and Lokayuktas Act, examining its historical context, key provisions, implementation challenges, impact on governance, and the imperative need for strengthening its efficacy. Furthermore, it will draw upon comparative analyses with global anti-corruption measures to identify best practices and potential areas for reform. Ultimately, this research seeks to provide valuable insights and recommendations for enhancing the effectiveness of the Lokpal and Lokayuktas Act in fostering a cleaner, more

transparent, and accountable governance framework in India.

Corruption is defined as the abuse of entrusted power for private gain. It exists in various forms, including bribery, embezzlement, favoritism, and misallocation of resources. It affects governance by:

Undermining democratic principles and weakening institutions.

- Reducing economic growth by discouraging foreign investment.
- Depriving citizens of essential services such as healthcare, education, and infrastructure.

1 Pranjal Kishore, The Evolution of the Lokpal: An Analysis of Anti-Corruption Mechanisms in India, 5 J. Gov. & Pub. Pol'y 47 (2019).

• Increasing income inequality by benefiting the corrupt elite at the expense of the poor.

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NEED FOR INDEPENDENT ANTI-CORRUPTION BODY

In India, the failure of existing anti-corruption mechanisms, such as the Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI), and state anti-corruption bureaus, led to calls for a strong and independent ombudsman. The Lokpal and Lokayuktas Act was introduced as a means to address these systemic failures and ensure accountability in public administration.

HISTORICAL CONTEXT

The journey towards the enactment of the Lokpal and Lokayuktas Act, 2013, is a protracted and complex narrative, spanning several decades of legislative attempts and public mobilization. The concept of an ombudsman-like institution to address grievances related to corruption was first mooted in 1968 by then-Member of Parliament Satyendra Narayan Sinha. This initial proposal sought to establish a mechanism through which citizens could voice their concerns about corruption in public offices and seek redressal without fear of reprisal.²

However, despite the initial momentum and the subsequent introduction of several draft bills in Parliament, the Lokpal Bill faced persistent political opposition and was repeatedly stalled. Various factors contributed to this legislative inertia, including disagreements among political parties on the scope and powers of the proposed institution, concerns about potential encroachments on the autonomy of existing investigative agencies, and a general lack of political will to address corruption in a comprehensive manner.³

² Parliament of India, **Legislative History of Lokpal Bills (1968–2011)**, available at https://loksabha.nic.in.

³ Pranjal Kishore, *The Evolution of the Lokpal: An Analysis of Anti-Corruption Mechanisms in India*, 5 J. Gov. & Pub. Pol'y 47 (2019).

The push for the Lokpal gained unprecedented momentum in 2011, when social activist Anna Hazare launched a hunger strike, demanding a strong anti-corruption law. This movement, known as **India Against Corruption (IAC)**, was fueled by public frustration over scams such as:

The 2G spectrum scam (₹1.76 lakh crore loss).

The 2G spectrum scam refers to the illegal allocation of 2G (second-generation) telecom spectrum licenses by the Department of Telecommunications (DoT) in 2008, under the leadership of then-Telecom Minister A. Raja. The scam was uncovered in a report by the Comptroller and Auditor General of India (CAG), which estimated that the exchequer suffered a loss of ₹1.76 lakh crore (approximately \$39 billion at the time) due to the flawed allocation process.⁴

The Commonwealth Games scam (₹70,000 crore misappropriation).

The 2010 Commonwealth Games (CWG), hosted in New Delhi, were supposed to showcase India's economic and infrastructural progress. However, the event became infamous for corruption, financial mismanagement, and poor governance. The estimated misappropriation of funds was ₹70,000 crore (\$10 billion).⁵

The Coal Block Allocation scam (estimated loss of ₹1.86 lakh crore).

The Coal Block Allocation Scam (popularly called Coalgate) refers to the irregular allocation of coal blocks to private companies without competitive bidding between 2004 and 2009. The Comptroller and Auditor General (CAG) estimated that India suffered a potential revenue loss of ₹1.86 lakh crore (\$34 billion).⁶

In response to mass protests, the Lokpal and Lokayuktas Act was finally passed in 2013 and came into effect on January 16, 2014.

⁴ Comptroller and Auditor General of India (CAG), Performance Audit Report on 2G Spectrum Allocation, Report No. 19 of 2010-11.

⁵ CBI Investigation Report on the Commonwealth Games Corruption Case, available at https://cbi.gov.in.

