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# Ombudsman, Lokpal, Lokayukta and Central Vigilance Commission : Administrative Law

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## Introduction

Administrative law has a role to play in the way public power is exercised. In a welfare and regulatory state, people have to interact with government departments every day. It is therefore possible for delays, unfair treatment, favouritism, abuse of discretion and corruption to have a serious impact on ordinary life. Although the courts continue to be the main protectors of the principle of legality, litigation is usually formal, expensive and time-consuming.

The Ombudsman represents the general model, that is, an independent body which looks into complaints made against public administration and suggests corrective measures. In India the concept is mainly realised through the **Lokpal** at the national level and the **Lokayuktas** at the state level. The **Central Vigilance Commission (CVC)** is a related but separate central institution, mainly dealing with vigilance and the control of corruption in the Central Government.

## Meaning

The term ***Ombudsman*** is of Swedish origin and is generally understood to mean a representative or someone who handles complaints. In the field of administrative law, an Ombudsman looks into whether an administrative decision or failure to act was unlawful, unreasonable, unfair, discriminatory, oppressive or the result of mal-administration. His aim is not simply to punish an official but also to rectify errors, improve procedures and revive public confidence.

### Main Characteristics

The main characteristics of an Ombudsman are:

- For independence to be ensured, the office must be fully separate from the authority which is the subject of the investigation.

- A citizen should be able to make a complaint without having to go through the technical difficulties involved in filing a civil suit or a writ petition.
- A fair investigation involves the Ombudsman hearing both sides, looking at the records and investigating the facts.
- The procedure is usually informal and is not subject to strict rules of evidence.
- The typical outcome is a suggestion, a report, an apology, a request to reconsider, compensation or changes to the system. In the case of corruption the relevant law may also allow for an investigation and prosecution.
- Because of the reports, the legislature and the citizens are able to examine the way in which the administration is running.

An Ombudsman is no ordinary appellate court. Someone cannot make use of the office merely because they have a dislike for a lawful policy decision. The Ombudsman's focus is on defective administration, the abuse of public power, and unfair treatment.

## Need and Utility in Administrative Law

The Ombudsman does not replace but rather complements judicial review. The courts usually consider whether the authority has acted within its jurisdiction and in accordance with the law, while the Ombudsman is also able to look into whether the decision was procedurally unfair, unexplained or inconsistent with good administration.

The institution therefore has a practical value. A student who has been denied a scholarship, a pensioner who is experiencing an unexplained delay, or a citizen who has been asked on more than one occasion for an unofficial payment may not know what court action to take. A grievance authority is able to look at the file, determine which body is responsible and propose a practical solution. It can also spot repeated administrative failures and recommend reforms rather than merely addressing the complaint of one individual.

The organisation has certain limitations. Its recommendations won’t automatically carry the force of a court order and cannot take the place of every statutory appeal, disciplinary authority or criminal court. The extent to which it is effective relies on being independent, having sufficient staff, carrying out inquiries in a timely manner and having the practice of providing reasons when it disagrees with the government.

# Ombudsman, Lokpal, Lokayukta and Central Vigilance Commission

## : Administrative Law



## What is an Ombudsman?



- Independent body that looks into complaints against public administration.
- Checks if decisions/actions are unlawful, unfair, biased or maladministration.
- Aims to rectify errors, improve procedures and restore public confidence.

## Main Characteristics

1. Independent from the authority under investigation.
2. Easy access – no technicalities like civil suits or writ petitions.
3. Fair investigation – hears both sides, checks records, looks into facts.
4. Informal procedure, not bound by strict rules of evidence.
5. Can suggest report, apology, reconsideration, compensation or system changes.
6. Reports help legislature and citizens examine administration.

## Key Players in India



**Lokpal**

National level (anti-corruption).



**Lokayukta**

State level (anti-corruption).



**CVC**

Central Vigilance Commission – vigilance & control of corruption in Central Government.

## Need and Utility



- Complements judicial review (not a substitute).
- Helps citizens with grievances (e.g., denied scholarship, pension delay, unofficial payments).
- Identifies repeated failures and recommends reforms.

## Limitations



- Recommendations aren't binding like a court order.
- Cannot replace statutory appeals, disciplinary authorities or criminal courts.
- Effectiveness depends on independence, staff, timely inquiries and giving reasons.

## Origin & Development




Sweden set up the Justitieombudsman to protect individuals from public officials.



**1962** – New Zealand appointed Sir Guy Powles as its first Ombudsman (Parliamentary Commissioner (Ombudsman) Act).

Later expanded to include complaints about official information and whistleblower disclosures.



## The Bigger Picture

The scheme in New Zealand shows how the institution can evolve to address new areas of public concern.

## Origin and Development of the Institution

In **1809** Sweden set up the parliamentary *Justitieombudsman* with the aim of protecting individuals when dealing with public officials. The system was then adopted by other democratic countries since it provided a nontechnical means of keeping an eye on the growing administrative state.

### Ombudsman in New Zealand

In 1962 New Zealand appointed as its first Ombudsman ***Sir Guy Powles*** through the **Parliamentary Commissioner (Ombudsman) Act**. The Commissioner was given the status of an officer of Parliament and had the powers to investigate administrative decisions, recommendations, acts and omissions by the public departments and organisations that were listed. Investigation could be started either on the basis of a complaint or on the Commissioner's own initiative.

The New Zealand scheme was later extended to include complaints about official information and protected disclosures made by whistleblowers. The fact that this has happened demonstrates that the Ombudsman may develop from being a means of handling individual grievances into becoming a more extensive institution concerned with transparency and integrity.

