

THE NEEDLE'S EYE Will the amended Lokpal and Lokayuktas Act happen just before the polls?

Let the Ombudsmen Bloom



Chaitanya Kalbag

We must not make a scarecrow of the law,
Setting it up to fear the birds of prey,
And let it keep one shape till custom
make it
Their perch and not their terror.

— Measure for Measure,
William Shakespeare

In Measure for Measure, Shakespeare addresses the gap between corruption and morality. In one scene, Angelo argues with his fellow deputy, Escalus, for strict application of the law, but ultimately fails to adhere to it himself. The bard had human frailty down pat. Look at our own long and seemingly futile battle against corruption. We swear we want to live in an honest world, but we are trapped in the serpent's coils.

A businessman from Madhya Pradesh told me a story about how corruption has burrowed deep into our DNA. He is setting up a factory that will create a few hundred jobs and turn out eco-friendly products. When he tried to register his new company's name on the ministry of corporate affairs' (MCA) portal, he had to travel to Delhi to meet an official who informed him that there were a dozen other companies with similar names already registered with the MCA.

When he asked why there couldn't be a 13th, he was asked to pay ₹30,000. "In the past we had to pay a ₹12,000 bribe in Bhopal for a company registration," the businessman said. "Now we

had to pay two-and-a-half times for a process that was ostensibly online and corruption-free."

It is precisely to check official and political corruption that we need a powerful, independent watchdog that has constitutional protection. Hence, the quest for a lokpal, or ombudsman, at the apex level, and lokayuktas in the states.

Remember Anna Hazare? Seven years after his hunger strike forced the UPA government to start moving on his demand for a lokpal, Hazare has threatened to fast again from January 30. Why? Because the Narendra Modi government has passed through nearly its entire term without naming a lokpal.

Reported Missing

The tortuous journey was partly described in a government reply in the Rajya Sabha in July last year. But if you think this government has been dragging its feet, consider that the idea of an ombudsman was first debated in Parliament 56 years ago, and that the Lokpal Bill was introduced nine times since 1968, until the Lokpal and Lokayuktas Act of 2013 came into effect on January 16, 2014. That is right — five years ago, just before the elections that propelled the 'anti-corruption' BJP to power.

There have been delays galore. The government introduced an amendment Bill in December 2014 to tweak several definitions in the original legislation. A selection committee headed by the prime minister was supposed to include a leader of Opposition in the Lok Sabha. Technically there isn't one, because Congress won only 44 seats in 2014.

Congress' Mallikarjun Kharge boycotted selection committee meetings because he was asked to attend as a non-voting 'special invitee'. Then, the eminent jurist on the selection panel died, and the government took its ti-



FILE PHOTO

Hello, I'd like to complain about still being a scarecrow of the law

me to name his replacement, former Attorney General Mukul Rohatgi. The amendment Bill was referred to a Parliamentary Standing Committee, which submitted its report in December 2015.

The Supreme Court, acting on a petition filed by the NGO Common Cause, urging speedier progress, expressed its irritation at the delay in an April 2017 order, saying, "...the Act as it stands today is an eminently workable piece of legislation and there is no justification to keep the enforcement of the Act under suspension till the amendments, as proposed are carried out".

Common Cause filed a contempt petition over the continuing delay, and in February last year, the government promised the Supreme Court it would move the needle. A selection committee meeting was held on July 19, 2018, ostensibly to finalise a search committee that would pick candidates for the posts of lokpal chairperson and eight members of the lokpal council.

The Supreme Court termed the government's report on that meeting "wholly unsatisfactory" and asked it to file a fresh affidavit. On September 27 last year, the government finally named an eight-member search com-

mittee headed by former Supreme Court Justice Ranjana Desai.

The search committee had not met even once until year's end, although a senior member I spoke with, assured me things were moving. Government committees can take birth very slowly when the government wants to procrastinate — office space has to be found, support staff have to be assembled. There is apparently no deadline for the search committee to finish its task. My hunch is things will fall in place just before the elections.

Of Millstones & Milestones

Appointment of the lokpal will be a complex process. The chairperson and the eight members will hold office for five years, or until the age of 70. The chair can either be the Chief Justice of India or a retired Supreme Court judge. Half of the eight members have to be 'judicial', and at least half have to be from the scheduled castes or tribes, other backward classes (OBCs), minorities or women.

Last week, the Supreme Court again scolded Attorney General K K Venugopal over the delay, and gave the government two weeks to file a fresh affidavit detailing progress. Our anti-corruption millstones grind slowly, and they grind exceedingly fine.

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