**ALTERNATIVE DISPUTE RESOLUTIONS**

The poor cannot reach the court because of heavy court fee and other expenditure, the mystique of legal procedure. The hierarchy of courts, with appeals, puts legal justice, beyond the reach .of the poor. "If people lose faith in the Bench and the Bar, they will easily take to remedies in the streets. This will inevitably leads to downfall of democracy and the importance of the Court."

**- Justice VR Krishna Iyer**

Alternative Dispute Resolution in India is not new. But existed from immemorable time. In very early time it was in the form of Nyaya Panchayats. Where five people (Panchas) heard the case, at the chopped of village and gave the best judgment. During the period of British rule this institution lost its importance, court, and developed a regular system of the courts. Gandhiji realized the importance of reviving these panchayats, but could not succeed. The instrument was enacted in the form of Arbitration Act, 1940 and some Statutory Tribunals also constituted to solve the problems. Industrial Dispute Act 1947 also recognized the Conciliation Proceedings and reference to Arbitration. Except labour laws, the office of conciliation was created by the Arbitration and Conciliation Act, 1996. Presently, Local Court Bill 2006, is pending before Parliament. Its object is to provide speedy and inexpensive justice to the innocent persons within time.

**(1) Meaning of Alternative Dispute Resolution System:**

ADRS serve as an alternative to settling disputes through the alternative judicial system, other than the regular system of court. Typically, in ADR, disputes are settled in a quick and cost-effective manner as the procedure followed is non-formal without strict adherence to procedural aspects. The Government has also given a tremendous boost to the ADR system by establishing special tribunals and dispute settlement bodies by means of various Acts.

Justice Krishna Iyer has observed that our judicial system is terribly cumbersome expensively dilator, and cumulatively disastrous.

The poor cannot reach the court because of heavy court fee and other expenditure, the mystique of legal procedure. The hierarchy of courts, with appeals, puts legal justice beyond the reach of the poor.

There are several hurdles and barriers in the way of getting justice by common man in the courts due to cost factor. The time consumed in litigation is yet another factor since there is no speedy amelioration of grievances. Coupled with delay in disposal of cases, mounting arrears at all levels in judicial courts has virtually reached a point that the ordinary citizen starts feeling that justice is a 'myth' or a 'fiction'. Today we have reached to a stage where, for courts of law, it is said that criminals are rewarded and honest are punished. Truth has becomes the biggest casualty. The above-mentioned factors are not only wreaking the judicial system but also swiftly shaking the confidence of the people and the image of courts as dispensers of justice. The figures of pendency have reached to a monstrous number and this has resulted in frustration and expiration tendencies again to vitiate course of justice.

**(2) Needs for alternatives to the formal legal system:**

The need for alternatives to the formal legal system has engaged the attention of the legal fraternity, comprising judges, lawyers and law researchers for several decades now. This has for long been seen as integral to the process of judicial reform and as signifying the 'access-to justice' approach. Right of 'access to justice1 is the most basic human right.

In India too, the need to evolve alternative mechanisms simultaneously with the revival and strengthening of traditional systems of dispute resolution has been reiterated in reports of expert bodies. Reference in this context may be made to the Report of the Committee on Legal Aid constituted by the State of Gujarat in 1971 and chaired by Justice P.M. Bhagwati, which inter alia recommended adaptation of the 'neighbourhood law network' then in vogue in the U.S.A.: the Report of the Expert Committee on Legal Aid, which was authored primarily by its Chairman Justice V.R. Krishna lyer, which while urging ADR (LokNyayalayas) in identifying groups of cases exhorted the preservation and strengthening of Gram Nyayalayas: and the Report of two-member Committee of Justices Bhagwath and Krishna Iyer appointed to examine the existing legal aid schemes and suggest a framework of a legal services programme that would help achieve social objectives. This report formulated a draft legislation institutionalising the delivery of legal services and identifying ADR, conciliation and mediation as a key activity of the legal services committees. Each of these reports saw the process of improving access to justice through legal aid mechanisms and ADR as a part of the systemic reform of the institution of the judiciary coupled with substantive reforms in laws and processes- The present law of legal reforms have only partly acknowledged and internalised the recommendations in these reports. Still, the implementations of the reforms pose other kinds of challenges. The attempt through the introduction of Section 89 of the C.P.C. 1908, is perhaps a major step in meeting this challenge.

