

**ROLE OF LOKAYUKTA IN MIZORAM**

**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF MASTER OF  
PHILOSOPHY**

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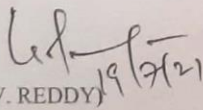
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### Certificate

This is to certify that the dissertation entitled, "ROLE OF LOKAYUKTA IN MIZORAM" submitted by LIANSANGPUII KHIANGTE for the award of the degree of MASTER OF PHILOSOPHY, is a research work, done under my supervision and guidance. The dissertation, submitted by her has not formed the basis of the award to the scholar for any degree or any other similar title and it has not yet been submitted as a dissertation or thesis in any university. I also certify that the dissertation represents objective study and independent work of the scholar.

  
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### DECLARATION

I, Liansangpuii Khiangte, hereby declare that the subject matter of this dissertation is the record work done by me, that the contents of this dissertation did not form basis of the award of any previous degree to me or to do the best of my knowledge to anybody else, and that this dissertation has not been submitted by me for any other research degree in any other University or Institute.

This is being submitted to the Mizoram University for the degree of Master of Philosophy in Political Science.

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## ABBREVIATIONS

ACB	: Anti-Corruption Bureau
CBI	: Central Bureau of Investigation
CPI	: Corruption Perceptions Index
CSO	: Civil Society Organisation
CVC	: Central Vigilance Commission
CVO	: Chief Vigilance Officer
FIR	: First Information Report
FOMTU	: Federation of Mizoram Trade Union
IAS	: Indian Administrative Service
INC	: Indian National Congress
MHIP	: Mizo Hmeichhe Insuihkhawm Pawl
MLA	: Member of the Legislative Assembly
MPSC	: Mizoram Public Service Commission
MUP	: Mizoram Upa Pawl

MZP	: Mizo Zirlai Pawl
OC	: Officer in Charge
PIL	: Public Interest Litigation
PMGSY	: Pradhan Mantri Gram Sadak Yojana
PRISM	: People's Representation for Identity and Status of Mizoram
PUC	: Pachhunga University College
RTI	: Right to Information
SAD	: Secretariat Administration Department
SOSA	: Society for Social Action
SP	: Superintendent of Police
UK	: United Kingdom
UN	: United Nations
UNESCO	: United Nations Educational, Scientific and Cultural Organization



UNODC : United Nations Office on Drugs and Crime

USSR : Union of Soviet Socialist Republics

UT : Union Territory

YMA : Young Mizo Association

ZPM : Zoram People's Movement

## Chapter 1

### INTRODUCTION

Corruption is continuous dilemma in the society and occurs in all civilizations. It has many different shapes as well as many different effects, on the economy as well as the society at large. The universal causes of corruption are the political and economic environment, professional ethics and morality, habits, customs, tradition and demography.

The word corruption is derived from the Latin word “corruptus,” which means “corrupted” and, in legal terms, the abuse of power in a trusted position in one of the branches of power (executive, legislative and judicial) or in political or other organizations with the purpose of obtaining material benefit which is not legally justified for itself or for others.<sup>1</sup>

The earliest records of corruption date back to the thirteenth century BC, to the time of the Assyrian civilization. From the found plates, written in cuneiform, the archeologists managed to discern how and who accepted bribes.<sup>2</sup>

Although corruption differs from nation to nation, it is possible to recognize some of the key common driving forces that breed it. What is common to all countries, which are among the most corrupt, has been identified by Svensson; all of them are developing countries or countries in transition, with rare exceptions, low-income countries, most countries have a closed economy, the influence of religion is visible (Protestant countries have far the lowest level of corruption), low media freedom and a relatively low level of education.<sup>3</sup>

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<sup>1</sup> Corruption, Causes and consequences by Stefan Sumah, published on 21<sup>st</sup> February, 2018, DOI: 10.5772/intechopen.72953

<sup>2</sup> Ibid

<sup>3</sup> Svensson J. Eight questions about corruption. The Journal of Economic Perspectives. 2005;19(3):19-42

Therefore, in any democratic setup, the search has been on for an institution or an office that exercise or wields moral authority over the government and commands confidence of the public. Such an institution would scrutinize the actions of executive and keep a constant surveillance on the functionaries with a view to enhancing their accountability to the legislature and, as an outcome, improving the image of government in public estimation.

