



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL** **TEAM**

### **Raju Narayana Swamy (IAS ) Indian Administrative Service officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) ( with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

a professional  
Procurement from the World Bank.

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.





## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**



Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

## **Dr. Rinu Saraswat**



Associate Professor at School of Law, Apex University, Jaipur,  
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

## **Dr. Nitesh Saraswat**

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



## **Subhrajit Chanda**



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated 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

# **OMBUDSMAN INSTITUTIONS AND ADMINISTRATIVE EFFICIENCY: A COMPREHENSIVE ANALYSIS**

AUTHORED BY - SAI MANI AMBATI

## **Abstract**

*In the complex world of public administration and governance, the ombudsman plays a crucial function that is explored in this study piece. It analyses the difficulties brought on by various public expectations and emphasizes the qualities of the ombudsman, including legal foundation, independence, and impartiality. With authority, the ombudsman may address corruption and bad management, bridging the gap between complaints and successful reform. The study analyses the functions of India's Lokpal and Lokayuktas, as well as the necessity of their independence.*

*The ombudsman's authority, control over the Prime Minister's office, investigative independence, and prosecution inception are all current issues that are addressed. Although the ombudsman's role in criminal cases is debatable, its significance in maintaining morality and democracy is emphasized.*

*Despite issues with corruption and India's size, it is believed that the ombudsman's implementation is essential for successful governance. Transparency, responsibility, and citizen-centric strategies are stressed throughout the text as keys to success. In conclusion, the ombudsman serves as a bridge for just governance and has the capacity to combat corruption and strengthen democracy.*

**Keywords:** *Ombudsman Role, Governance Challenges, Corruption, Lokpal, Administrative Oversight*

## **Introduction**

Due to varying expectations and procedural barriers, creating an effective ombudsman is a difficult step in managing the intricacies of public administration and government. The ombudsman must possess crucial traits including a solid legal base, autonomy, independence, and knowledge. It is challenging to strike a balance between administrative independence and accessibility.

The ombudsman has extensive authority and may hold hearings, obtain documents, call witnesses, and conduct investigations. By exposing administrative errors, he or she can spark legislative changes. Despite being exempt from external scrutiny, ombudsman decisions are seldom subject to judicial review under the 1979 Ombudsman Act, which only partially substitutes administrative courts. The dual function as a public servant and judge emphasizes its repute. The ombudsman's effect is constrained by its limited prosecution authority despite an increase in reported instances, which causes a lag between recommendations and legal action. For effectiveness, it is crucial to close this gap. Given its complex role, a full investigation is necessary for real transformation. The notion of an ombudsman is defined in this study along with the requirements for administration, its structure, and management techniques.

## **Literature Review**

The examination of the literature uses reliable sources to give in-depth explanations of administrative law and the function of the Ombudsman. Notably, "*An Introduction to Administrative Law*" by Neil Hawke, which emphasizes remedies for improper administrative conduct, outlines the fundamentals of administrative law comprehension. The complex relationship between the court system and the Ombudsman is examined in "*Administrative Law: Text and Materials*" by Mark Elliot et al., giving light on its political and legal ramifications. India's Lokpal and Lokayuktas are the subject of "*I.P. Massey's Administrative Law*" analysis of worldwide Ombudsman development. By examining administrative powers and remedies, "*Principles of Administrative Law*" by M.P. Jain and S.N. Jain helps readers understand the Ombudsman's function in India, particularly in the Lokpal/Lokayukta setting. using both quantitative and qualitative techniques, In order to fill in knowledge gaps on the Lokpal/Lokayukta functions, worldwide Ombudsman differences, the idea of the Ombudsman, origins of the Ombudsman, requirement for effective administration, and prospective improvements to India's control mechanisms, the research pulls material from credible sources.

### **administrative requirement for an Ombudsman**



The ubiquitous problem of corruption in India is at the root of a number of administrative issues, including inefficiency and bad administration. Corruption interferes with the administration of justice and erodes the foundation of government, much like a termite over time. The CBI and other current anti-corruption organizations lack complete independence, which frequently compromises supervision. This emphasizes the urgent requirement for a watchful agency like Lokpal, capable of unbiased monitoring.<sup>1</sup>

Having only advisory responsibilities, Lokpal and Lokayukta must contend with administrative system operating limitations. Actions taken against superiors are a clear example of this deficiency.<sup>2</sup> Public trust is damaged by the Central Vigilance Commission's lack of openness. A strong control system, such as a working Lokpal as an Ombudsman, is essential for maintaining checks and balances in order to restore integrity and combat corruption.<sup>3</sup>