**(3) Reasons for arrears in court:**

There are many factors for delaying the disputes of the cases in our existing judicial system. Due to being very expensive it is out of the reach of poor persons in the country, many are not going to the court, think if all disputes go to the court, than what will be the areas in courts. So, it is necessary to look into the alternate resolution system, which will be less expensive and speedy.

Settlement of disputes through arbitration, conciliation, mediation or by an impartial third party is also a component of ADR. Today the business community prefers ADR because the time and cost implications of ADR far outweigh that of settling disputes through the traditional court based system. There exists substantial evidence to prove that the inclusion of arbitration and mediation clauses in commercial contracts help ensure disputes to be dealt with in a timely arid cost effective manner.

Not having sufficient judges: In 2001, the ratio remained at 12 or 13 judges per million population. Chief Justice of India said that "the reason why we do not have more judges across the board is because the States are simply not willing to provide the finances, that are required. The expenditure on the judiciary in terms of the GNP is only 0.2%; and, of this, half is recovered by the States through court fees and fines Given the attitude of the States, is it any wonder that the jails of our country are filled to the brim, largely with undertrials?"

This movement will be further strengthened with more and more government litigations and disputes by and against the Government going to Lok AdalaL since the Government is the largest litigant in this country. This is older, but now, legalised proven viripotent and vital mechanism of ADR, is covered by the statutory umbrella, the Legal Services Authorities Act, 1987. Which has given it, a legal sanction and made it more effective and enforceable in different States. Its process is voluntary and works on the principle that both parties to the disputes are willing to sort out their disputes by amicable solutions. Through this mechanism, disputes can be settled in a simpler, quicker and cost-effective way at all the three stages i.e. pre-litigation, pending-litigation and post-litigation.

There is considerable evidence that, ADR was widely used in ancient India, Rome and Egypt for the settlement of varied disputes. ADR's growth has long been an integral part of world's landscape, reflecting a sense that system of justice based on technical rules and procedures and formal processes was inefficient, insufficient and incomplete response to the needs and expectations of mankind. The institution of Lok Adalat in India, as the very name suggests, means, People's Court. "Lok" stands for "people" and the vernacular meaning of the term "Adalat" is the court.

Mahatma Gandhi has said that "I had learnt the true practice of law. I had learnt to find out the better side of human nature, and to enter men's hearts. I realized that the true function of a lawyer was to unite parties driven as under. The lesson was so indelibly burnt unto me that the large part of my time, during the 20 years of my practice as a lawyer, was occupied in bringing about private compromises of hundreds of cases. I lost nothing, thereby not even money, certainly not my soul."

Justice delayed is justice denied. It means in ordinate delay in disposal of cases by courts results in (leads to) denial of justice.

As the number of Courts and Judicial Officers is very limited in India, lakhs of cases are pending before the courts (from lower courts to the Supreme Court). There are more than five lakh cases pending before the Supreme Court. The total number of cases pending before all the courts in India may be in crores. Thus, there is an urgent need to take appropriate steps for speedy and quick disposal of the pending cases. In order to minimize the workload of the existing courts and for speedy disposal of the pending cases, certain alternative dispute resolution systems are restored to, as stated hereunder:

1. Arbitration;
2. Conciliation;
3. Ombudsman (Lokpal and Lokayukta)
4. Tribunals,
5. Consumer Disputes Redressal Agencies;
6. Lok Adalats; and
7. Settlement Machinery (Authorities) under the Industrial Disputes Act, 1947.

**ARBITRATION**

Law relating to arbitration in India was governed by the Arbitration Act, 1940. But in 1996 this Act was substituted by Arbitration and Conciliation Act, 1996. Part-I and Part-II of the Arbitration and conciliation act, 1996 deal with various provisions relating to the law of Arbitration. Part-I containing sections 1 to 43.