⁶ Comptroller and Auditor General of India (CAG), Coal Block Allocation Report, Report No. 7 of 2012-13.

The Lokpal Bill underwent multiple revisions and amendments before its final enactment. Key provisions were incorporated to safeguard its independence, such as the establishment of a selection committee comprising members from civil society, the judiciary, and the government. Despite these advancements, the Act's implementation has been fraught with challenges that have significantly hampered its effectiveness.⁷

The Act was designed with several key objectives aimed at enhancing accountability and transparency:

The primary aim of the Lokpal is to serve as an independent ombudsman for receiving complaints from citizens regarding corruption in public offices. This institution is intended to provide a platform for accountability without political interference. By empowering citizens to report misconduct, the Act seeks to foster a culture of transparency within government institutions. It was expected that this would enhance the performance of the government and improve public confidence.⁸

POWERS AND FUNCTION OF THE LOKPAL AND LOKAYUKTAS

The Lokpal and Lokayuktas Act, 2013, establishes a comprehensive legal framework that defines the powers and functions of the Lokpal at the national level and the Lokayuktas in the states. The Act empowers the Lokpal to investigate allegations of corruption against a wide range of public officials, including high-ranking individuals such as ministers and even the Prime Minister. This broad jurisdiction is intended to create a robust mechanism for tackling corruption at all levels of government, ensuring that no one is above scrutiny.

One of the significant features of the Act is that it grants the Lokpal supervisory powers over the Central Bureau of Investigation (CBI) concerning cases referred to it. This provision aims to enhance the effectiveness of investigations into corruption cases by ensuring that they are conducted impartially and without external pressures. By overseeing the CBI's investigations, the

 8 Id

⁷ Manjeet Pal & Kulwant Singh, The Lokpal and Lokayukta Act of 2013: A Comprehensive Analysis of its Legislative Journey, Salient Features, and Effectiveness in Combating Corruption in India,

Lokpal can help prevent political interference and ensure that cases are pursued diligently and

fairly.9

In addition to investigating specific allegations of corruption, the Lokpal is also responsible for

promoting transparency and accountability in government. To this end, the Act requires public

officials to declare their assets and liabilities, promoting transparency and deterring corrupt

practices by making asset accumulation more visible. By mandating these disclosures, the Act

encourages ethical behavior among public servants and fosters a culture of accountability.

Key Objectives and Provisions

The Act was designed with several key objectives aimed at enhancing accountability and

transparency:

The primary aim of the Lokpal is to serve as an independent ombudsman for receiving complaints

from citizens regarding corruption in public offices. This institution is intended to provide a

platform for accountability without political interference. By empowering citizens to report

misconduct, the Act seeks to foster a culture of transparency within government institutions. 10

The Lokpal and Lokayuktas Act is designed with several key objectives and provisions aimed at

creating a comprehensive and effective anti-corruption framework. 11

KEY FEATURES OF THE LOKPAL AND LOKAYUKTAS ACT

The Lokpal and Lokayuktas Act, 2013, is a landmark anti-corruption legislation in India that aims

to establish independent and autonomous bodies—the Lokpal at the central level and Lokavuktas

at the state level—to investigate corruption allegations against public officials. This section

provides an in-depth analysis of the key features of the Act, including its composition, jurisdiction,

powers, and procedural framework.

⁹C. Kumar, "An Evaluation of the Lokpal's Effectiveness in Combating Corruption," 45 India L.J. 233 (2021).

¹⁰ The Lokpal and Lokayuktas Act, 2013, No. 1, Acts of Parliament, 2014 (India).

The primary objective of the Act is to establish an independent ombudsman institution at both the

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national and state levels. The Lokpal at the national level and the Lokayuktas at the state level are

mandated to receive and investigate complaints of corruption against public officials.

This institutional mechanism provides citizens with a platform to voice their grievances and seek

redressal for instances of corruption in public service. By creating an independent body to

investigate such complaints, the Act aims to ensure impartiality and objectivity in the

anti-corruption process.¹²

INVESTIGATION POWERS

The Lokpal is empowered to investigate allegations against various public officials, including

high-ranking officials such as ministers and even the Prime Minister. This broad jurisdiction is

intended to create a comprehensive framework for tackling corruption at all levels of government.

The ability to initiate investigations independently is crucial for maintaining public trust in

governance.