The court emphasized that more administration might result in more maladministration in *Chandra Bansi Singh v. State of Bihar*. It becomes increasingly important to protect citizens against arbitrary power as administrative authority increases. This calls for an efficient system to manage administrative authority, safeguard rights, and resolve complaints.<sup>4</sup>

In the case of *Barium Chemicals Ltd v. Company Law Board*, the court's restricted access to departmental files makes it difficult to challenge administrative acts, which weakens judicial scrutiny. Affidavits are frequently used by courts instead of oral testimony and cross-examination in writ petitions, which weakens the process.<sup>5</sup>

## **Structure and power of Lokpal**

The Lokayuktas are state-level equivalents of the Lokpal, India's national anti-corruption body. Having a chairperson and eight other members, it must be a former Chief Justice, a Supreme Court justice, or a trustworthy individual.<sup>6</sup> The majority have judicial backgrounds and represent

---

<sup>1</sup> Madam Justice Florence N. Mumba. "The Ombudsman: The Need for Protection and Control", in Norman Lewis and S.S Singh(eds.), 'Ombudsmen: India and the World Community', Indian Institute of Public Administration, British Council Division and British High Commission, New Delhi. 1995, p.37.

<sup>2</sup> Lokpal and Lokayukta, <https://www.drishtias.com/important-institutions/drishti-specialimportant-institutions-national-institutions/lokal-lokayukta-ombudsman-upsc-governance-transparency>

<sup>3</sup> (No date a) Shodhganga - a reservoir of Indian theses @ infliibnet. Available at: <https://shodhganga.inflibnet.ac.in/> (Accessed: 21 August 2023).

<sup>4</sup> Chandra Bansi Singh v. State of Bihar, AIR 1984 SC1767: (1984) 4 SCC 316.

<sup>5</sup> Barium Chemicals Ltd v. Company Law Board, AIR 1967 SC 295: 1966 Supp SCR 311.

<sup>6</sup> Lokpal and Lokayukta Act, 2013, <https://www.gktoday.in/gk/lokal-and-lokayukta-act-2013/>

minorities and women. Members must lack legislative, financial, or political obligations and possess outstanding non-judicial or judicial skills. They hold non-renewable 5-year terms, and the President may dismiss them for wrongdoing. <sup>7</sup>This committee, which is comprised of the Prime Minister, Speaker, Leader of the Opposition, Chief Justice, and a jurist and is appointed by the President based on recommendations from the Selection Committee, is supported by an eight-person search panel. <sup>8</sup>

The 2011 Lokpal and Lokayuktas Bill gives these organizations the authority to fight corruption. The Lokpal directs referred inquiries and supervises the Delhi Special Police Establishment. Inquiry Committees manage initial investigations, witness attendance, and evidence gathering much like civil courts do. For a period of 90 days, property may be temporarily confiscated. <sup>9</sup> The Lokpal supervises investigating agencies like the CBI and has the authority to recommend transferring or suspending pertinent public employees. It is able to summon and question local authorities before conducting an inquiry. For transfers in cases that the Lokpal has referred, CBI officers need Lokpal permission. Investigations should ideally be finished within six months; however, this is flexible. Lokpal-referred trial matters are heard in special tribunals. <sup>10</sup>

## **The Ombudsman's Role in Strengthening Administration**

To guarantee effectiveness, government legislation frequently require the appointment of an impartial ombudsman. They respond to concerns from the public, even filing lawsuits to protect rights against administrative proceedings. As a result, a country's administration protects justice and the rule of law, which is essential given the difficulties and governmental oversights in countries like India. <sup>11</sup>

Complex hierarchies frequently cause decision-making delays. Because of weak legal precedents and legislative gaps, administrative personnel' discretionary decisions are impacted by policy bias and mistakes, as is the case with positions like customs officers. These elements emphasize the requirement for an objective ombudsman. An essential instrument, the ombudsman addresses

---

<sup>7</sup> Sarojini Sharan, OMBUDSMAN IN INDIA, 32 INDIAN J. POLIT. SCI. 158–174 (1971).

<sup>8</sup> Salient features of Lokpal, Lokayuktas Bill - The Hindu, , <https://www.thehindu.com/news/national/salientfeatures-of-lokpal-lokayuktas-bill/article5474256.ece>

<sup>9</sup> Lokpal and Lokayukta Act, 2013, <https://www.gktoday.in/gk/lokpal-and-lokayukta-act-2013/>

<sup>10</sup> Gellhorn, When Americans Complain, 1966.