**(1) Meaning of Arbitration:**

Halsbury defines it thus, "an arbitration is the reference of a dispute or difference between not less than two parties for determination, after hearing both sides in judicial manner, by a person or persons other than a court of competent jurisdiction". But, statutorily define arbitration means any arbitration whether or not administered by permanent arbitral institution."

‘Arbitration’ may be defined as a proceeding conducted by the arbitral tribunal to make arbitral award on the dispute, which was referred to it, and arbitral tribunal means a person or persons who play a role in deciding a dispute between the parties and are appointed with the mutual consent of all the parties to dispute. Such a person is called arbitrator.

An arbitral award made under this Act shall be considered as a domestic award. The terms domestic award conveniently denotes arbitration which takes place, in India, when the subject matter of the contract, the merits of the dispute and the procedure for arbitration are all governed by Indian law or when the cause of action for the dispute has wholly arisen in India or when the parties are otherwise subject to the Indian jurisdiction. The Act makes a mention of domestic arbitration and domestic award.

**(2) Advantage of arbitration:**

Some of the important advantages over the court proceedings are as follows.

1. Arbitration is expeditious, where as if court proceedings are required, the parties may have to wait years before the court hearing can be obtained.
2. The arbitration award can be quickly implemented, on the other hand, in the case of court, decisions await appeals to higher court.
3. The costs of arbitration generally are lesser than the costs of court proceedings.
4. Arbitration proceedings can be more, flexible than those of courts, such as in respect of the times of setting, the proper law to be applied, the introduction of evidence, and in ensuring that the arbitrator has personal expertise in the field of the dispute.

**CONCILIATION**

Conciliation is a means for settlement of a dispute outside the court of Law. The old act i.e. The arbitrations Act, 1940 made no provisions for conciliation. The Arbitration and Conciliation Act, 1996, under part-III sections 61 to 81 makes express provisions for Conciliation, which was new to the Act. Before, these provisions there were special provisions for Conciliation Office and Board of Conciliation under Industrial Dispute Act, 1947 (Labour laws). But, this Act is providing office of conciliator as statutory office for other than industrial dispute. This part applies to conciliation of disputes arising of legal relationship, whether contractual or not, and to all proceedings relating thereto. It does not apply to the disputes that may not be submitted to conciliation.

**(1) Meaning of Conciliation :**

According to the dictionary meaning, conciliator is one who brings opponents into harmony, or one who conciliates the parties (act of reconciling). In other words, conciliation means bringing of opposing parties or individuals into harmony Court of Conciliation or Conciliation Board for settlement of their disputes by mediation.

**OMBUDSMAN AND INDIAN LOKPAL**

**INTRODUCTION**

K.C. Wheare observes that “If there is more administration there will be more maladministration”. It necessitates the legal experts to find out ways and means of controlling maladministration.

**THE CLASSICAL CONCEPT OF OMBUDSMAN**

The classical concept of the ombudsman has evolved as a control measure from classical model to the many manifestations of commercial ombudsman and as an instrument of democratic accountability between individual and the administrative state.

Individual citizens often experience great difficulty in dealing directly with bureaucracy. Bureaucracies tend to exhibit a conflict between the desire to provide quality service to the public and the requirement to satisfy broad government objectives and internal cost efficiency. The conflict, which is often artificial, may obstruct the ability of bureaucracies to perceive clearly and remedy the causes of problems leading to citizens' complaints.

Democratic governments were in search of some means to make bureaucracy more accountable to the people and to eliminate the political fallout resulting from maladministration. Maladministration is a very large subject and occurs wherever governmental organization exists. It is not confined to the operation of the government or the state alone.

An orderly procedure, besides being efficient, allows responsibility to be fixed on a particular officer or body at each stage of the administrative process. It can safeguard the rights of citizens and protect the executive against the criticism of having acted in an arbitrary manner. It can ensure regularity and consistency in the handling of individual cases. Softening the relationship between the governed and government and the creation of a fair and just government are seen as important elements in search for a Modern Democratic State. Bureaucracy is an essential ingredient in a democratic state but it has to be made responsive to the people.