One of the significant features of the Act is that it grants the Lokpal supervisory powers over the

Central Bureau of Investigation (CBI) concerning cases referred to it. This aims to enhance the

effectiveness of investigations into corruption cases by ensuring that they are conducted

impartially and without external pressures. ¹³

ASSET DISCLOSURE AND TRANSPERANCY

Public officials are required to declare their assets and liabilities under this Act, promoting

transparency. This provision aims to deter corrupt practices by making asset accumulation more

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¹³ The Lokpal and Lokayuktas Act, 2013, No. 1, Acts of Parliament, 2014 (India).

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visible. By mandating disclosures, the Act encourages ethical behavior among public servants and fosters accountability.¹⁴

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Composition of Lokpal

The Lokpal is a multi-member body comprising:

- One Chairperson (who must be a former Chief Justice of India, a former Judge of the Supreme Court, or an eminent person with anti-corruption expertise).
- A maximum of 8 members, out of which:
 - 50% must be from the judiciary (i.e., former Judges of the Supreme Court or Chief Justices of High Courts).
 - 50% must belong to SCs, STs, OBCs, minorities, or be women, ensuring diverse representation.¹⁵

Appointment Process

The Chairperson and members of Lokpal are appointed by a Selection Committee consisting of:

- 1. The Prime Minister (Chairperson of the committee).
- 2. The Speaker of the Lok Sabha.
- 3. The Leader of the Opposition in Lok Sabha.
- 4. The Chief Justice of India or a sitting Supreme Court Judge nominated by the CJI.
- 5. An eminent jurist nominated by the President based on the committee's recommendation. 16

The inclusion of multiple authorities in the selection process is aimed at **reducing political bias** and ensuring **transparency**.

Tenure and Removal

¹⁴ Id

¹⁵ Ic

¹⁶ The Lokpal and Lokayuktas Act, 2013

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• The Chairperson and members serve a term of 5 years or until they attain the age of 70 years, whichever is earlier.

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- They can be removed only by the President after an inquiry conducted by the Supreme Court.
- The removal grounds include misbehavior, corruption, or incapacity. 17

Lokayuktas at the State Level

Establishment of Lokayuktas

- The Act mandates all states to establish Lokayuktas within one year of the law's enactment.
- However, it does not specify a uniform structure for Lokayuktas, allowing states to design their own frameworks.
- This has led to significant variations in the power and effectiveness of Lokayuktas across states. 18

Implementation Issues

- Many states failed to establish Lokayuktas within the stipulated time.
- In states where Lokayuktas exist, their powers are often weaker than the Lokpal, limiting their impact on curbing corruption.

IMPLEMENTATION CHALLENGES

Despite its well-intentioned design and the comprehensive legal framework it establishes, the Lokpal and Lokayuktas Act has faced a multitude of challenges that have hindered its effective

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¹⁷ Id

¹⁸ Id

implementation. These challenges stem from a variety of factors, including political resistance, institutional weaknesses, and a lack of adequate resources. 19

Delays in Appointments: A Critical Impediment

One of the most significant challenges facing the Lokpal and Lokayuktas Act is the prolonged delays in appointments to key positions, particularly the Lokpal at the national level. Since its enactment in 2013, the Lokpal position remained vacant for an extended period due to political disagreements and delays in the selection process. This absence has rendered the institution largely ineffective, as there is no one to oversee investigations, receive complaints, or provide guidance to the investigative agencies.²⁰

The prolonged vacancy not only undermines the credibility of the Act but also raises serious questions about the commitment of political leaders to combat corruption. The delays in appointments can be interpreted as a sign of political apathy or even resistance to the establishment of an independent body that could potentially scrutinize the actions of those in power.

State-Level Compliance: Disparities and Gaps

While the Lokpal and Lokayuktas Act mandates the establishment of Lokayuktas in all states within one year of its enactment, compliance at the state level has been uneven and inconsistent. As of now, only a limited number of states have established Lokayuktas, and even among those, many have created ineffective frameworks that do not empower these institutions adequately.

The variation in state compliance highlights systemic issues within India's federal structure regarding anti-corruption measures. Some states may lack the political will or the resources necessary to establish effective Lokayuktas, while others may face legal or administrative obstacles. The lack of uniformity in implementation undermines the overall effectiveness of the Act, as corruption can simply shift to states where oversight is weaker.²¹

¹⁹ Manjeet Pal & Kulwant Singh, The Lokpal and Lokayukta Act of 2013: A Comprehensive Analysis of its Legislative Journey, Salient Features, and Effectiveness in Combating Corruption in India,

²⁰ Arvind S. Verma, Lokpal in India: A Study of the Implementation of Anti-Corruption Laws, 12 Indian J. Pol. Sci. 55 (2017).

