

# HOW TO INSULATE THE LOKPAL FROM GOVERNMENT INTERFERENCE

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

Former Supreme Court judge PC Ghose is likely to be India's first Lokpal, a report in the Hindustan Times said on Monday. This is a welcome step, considering that the legal and political journey of appointing a Lokpal has been mired in controversy for decades. While many are rejoicing Justice Ghose's likely appointment, it is important to address a crucial question: Is the office of the Lokpal independent of the government and others whom it is mandated to scrutinise?

This question is important because the government, regardless of the party in power, has a tendency to interfere in autonomous institutions that are set up to ensure transparency and accountability of governance. For example, the Central Bureau of Investigation (CBI) has long borne the brunt of such meddling, so much so that it has been called a "caged parrot". In recent times, the Reserve Bank of India (RBI) has also faced similar challenges.

There are four aspects that need to be considered while examining the issue of independence.

First, the 2013 Lokpal Act provides for a selection committee comprising the Prime Minister, the Lok Sabha Speaker, the Leader of Opposition (LoP), the Chief Justice of India and an eminent jurist. This is supposed to be bipartisan in representation to ensure that the Lokpal is not beholden to any particular group and can function independently. However, in the absence of a formal LoP being declared (as is the present case), the panel has had no representation from the Opposition. In 2014, amendments to address this issue were introduced, and subsequently approved by the Parliamentary Standing Committee. However, they have not been passed in Parliament. This must be rectified.

Second, there is a lack of clarity on the interplay and hierarchy between the Lokpal, the CBI and the Central Vigilance Commission (CVC).

Third, in a paper titled *The Lokpal Act of 2014* in the *Economic and Political Weekly*, Right to Information activists — Amrita Johri, Anjali Bharadwaj, and Shekhar Singh — write that the Act envisages that the Lokpal may use any agency it chooses to enquire or investigate complaints under its jurisdiction. But there are few choices at the moment apart from the CBI. So to ensure that investigations, many of which might involve senior members of the government, are fair and professional, the CBI must be functionally independent of the central government.

Fourth, the Act has nothing on the professional attributes required for selecting a Lokpal. Nor is there a mention of deliverables. In this, the Lokpal is not different from other appointments in ostensibly independent constitutional bodies, such as the National Human Rights Commission. Without clear guidelines on professional attributes required to be a Lokpal, a roster of deliverables and a system of public scrutiny, it could be difficult to guarantee the office's insulation from the government of the day.

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