In common law systems, the principles of natural justice influences administrative procedure in two ways: (1) that a person may not be a judge of his own cause, and (2) that a person shall not be dealt with to his material disadvantage, whether of person or property or removed from or disqualified for office, without being given adequate notice of what is alleged against him and an opportunity to defend himself. An indirect result of the second principle is the public hearing, widely used by government departments in deciding matters involving individual or corporate rights. Even this public hearing is not found to be very effective for redressal of “public grievance”.

**NEED FOR THIS INSTITUTION**

Against this background Governments in many countries were searching for constitutional devices that would improve citizen's rights and their ability to enforce accountability in the political and administrative processes.

The Ombudsman is a part of the system of administration for scrutinizing the work of the executive. There is no doubt about the value of the ombudsman in the states in which the institution has been established. Part of the ombudsman's usefulness lies in his ability to reassure citizens who believe they have been unjustly treated and that careful inquiry into their complaints shows their suspicions to be groundless.

A serious concern of an Ombudsman is that costly and often unsatisfactory litigation between citizens and government be avoided, wherever possible. The proper role of an ombudsman is to strive for mutually acceptable resolution of a problem rather than necessarily finding of fault or absence of it. The office should attempt to provide informal mediation wherever such an approach may be productive. This approach tends to result in greater satisfaction among all parties preventing the loss of face, ego for government agencies, which actually decreases the avoidable expensive unnecessary litigation and hardship to citizens.

An ombudsman provides nonbinding yet effective investigation between individuals and government without much publicity. The process is voluntary for the individual and mandatory for the government. The office is independent of the government, yet it is not the individual's advocate. It acts as an impartial investigator with wide powers of investigation into matters of administration and provides accountability through reports to individual complainants, government, the legislature and the general public.

Ombudsman can play a facilitating role in the consensual resolution of large scale public interest disputes through major investigations and reports.

**AREAS UNTOUCHED BY COURTS**

The courts have set before themselves the limited tasks of overseeing that the Administration functions according to law and not outside law. The courts can therefore quash administrative action on such grounds as ultra vires, mala-fides and exercise of power for an improper purpose or on irrelevant considerations or when there is a patent error of law. But courts do not ordinarily review facts as decided by administrative authorities except to the limited extent.

In the limited area of Judicial Review, it is not always easy to get the relief sought and have the administrative action quashed. The major hurdle is one of proof of such grounds as ultra vires, mala fides, and exercise of power for an improper purpose etc. It is not easy to secure evidence for citizens on the issues involved as the courts are extremely reluctant to order the concerned administrative authority to produce the relevant departmental files so that they may look into them to satisfy themselves that the administrative action in question was not in any way vitiated and that there did not exist any grounds on which the courts could quash it.

The burden of establishing the cases lies wholly on the individual challenging the specific administrative action and it is not easy for him to do so as he has no access to the government record. The court's reluctance or inability to look into departmental files remains a major hindrance in the way of challenging an administrative action at the present and this reduces the efficacy and vitality of judicial review to a considerable extent.

While administrative law may provide legal remedies for many grievances and complaints against administration, there do arise many grievances which lie beyond the reach of legal remedies.

A Democratic System must provide some Mechanism to assuage such grievances and complaints against administration, there do arise many grievances which lie beyond the reach of legal remedies.

Judicial review has a limited range and that there is much which lies beyond this range.

Further, often repeated review of a decision within the department is no guarantee of the wisdom and fairness of the ultimate decision. What usually happens is that the first decision is made at a lower level of administration and as it goes up to a higher level for review, it starts building the defence Mechanisms within the Department. A process of rationalization generally brings out arguments in favour of the original decision that may not have been known even to the person who took the original decision by inventing fresh argument in its support. In this atmosphere only representation of a good case by a responsible and independent person can generally ensure a genuine review by the administration. It has, therefore, been felt that some internal agency yet falling outside the administrative hierarchy is absolutely necessary to detect and check administrative lapses and faults to supervise the administration so that rights of the individuals are not unduly jeopardized.

The scope of "Maladministration" covers a multitude of administrative faults of Commission and Omission, Corruption, Bias, Unfair Discrimination, Harshness, Misleading a member of the public as to his rights, failing to consider relevant material, taking irrelevant material into account, losing or failing to reply to Correspondence etc.