The institution of Ombudsman originated in Sweden in the year in 1716 and has grown much as an important defender of interests of the people. The success of such an institution has led to many countries adopting it under different nomenclature. The word ‘Ombudsman’ according to the Swedish – English Dictionary by OR Reuter, means ‘solicitor.’<sup>4</sup>

The International Ombudsman Steering Committee adopted the following definition of an Ombudsman: “An officer created by Law, whose incumbent is an independent, high level public official with responsibility to receive complaints from aggrieved persons against agencies, officials and employees of the Government or who acts on his own motion and who has the power to investigate and recommend corrective action and issue report.”<sup>5</sup> It is understood to be a person commissioned to protect the citizen, particularly against any possible malfeasance on the part of bureaucracy.

Garner defines it as, “an officer of parliament whose prime function as an agent of parliament, to safeguard the interest of public from the abuse and misuse of administrative power by the executives.”<sup>6</sup> So, the prime function is to enquire and investigate the allegations of mal-administration.

Since corruption is a worldwide concern and a problem escalating in many countries especially even more in the developing countries, there have been movements

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<sup>4</sup> OR Reuter.(1966).Swedish-English dictionary. London : George Allen & Unwin LTD.

<sup>5</sup> KS Shukla and SS Singh.(1988). Lokayukta (Ombudsman in India) A Socio-Legal Study. Delhi : Swatantra Bharat Press, p-2.

<sup>6</sup>Brian Jones, Katharine Thompson. (1996). Garner’s Administrative Law. Oxford: OUP Oxford.

to fight against corruption in different countries. The UN General Assembly selected 9<sup>th</sup> December as the International Anti-Corruption Day, to raise awareness of corruption and of the role of Convention in combating and preventing it. One of them is the Transparency International (TI) which is an international non-governmental organization based in Berlin, Germany, and was founded in 1993. Its purpose is to take action to combat global corruption with civil societal anti-corruption measures and to prevent criminal activities arising from corruption.

Transparency International is the global civil society organization leading the fight against corruption. It brings people together in a powerful worldwide coalition to end the devastating impact of corruption on societies around the world. Transparency International is associated with the UNESCO and the United Nations Global Compact and shares the goals of peace, justice, strong institutions and partnerships of the United Nations Sustainable Development Group (UNSDG). Transparency International's mission is to transform towards a world free of corruption. Its most notable publications based on multi-country research and advocacy initiatives include the Global Corruption Barometer and the famous Corruption Perceptions Index.

The Transparency International's Corruption Perceptions Index is an index that scores countries on how corrupt their governments are believed to be. The Corruption Perceptions Index records a country's score ranging from 0 (zero) to 100, with zero indicating high levels of corruption and 100 indicating low levels. The Transparency International launched the index in 1995, and today it scores 180 countries and territories. The CPI is published annually. The CPI of 2020 rates Denmark and New Zealand the least corrupt countries with a score of 88 points and are ranked at serial number 1, whereas Somalia and South Sudan scores 12 points and are ranked at 179 as the most corrupt countries. India scores 40 points and is ranked at 86.<sup>7</sup>

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<sup>7</sup> Corruption perceptions Index 2020, Transparency International, ISBN: 978-3-96076-157-0

## 1.1 What is an Ombudsman?

The word Ombudsman now constituting an integral part of the English language is derived from the Swedish word ‘Ombud’ which in Swedish language commonly denotes ‘a person who acts as a spokesman or representative of another person or persons.’ Recently, an effort has been made to standardize the meaning of the term ombudsman. Stressing the need for uniformity in the use of the term ombudsman, the Ombudsman Committee of International Bar Association had suggested that the term was employed only to refer to those grievances handling mechanism which come within the scope of definition:

An ombudsman institution is an office provided for by the constitution or by action of the legislature of Parliament and headed by an independent, high level public official who is responsible to the legislature or Parliament, who receives complaints from aggrieved persons against government agencies, officials, and employees or who acts on his own motion and who has the power to investigate, recommend corrective action and issue reports.<sup>8</sup>

## 1.2 Genesis of the institution of Ombudsman

Since the time of antiquity, the Protectors of Citizens have existed in other times and civilizations too. The institution of ombudsman during those periods has been present under different nomenclature. Modern Ombudsman can be compared with some such offices.

There was a civilian office in Rome, tribuni plebis that originally was supposed to protect the lower class, the plebs, from arbitration by priesthood authorities. This definitely bore the resemblance of Ombudsman. Another function, known as the Ombudsman's counterpart, is the censors whose role is to denounce criminals in the Senate, mainly for accusation in immoral behavior.<sup>9</sup>

The Ephors were a Sparta magistrate. It consisted of a board of five members,

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<sup>8</sup> Benard Frank, “The Ombudsman Revisited”, *International Bar Journal*, 1975, p.55.