²¹ Id

Political Influence: Threats to Independence and Impartiality

Another significant challenge is the potential for political influence in the selection process of the Lokpal and Lokayuktas. The composition of the selection committee, which includes political figures, raises concerns about biases and conflicts of interest that could undermine the independence and impartiality of these institutions.

Critics argue that political interference in the selection process can compromise the integrity of the Lokpal and Lokayuktas, leading to the appointment of individuals who are more beholden to political interests than to the principles of accountability and transparency. Such interference can also compromise investigations and lead to selective enforcement of laws, further eroding public trust in the system.²²

Judicial Exclusion

The exclusion of judges from the purview of the Lokpal has been criticized as a significant loophole in the Act. Given that corruption can occur within all branches of government, including the judiciary, this exclusion limits the scope of accountability and may allow judicial corruption to go unchecked.

The lack of oversight over judicial conduct can undermine public confidence in legal institutions and erode the perception of fairness and impartiality in the justice system. While there are existing mechanisms for addressing judicial misconduct, such as internal disciplinary committees, these mechanisms may not be as transparent or as effective as an independent body like the Lokpal.²³

Whistleblower Protection

Effective whistleblower protection is essential for encouraging individuals to report corruption without fear of retaliation. However, the Lokpal and Lokayuktas Act has been criticized for lacking robust mechanisms to safeguard individuals who come forward with information about corruption.

²² S. Patel, Strengthening the Lokpal: Proposals for Legislative and Administrative Reforms (2022).

²³ Arvind S. Verma, Lokpal in India: A Study of the Implementation of Anti-Corruption Laws, 12 Indian J. Pol. Sci. 55 (2017).

Fear of retaliation, such as harassment, intimidation, or job loss, can deter potential whistleblowers from reporting misconduct, even if they have strong evidence of corruption. Strengthening protections for whistleblowers is vital for fostering an environment where citizens feel safe reporting corruption and for ensuring that those who do come forward are adequately protected from reprisal.²⁴

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Impact on Governance: Assessing the Act's Influence on Transparency and Accountability

The effectiveness of the Lokpal and Lokayuktas Act can be evaluated through its impact on governance, particularly its influence on transparency and accountability.

- The establishment of these institutions has significantly raised public awareness regarding
 issues related to corruption and accountability in government. Citizens are more informed
 about their rights and avenues for reporting misconduct. Increased awareness can lead to
 greater civic engagement and pressure on government officials to act ethically.
- 2. While there have been few successful prosecutions under this Act so far, its mere existence may deter some corrupt practices among public officials who are aware that there are mechanisms in place for accountability. The potential for investigation can serve as a deterrent against corrupt behavior among public servants. However, the act alone will not be sufficient unless there are suitable and appropriate mechanisms to ensure that they are handled in time and also to ensure that people are aware of such mechanisms so that the act is put to good use.²⁵

Need for Strengthening

Experts advocate for strengthening the institution through various means:

- Autonomy: Ensuring that appointments are made independently without political influence is crucial for maintaining credibility.
- Adequate Staffing: Providing sufficient resources and personnel will enable effective handling of complaints.

²⁴ Himanshu Rastogi, An Analysis of Lokpal Bill - As a Tool to Make India Free from Corruption

²⁵ Pranjal Kishore, *The Evolution of the Lokpal: An Analysis of Anti-Corruption Mechanisms in India*, 5 J. Gov. & Pub. Pol'y 47 (2019).

• Clear Guidelines: Establishing clear operational guidelines that delineate powers and responsibilities will enhance efficiency.