**ORIGIN OF OMBUDSMAN**

The institution of Ombudsman originated in Scandinavian countries and has served as models to the outside world for the longest time.

Ombudsman originated in the Swedish Constitution of 1809 as the watch-dog of Parliament and remained a unique Swedish institution until its first adoption by another Scandinavian country-Finland in 1919- a country with close historical ties with Sweden. Nearly thirty three years after its first adoption by Finland, Norway, another Scandinavian country set-up an ombudsman scheme for military affairs in 1952 and civil affairs in 1962. In the year 1955, the institution found its third and historically most important adoption by Denmark.

The impressive feature about the ombudsman office is its strictly judicial mode of operation.

The most significant features commonly characterizing the Scandinavian countries are a relatively small are, a small population and consequently a small number of complaints requiring a fairly small staff to assist the ombudsman in the discharge of their functions.

Certain other factors which have contributed to the successful functioning of the institution in these Scandinavian countries are (i) a very efficient, honest and dedicated civil service system; (ii) the existence of other institutions performing a similar kind of functions; (iii) good economic conditions and a relatively high level of literacy among the masses.

**OMBUDSMAN IN UNITED KINGDOM**

The United Kingdom has parliamentary form of Government like India. The institution has fitted into the Constitution of United Kingdom, functioning successfully, and has not come into any conflict or in any way eroded any of the principles/doctrines of the Parliamentary system. The experience of this country may be useful in India if any problems arise while implementing the Lokpal into the Parliamentary form of Government.

Before 1997 persons seeking redress for grievance against central government departments and related bodies had available to them three main channels through which complaints could be pursued. These were (i) the ordinary courts of law largely through the process of “judicial review”; (ii) "special" or administrative tribunals and inquiries; and (iii) the political process in the form of inquiries and representations made by MPs, one of whose functions in the United Kingdom is to take up the problems of constituents by means of correspondence and other contacts with Ministers or by raising matters formally in the House of Commons.

The Parliamentary Commissioner has been given extensive power to obtain records/files from civil servants and also from ministers. No minister has the power to refuse to allow an investigation to be made into his department by the Parliamentary Commissioner.

The Parliamentary Commissioner cannot criticize the policy, or to examine a decision on the exercise of discretionary powers of the minister, unless it appears to him that the decision has been affected by a fault in the administration. A difficulty in the interpretation of his role to look into discretionary decision is that he can, look into the quality of the procedures governing the administrative decision; he cannot look into the quality of the decision itself. This means that if there has been no delay and a regular procedure has been followed, the administrative discretion exercise with corrupt or improper motive cannot be into by the Parliamentary Commissioner, thereby reducing the scope of the Parliamentary Commissioner to provide effective redress.

There is no suo-motu power to investigate with Parliamentary Commissioner. The complaint must reach him through the members of the House of Commons. He cannot entertain complaints directly from citizens.

The essential features of Parliamentary Commissioner are impartiality and independence.

The office of the Parliamentary Commissioner has not been immune from criticism, but these criticisms should be understood within the context of an evolving institution finding its place within the Constitution.

It has also been proved that the office of the Parliamentary Ombudsman fills the gap left by the administrative tribunals and courts and provides an alternative method to judicial review for rectifying maladministration.

**THE OMBUDSMAN – INDIAN CONTEXT – IN ITS INITIAL PHASE**

In Indian Ombudsman, there is a peculiar element present in the Indian situation which is not so much manifest elsewhere, namely, widespread public suspicion of administrative corruption which has very much undermined public confidence in the administration and tarred its image. Conferment of large administrative and discretionary powers breeds corruption and therefore, if the administrator knows that his decisions are subject to scrutiny by an independent authority, he will be more careful in arriving at his decisions and be less tempted to misuse his powers and show undue favours to anyone.