<sup>11</sup> Corrie, Priyasha, Instilling Public Confidence in Administration: The Need for an Ombudsman-like Institution in India (May 11, 2008). Available at SSRN: <https://ssrn.com/abstract=1131678> or <http://dx.doi.org/10.2139/ssrn.1131678>

individual concerns, improves administrative performance, and supports legislative oversight. Additional services are offered to allay worries about procedural fairness and prejudice.<sup>12</sup> Even if complaints aren't completely handled, follow-up actions help the government work better and restore public trust in upholding people' rights.<sup>13</sup>

## **Contemporary Questions Surrounding Ombudsman Framework**

Recent issues center on how the ombudsman system is constructed. The question of whether to include the court, as in Sweden, immediately arises. This raises questions about the separation of powers and suggests prioritizing citizen complaints above judicial inclusion. The ombudsman's early effectiveness is crucial to viability.

Another often asked concern is whether the Prime Minister's office should be subject to ombudsman scrutiny. One argument makes the case that the Prime Minister could be burdened, while the opposing argument emphasizes how it protects integrity in public life. According to the study, the Prime Minister's office's inclusion encourages executive responsibility and gives citizens assurance. The Ombudsman can fairly evaluate grievances brought against the Prime Minister while retaining objectivity.<sup>14</sup>

The researcher firmly believes that the Lokpal should have access to its investigation apparatus. Contrary to the disadvantages associated with depending on external organizations like the CVC, autonomous investigation retains the institution's functional independence.<sup>15</sup>

Additionally, there have been discussions about the necessity of a prior sanction before filing charges. According to the study, such a punishment may unduly lengthen the procedure. Notably, a Lokayukt can be found in prestigious roles such as Chief Justices of the High Court or retired justices of the Supreme Court. An Upalokayukt is a similar term for a former High Court judge or

---

<sup>12</sup> Dhawan, Y. (2020) Position of Ombudsman in India, International Journal of Law Management & Humanities. Available at: <https://www.ijlmh.com/wp-content/uploads/2020/05/Position-of-ombudsman-in-India-2.pdf> (Accessed: 22 August 2023).

<sup>13</sup> A.T.M. Obaidullah, Democracy and Good Governance: Role of Ombudsman, Bangaldesh Institute of Parliamentary Studies, Dhaka, 1st ed., 2001.

<sup>14</sup> Pradeep K Baisakh, The Lokpal cycle, <http://www.indiatogether.org/2005/jan/law-lokpal.htm> (Accessed: 21 August 2023).

<sup>15</sup> Sunil Kumar v. State of West Bengal, AIR 1980 SC 1170, Satyendra Chandra Jain v. Punjab National Bank, (1997) 11 SCC 306

Indian government secretary. The researcher criticizes governments and authorities for frequently promoting the interests<sup>16</sup> of a select few by abusing their sanction authority.<sup>17</sup>

## **Strategy for Dealing with Administrative Faults**

Despite lacking administrative authority, the ombudsman institution's vital autonomy assures that it will play the impartial middleman between the government and the public. This restriction grants a broad operating field that is flexible, which ironically increases its usefulness. The ombudsman is better able to reach the general public because to the lack of coercive authority and effectively address administrative issues, including corruption.<sup>18</sup>

Today's self-centered society is rife with corruption and poor governance, which undermines public confidence in government and traps common people. Bribery is just one aspect of corruption; it also includes poor management and subpar services. The ombudsman's attention naturally includes corruption cases as a result, in response to the urgent need to stop this threat on a worldwide scale.<sup>19</sup>

A counterargument, however, suggests that the ombudsman's engagement in corruption cases may go beyond its scope of authority, particularly in criminal cases needing police involvement. The ombudsman's job is to oversee ethical aspects of governance while refraining from interfering with current anti-corruption investigations. The ombudsman's role is to look into and correct bad conduct or policies in this area since ethical issues are fundamental to the larger implications of corruption.<sup>20</sup>

By favoring a select few above the will of the majority, corruption undermines democracy and perpetuates prejudice by generating unfair advantages.<sup>21</sup> As a result, the independent ombudsman may be essential in addressing these problems and safeguarding the democratic and equitable

---

<sup>16</sup> Sandeep Suresh, The Extraordinary Institution of Ombudsman: A Strategy for Dealing with Administrative Faults, 1 CALJ 43 (2013).

<sup>17</sup> Faizanuddin , Toothless Watchdogs, <http://www.indianexpress.com/res/web/pIe/ie/daily/19991011/iex11076.html> (Accessed: 21 August 2023).