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- Public Engagement: Encouraging citizen participation in monitoring governance can foster greater accountability.
- Whistleblower Protection: Strengthening whistleblower protection laws is vital to encourage individuals to report misconduct without fear of retaliation.
- Judicial Oversight: Including judicial officials within the Lokpal's purview could enhance accountability across all branches of government.
- State-Level Compliance: Ensuring uniform compliance across states by setting clear standards and providing support for establishing effective Lokayuktas can improve overall effectiveness.²⁶

Comparative Analysis with Global Anti-Corruption Measures

To understand the effectiveness of the Lokpal and Lokayuktas Act better, it is useful to compare it with other anti-corruption measures globally:

Singapore's Corrupt Practices Investigation Bureau (CPIB): Singapore has consistently ranked among the least corrupt countries globally, largely due to its CPIB, which enjoys complete autonomy from political influence. Unlike the Lokpal, CPIB has extensive investigative powers and direct prosecutorial authority, enabling swift action against corruption. Comparitively the CPIB is vested with wider powers and more freedom to carry out their duties effectively²⁷

Sweden's Ombudsman System: Sweden's model emphasizes transparency, with a well-established ombudsman system that ensures government accountability. Public officials are subjected to rigorous scrutiny through independent audits and public disclosures. India could adopt a similar model of transparency by enforcing stronger asset disclosure laws which would make it easier to identify disparity between the income and the assets of the individual which will help in identifying corruption²⁸

²⁸ The Swedish Parliamentary Ombudsmen, Act of Instruction for the Parliamentary Ombudsmen (SFS 1986:765) (Swed.)

²⁶ S. Patel, *Strengthening the Lokpal: Proposals for Legislative and Administrative Reforms* (2022).

²⁷ Prevention of Corruption Act (Cap. 241, 1993 Rev. Ed.) (Sing.).

Hong Kong's Independent Commission Against Corruption (ICAC): The ICAC operates on a three-pronged approach: investigation, prevention, and community education. This comprehensive method significantly reduces corruption by addressing its root causes. The Lokpal could incorporate community engagement initiatives to foster awareness.²⁹

Countries like Singapore have implemented successful anti-corruption agencies with strong legal frameworks that ensure independence from political influences. Their models often include:

- Strong Whistleblower Protection Laws: These laws encourage individuals to report misconduct without fear.³⁰
- Clear Channels for Reporting Corruption: Accessible reporting mechanisms facilitate citizen engagement.31
- Swift Investigation Processes: Timely investigations lead to quicker resolutions and reinforce public trust in governance.³²

These examples highlight areas where India could improve its approach by learning from successful global practices.

Recommendations for Improvement

To enhance the effectiveness of the Lokpal and Lokayuktas Act, several recommendations can be made:

1. Immediate Appointment of Lokpal and Lokavuktas: Delays in appointments have rendered the institution ineffective. Strict timelines must be enforced to ensure appointments are made without political delays.³³

³² Pranjal Kishore, The Evolution of the Lokpal: An Analysis of Anti-Corruption Mechanisms in India, 5 J. Gov. & Pub. Pol'y 47 (2019).

²⁹ Independent Commission Against Corruption Ordinance (Cap. 204) (H.K.).

³⁰ Comparative Ombudsman Models: Sweden and India, INT'L J.L., POL'Y & SOC., Vol. 12 (2015).

³³ Sanjay Agarwal, Anti-Corruption Laws in India: Strengthening the Lokpal and Lokayuktas Act, 11 Int'l J. Soc. Sci. & Hum. Stud. 68 (2020).

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2. Strengthening Legal Frameworks: Amendments should be made to provide comprehensive protections for whistleblowers and improve investigative processes. The Lokapal must be an entirely independent body that is not influenced by the other bodies and by those in power or those with influnce. They must have enough powers to investigate on such complaints however without infringing on others rights unless there is enough reason to do so^{34}

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- 3. **Public Awareness Campaigns:** Educating citizens about the Lokpal's functions and how to report corruption will increase civic participation and accountability. This will lead to more vigilant citizens who will know about the Lokapal and they will in return pay attention to such acts
- 4. Regular Monitoring and Auditing: An independent oversight body should evaluate the Lokpal's performance and publish regular reports to ensure transparency. It could contain all the actions they have taken and the reasoning for such actions along with the evidence to maximize transparency³⁵
- 5. **Technology Integration:** Online complaint portals and AI-based tracking systems could streamline investigations and ensure transparency in case handling. This would also make it easier to register complains and the organizing of such complains too would be easier

CONCLUSION

The Lokpal and Lokayuktas Act, 2013, was a historic step in India's fight against corruption. However, its effectiveness is undermined by political delays, weak enforcement, and jurisdictional limitations. To strengthen its impact, reforms such as granting full autonomy to the CBI, uniform Lokayukta structures, and expanding coverage to lower bureaucracy and private sector corruption are essential.

JEGAVI.

³⁴ Id

³⁵ Id