Corruption is a common feature in government department. To strengthen the existing mechanism for checking corruption amongst government servants, the Central Vigilance Commission was created in February 1964, by a resolution of the Government of India. The commission was established as a result of the recommendation of the committee on Prevention of Corruption known as the Santhanam Committee which was appointed in 1962. The Committee had recommended that the commission should be concerned with two major problems facing the administration, namely (a) prevention of corruption and maintenance of integrity amongst government servants, and (b) ensuring fair and just exercise of administrative powers vested in various authorities by statutory rules or by non-statutory executive orders. Thus, the committee had recommended two major matters to come within the purview of the commission, that is, cases of corruption and cases involving maladministration. The government accepted the recommendations of the committee as regards corruption and not maladministration, because the latter problem was big enough to require separate machinery by itself, and if the commission was burdened with the additional responsibility for maladministration along with corruption, it would dilute its effectiveness in dealing with the cases of corruption. The Central Government envisaged the status and functions of the Central Vigilance Commission to be as follows:

The Central Vigilance Commission will have, in the sphere of vigilance, a status and a role broadly corresponding to those of the Union Public Service Commission. It will have extensive functions designed to ensure that complaints of corruption or lack of integrity on the part of the public servants be given prompt and effective attention, and that the offenders are brought to book without fear or favour. In the constitutional and legal sense, its function would be advisory. But in reality, they would be advisory in the same sense as those of the Union Public Service Commission. The combined effect of the independence of the Commission, the nature of its functions and the fact that its report would be placed before Parliament would be to make the Commission a powerful force for eradication of corruption in the public service".

Hence, separate machinery for dealing with cases of maladministration was required. The separate machinery was thought of in terms of the institution of Lokpal.

The fears that the new institution would affect the functioning of the judiciary or undermine the supremacy of parliament are unfounded. On the other hand, it would help strengthen the same.

After having carefully considered the various kinds of political, legal, constitutional, geographical and demographical snags involved in the adoption of the ombudsman institution in India, the Administrative Reforms Commission, 1966 firmly held that:

The special circumstances resulting to our country can be fully met by providing for two special institutions for redressal of citizens' grievances. There should be one authority dealing with the complaints against the administrative acts of Ministers and Secretaries to the Government at the Centre. There should be other authorities in each state for dealing with complaints against the administrative acts of other officials. All these authorities should be independent of the executive as well as the legislature and the judiciary.

The recommendations of the First Administrative Reforms Commission were evolved keeping in view three present-day felt needs in India –

1. Evolving a suitable grievance procedure for individuals to invoke in complaints of maladministration;
2. Evolving a mechanism to reduce corruption in the administrative services; and
3. Creating a mechanism to take cognizance of complaints of favouritism etc. against ministers.

**THE LOKPAL AND LOKAYUKTA BILL OF 1968**

The chief feature of the Bill was to enable the Lokpal to initiate an investigation when a person made a complaint that he had suffered injustice in consequence of maladministration or corruption. Complaints about maladministration were characterized as "grievance" and a complaint about corruption was termed as "allegation".

**BILL OF 1971**

The Bill of 1971 referred only to the Central Administration and not to State Administration. The Bill of 1971 defined "grievance" and "allegation".

A "grievance" was a claim by a person that he had sustained injustice or undue hardship in consequence of "maladministration". "Maladministration" meant action taken in exercise, of administrative functions in any case – (i) where such action or the administrative procedure or practice governing such action was unreasonable, unjust, oppressive or improperly discriminatory; or (ii) where there had been negligence or undue delay in taking such action, or the administrative procedure or practice governing such action involved undue delay.

An "allegation" in relation to a public servant meant any affirmation that such public servant – (i) had abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue hardship or harm to any other person; (ii) was actuated in the discharge of his function as such public servant by personal interest or improper or corrupt motives; or (III) was guilty of corruption or lack of integrity in his capacity as such public servant.

This was the main thrust of the 1971 Bill but the next bill of 1977 completely overthrew all these concepts and brought into its purview the concept of "corruption" alone. The successive bills of 1985, 1989, 1996, 1998 and 2001 also described about corruption. The concept of maladministration and its control was totally forgotten.

The Second Administrative Reforms Commission also gave detailed proposal for the appointment and conditions of service, the jurisdiction, procedure for dealing with complaints and its powers of the Lokpal and Lokayukta at the state level.