### Ombudsman in England: Parliamentary Commissioner

The Parliamentary Commissioner for Administration was set up by the **Parliamentary Commissioner Act of 1967**. The present Parliamentary and Health Service Ombudsman looks after complaints that remain unresolved with regard to the departments of the UK government and the National Health Service in England. It is independent of the government and is answerable to parliament.

The English model links administrative accountability with legislative scrutiny. Although the Commissioner's report does not take the place of judicial remedies it does bring forward cases of maladministration and prompts public authorities to alter their practices.

## Ombudsman in India

After gaining independence India soon considered the idea of an Ombudsman. The **First Administrative Reforms Commission** suggested the establishment of two separate bodies i.e. a Lokpal to handle complaints against Ministers and other high-ranking public officials at the central level, and Lokayuktas for the states. The term '**Lokpal**' is linked with **Dr L. M. Singhvi**.

Several bills proposing the establishment of a Lokpal were introduced but did not progress. Interest on the part of the public in the problem of corruption, especially during the 2011 anti-corruption movement, once again led to a call for a robust institution. The Parliament finally passed the **Lokpal and Lokayuktas Act, 2013**. The bill was given its presidential approval on 1 January 2014 and became effective on 16 January 2014.

## Lokpal at the Union level

The Lokpal is a statutory body made up of a number of members and includes a **Chairperson** and a maximum of **eight members**, there being prescribed representation in the form of both judicial and non-judicial members. The President appoints them on the basis of a recommendation from a **high-level Selection Committee** which comprises of-

- the Prime Minister,
- the Speaker of the Lok Sabha,
- the Leader of the Opposition in the Lok Sabha,
- the Chief Justice of India or a person appointed to represent him, and
- an eminent jurist.

The Lokpal's powers include the Prime Minister, the Union Ministers, Members of Parliament and various categories of central civil servants, provided that there are statutory safeguards and exclusions. Complaints mostly concern offences under the Prevention of Corruption Act, 1988.

The Act achieves a balance between holding people accountable and protecting itself against complaints which are politically motivated. With regard to the Prime Minister, there are special exemptions covering areas such as international relations, external and internal security, public order, atomic energy and space. Therefore, although the Lokpal is powerful it is not without limits.

The fact that the Supreme Court has become involved in the litigation concerning the appointment of the Lokpal demonstrates that it is impossible to keep a statutory anti-corruption

body ineffective by delaying its appointments indefinitely. The constitutional lesson is clear in that merely setting up such an institution in principle is not sufficient, it has to be given timely appointments, staff and resources.

## Lokayukta in the States

The Lokayukta is the counterpart at state level to the Lokpal and since state institutions have been established by separate laws they do not possess exactly the same powers. The initial state **Lokayukta laws** were introduced in the early **1970s**, and **Odisha** and **Maharashtra** were among the first states to set up such offices.

The Lokayukta usually looks into cases of corruption, nepotism, favouritism, abuse of power and maladministration which involve Ministers, legislators, public servants and local authorities, as determined by the state statute. In a number of states it has a well-developed investigative apparatus, while in others it primarily makes recommendations to the appropriate authority.

The case concerning the appointment of the Gujarat Lokayukta, ***State of Gujarat v. Justice R. A. Mehta***, showed how important it is to adhere to the statutory appointment procedure and to maintain institutional independence. Since a Lokayukta would be unable to carry out an effective investigation if its very existence depended on the government's ongoing convenience.

## Central Vigilance Commission

The **Central Vigilance Commission** was set up in **1964** as a result of the recommendations of the **Santhanam Committee on Prevention of Corruption** and at first functioned as an executive body. In the case of ***Vineet Narain v. Union of India***, which is commonly referred to as the *Jain Hawala case*, the Supreme Court ordered that statutory status should be granted to the CVC and that it should be given a more effective supervisory role with regard to the Central Bureau of Investigation's anti-corruption activities. Parliament subsequently passed the **Central Vigilance Commission Act, 2003**.

## Role of CVC

The Central Vigilance Commission is the top body responsible for vigilance matters involving the Central Government. It offers advice and guidance to various central departments and organisations on issues relating to vigilance administration, takes on or initiates inquiries into

cases of corruption within its area of responsibility, and has supervisory authority over the Delhi Special Police Establishment in certain cases.

The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President on the basis of a recommendation from a committee made up of the Prime Minister, the Home Minister and the Leader of the Opposition in the Lok Sabha.

The CVC is not comparable to the Lokpal. The Lokpal functions as an ombudsman with powers conferred by the Lokpal Act and authority over certain public functionaries. The CVC is primarily a vigilance and anti-corruption supervisory body for the Central Government. Although their roles may overlap, the legal framework includes mechanisms for coordination and referral in order to prevent confusing or duplicate inquiries.

In the case of ***Subramanian Swamy v. Union of India***, the Supreme Court annulled the rule which required prior approval in order to investigate senior officials under **section 6A** of the Delhi Special Police Establishment Act. The Court stated that granting special protection to one group of officials amounted to a violation of the principle of equality. The case thus reinforces the idea that procedural safeguards should not be used as a means to cover up corruption.

## Conclusion

The Ombudsman, the Lokpal, the Lokayukta and the CVC all form part of the accountability framework of administrative law. The Ombudsman stands for the general principle of conducting independent investigations into grievances. At the national level the Lokpal applies this principle, whereas at the state level the Lokayuktas carry out a similar function under the various state laws. The CVC, on the other hand, concentrates more particularly on vigilance and the control of corruption within the Central Government.

The main idea is that these institutions make public power accountable without requiring each citizen to start off with a lengthy lawsuit. They cannot take the place of the courts, legislatures or honest administration, instead they enable ordinary citizens to access those constitutional values.