<sup>18</sup> Arcle on Ombudsman, Encyclopedia Britannica, Vol.16, 151 ed.,1986, pp. 960-61

<sup>19</sup> Gary Pienaar, The Role Of The Ombudsman In Fighting Corruption, The 9th International Anti-Corruption Conference, Durban, South Africa, 1999.

<sup>20</sup> Preeti Dileep Pohekar, A Study Of Ombudsman System In India, Gyan Publishing House, New Delhi, 2010.

<sup>21</sup> A, A. (2012) Making sense of the muddle: the ombudsman and administrative justice, 2002-2011, Web of Science . Available at: <https://www.webofscience.com/wos/woscc/full-record/WOS:000212525200007> (Accessed: 22 August 2023).

tenets.<sup>22</sup>

## Case Laws

In *B.C. Development Corp vs. Friedman*, the Canadian Court stated Ombudsman's authority to tackle admin issues unresolvable by courts or government. Lokpal is the equivalent of ombudsman abroad.<sup>23</sup>

*Durga Hotel Complex vs RBI* ruled an ombudsman resolves disputes non-adversarial, an alternative to courts for citizens vs. gov't issues. If court pending, ombudsman lacks jurisdiction.<sup>24</sup>

*G. Sadanandan vs. State of Kerala* held continuous, wide authority misuse may erode citizens' rights even during an emergency, stressing adherence to constitutionality.<sup>25</sup>

*Institution of A.P. Lokyukta/Upa/Lokyukta v. T. Ramma Subba Reddy*, Supreme Court stressed empowering Lokayuktas to prevent toothless opinions. Legislation needed to curb political influence in appointments, emphasizing purpose over power.<sup>26</sup>

## Conclusion

Both internationally and locally, India has complex political and legal obstacles in implementing the ombudsman idea. The enormous terrain of India makes it challenging to reach rural places with the ombudsman's services. The ombudsman's position is limited by the federal structure of the organization, which can reduce public perception of its effectiveness. The ombudsman needs to operate successfully in a supportive atmosphere since corruption is rampant, especially at lower administrative levels. Political concerns add to the difficulty by causing political influence to delay Lokpal appointments and obscuring the selection process. The ombudsman system requires accountability systems, openness, and legislative responsiveness in order to be effective. Ultimately, overcoming corruption, enhancing administrative openness, and placing a premium on public service quality in governance are necessary steps on the road to a successful ombudsman

---

<sup>22</sup> Robin K. Matsunaga, *The Ombudsman*, National Conference of State Legislatures, Louisiana, United States of America, 1999, viewed on April 3, 2013.

<sup>23</sup> *B.C. Development Corp vs. Friedman*, 51985 1 W.W.R 193 (SCC) at 206.

<sup>24</sup> *Durga Hotel Complex vs RBI*, (2007)5 SCC 120

<sup>25</sup> *G. Sadanandan vs. State of Kerala*, AIR1966 SC 1925.

<sup>26</sup> *Institution of A.P. Lokyukta/Upa/Lokyukta v. T. Ramma Subba Reddy*, (1997) 9 SCC 42.



organization in India.<sup>27</sup>

## Bibliography

- Obrien N, What Future for the Ombudsman? web of science <https://www.webofscience.com/wos/woscc/full-record/WOS:000352817500011>
- A, A. (2012) Making sense of the muddle: the ombudsman and administrative justice, 2002-2011, Web of Science, <https://www.webofscience.com/wos/woscc/full-record/WOS:000212525200007>
- Dhawan, Y. (2020) Position of Ombudsman in India , International Journal of Law Management & Humanities., <https://www.ijlmh.com/wp-content/uploads/2020/05/Position-of-ombudsman-in-India-2.pdf>
- Corrie, Priyasha, Instilling Public Confidence in Administration: The Need for an Ombudsman-like Institution in India (https://ssrn.com/abstract=1131678 or <http://dx.doi.org/10.2139/ssrn.1131678>)
- Sandeep Suresh, The Extraordinary Institution of Ombudsman: A Strategy for Dealing with Administrative Faults, 1 CALJ 43 (2013).
- Batalli, Prof.Dr.M. (2015) Role of Ombudsman Institution over the administration, IIPCCL Publishing, Tirana-Albania Academic Journal of Business, Administration, Law and Social Sciences. Available at: <file:///C:/Users/User/Downloads/SSRN-id2699061.pdf>

---

<sup>27</sup> Obrien N, What Future for the Ombudsman? Volume86, Issue1,Page72-80, Political Quarterly, 2015-05-13, web of science <https://www.webofscience.com/wos/woscc/full-record/WOS:000352817500011> (Accessed: 22 August 2023).