The Lokpal and Lokayukta Act 2013 was passed by the Parliament and given the assent of the President on 1st January, 2014. The Act consists of 63 section and III parts. The Preamble to the Act speaks about the constitution of Lokpal at Centre and Lokayukta in states for the purpose of conducting inquiry into allegation of corruption and to provide good and clean governance. The Act has constituted a Selection Committee and a search committee to help the Selection Committee. The Act consists of Director of inquiry, Director of prosecution, declaration of assets, search and seizure and special courts constituted to conduct the cases. The Prime Minister is also brought under the purview of the Lokpal. All public servants are brought under its purview. Lokpal will consist of a chairperson and a maximum of eight members, of which 50 per cent shall be judicial members. 50 per cent of members of Lokpal shall be from SC/ST/OBCs, minorities and women. The selection of chairperson and members of Lokpal shall be through a selection committee consisting of Prime Minister, Speaker of Lok Sabha, Leader of Opposition in the Lok Sabha, Chief Justice of India or a sitting Supreme Court judge nominated by CJI, eminent jurist to be nominated by the President of India on the basis of recommendations of the first four members of the selection committee. All entities receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of Rs 10 lakh per year are brought under the jurisdiction of Lokpal. The Act Provides adequate protection for honest and upright public servants. Lokpal will have power of superintendence and direction over any investigation agency including CBI for cases referred to them by Lokpal. A high powered committee chaired by the Prime Minister will recommend selection of the Director, CBI. Directorate of Prosecution headed by a Director of Prosecution under the overall control of Director. The appointment of the Director of Prosecution, CBI on the recommendation of the Central Vigilance Commission. Transfer of officers of CBI investigating cases referred by Lokpal with the approval of Lokpal. A mandate for setting up of the institution of Lokayukta through enactment of a law by the State Legislature within a period of 365 days from the date of commencement of the Act.

**SUGGESTIONS**

Taking into consideration the recommendations of Second Administrative Reforms Commission regarding a model Lokpal at the centre and the recommendations of the First Administrative Reforms Commission and Santhanam Committee the ideal institution would be to have a separate machinery for redressal of citizens' grievances, maladministration, delay, indifference rudeness, negligence, arbitrariness, oppressive behavior, arrogance and unlawfulness and other structural shortcomings of all hierarchical institutions.

Redressal of citizens regarding these aspects cannot be had from regular Courts or tribunals. There is no other authority under the Constitution to deal with these aspects.

The Lokpal and Lokayukta Act, 2013 is yet to come into force. The amended definition of "Industry" was passed in the Parliament in 1986 but did not come into force till date and has lapsed. The same fat should not meet the Lokpal and Lokayukta Act of 2013 for which public is eagerly waiting.

In a bid to narrow the differences between the Jan Lokpal Bill and Government Lokpal Bill the Government had introduced the whistle blower protection Law (Public Interest Disclosure Bill) in August 2011 along with Citizen's charter and Grievance Redressal Bill, 2011 in December, 2011. But the concepts of protection to whistle blowers and redressal of grievances of citizens (except for corruption) is missing in the present Act.

The Prime Minister is heading the Selection Committee of the Lokpal under the Act and is also brought under its purview for scrutiny. This goes contrary to the basic Principles laid down by the Supreme Court in A.K. Kripak's case.

There shall be a secretary to Lokpal in the rank of Secretary to Government of India. The Director of Prosecution and Director of Inquiry Shall be in rank of Additional Secretary to the Government of India. The Secretary and Additional Secretaries already working in some other departments should not be given additional portfolio of Lokpal which be a major hindrance for its successful functioning.

State Lokayuktas are already functioning in some States in India. But a law for setting up the institution of Lokayukta by the State Legislatures (where the institution is not functioning) has not been passed within 365 days as mandated by the Act.

The concept of declaration of assets, search and seizure is taken from Kamataka Lokayukta. The two concepts are the most powerful instruments in the hands of Karnataka Lokayukta which is the basic reason for its successful functioning. We are yet to see how far it would be utilized to make the institution work successfully.

Finally, When the Lokpal at the Centre and Lokayuktas in States start functioning the actual lacunas in the structure, functioning will come' to light.