<sup>9</sup> U.L.F. Lundvik, “ A Brief Survey of the History of Ombudsman”, *The Ombudsman Journal*, No. 2, 1982, pp. 85-94.

whose decisions were taken by majority vote and were elected by the people. The main task of the Ephors was to control the entire state administration. Precisely the first mention of the ephors dates back to the second half of the 6th century BC, when the people wanted to assert the right to exercise control over the administration of State. In fact, in a city like Sparta, the ephors also represented the only effective control that people possessed.<sup>10</sup> They had extended competence. They could:

- Impose taxes
- Issue arrest warrants
- Dismiss the judges
- Directing wars also
- Also check out the King

On a latter claim, there is also a historical fact that can testify that the power of the ephors was not limited even before the king, and it is for this reason that all this power was called tyrannical. A famous Spartan King, named Pausanias, the winner of the Persians at Plataea (479 BC) suspected the secret understandings with the king of Persia, was arrested and sentenced to death by the ephors. Everything said here leads to the conclusion that even in Sparta; the city that was more reluctant to democratic systems had an institution through which his people could freely exercise his will.<sup>11</sup>

In ancient China, during the reign of the Tsin dynasty in 221 BC, established the Control Yuan which is also referred to as the Censorate. Its functions included supervision of administrative officialdom. The office of Censorate in Taiwan, although smaller still has seventy-nine officers who are referred to as congressional Ombudsman.<sup>12</sup>

In the Muslim world, it is argued that the Second Caliph, Umar I, who reigned

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<sup>10</sup> Enika Hajdari .(2014). Ombudsman- Historical Views. European Scientific Journal. Vol 1 ISSN 1857 – 7881, pp- 515

<sup>11</sup> Ibid

<sup>12</sup> U.L.F. Lundvik, “ A Brief Survey of the History of Ombudsman”, *The Ombudsman Journal*, No. 2, 1982, pp. 85-94.

from 634 to 644, was looked upon as the first Ombudsman. According to the tradition, he used to walk the streets of his capital in disguise at night and listened to what people said. Whenever he heard them lament about any malfeasance on the part of an official, he would launch an investigation and set the matter right. After a while, Umar created a special office to deal with these matters, known as Qadi-al-Quadat which can be translated as Chief Justice.

Another Ombudsman-like office, the Justicia de Aragon, existed in the Kingdom of Aragon in medieval Spain. The Justicia was the most important of judicial officials of the kingdom. His duties were to interpret the laws, determine the privileges granted, and give ruling on cases of their violation. The office may have been inspired by the Quadi-al-Quadat.<sup>13</sup>

Handling complaints/grievances of the public has been suggested as one of the prime responsibilities of the King in Kautilya's Arthashastra. An overall analysis of the Christian era with regard to the institution that performed Ombudsman like functions, we find that, even before the 16<sup>th</sup> century, this philosophy was in vogue in India where one of the Ministers or Advisers to the King either heard the complaint or grievance against the administration or brought this information to the notice of the King. Afterwards, the King used to decide and call the complainant or a person with grievance for a detailed hearing. On the basis of facts and narration, the King used to pass judgement in accordance with his conclusions.

Birbal, during the reign of King Akbar, in the 16<sup>th</sup> century, performed a prominent role in attracting the attention of King Akbar towards the grievance or complaints of the public. King Jehangir and Shah Jahan, son and grandson of Akbar, on the contrary, permitted such persons to narrate directly to them their complaints or grievances. Similar arrangement also existed in other princely states in India in the form of a 'Durbar' in various parts of the country at different times.<sup>14</sup>

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<sup>13</sup> Ibid

<sup>14</sup> Ibid

### 1.3 The Ombudsman in modern times

#### 1.3.1 International:

The historical records regarding the developments in the last two centuries indicate that the oldest institution devised for this purpose was Chancellor of Justice in 1713 in Sweden and the Institution of Ombudsman was established in 1809 to enable Parliament to discharge its responsibility for examining efficient administration. The ombudsman remained a unique Swedish institution until its first adoption by another Scandinavian country.

Over the years, a number of countries all over the world have created Ombudsman-like institutions with varying nomenclature and functions. A brief note on the development of Ombudsman institution is listed in the following.<sup>15</sup>

The introduction of this institution in Sweden in 1809, led to its initiation in Finland in 1919, a country with close ties to Sweden. Nearly thirty three years after its first adoption by Finland, Norway, another Scandinavian country set up ombudsman scheme for military affairs in 1952. In the year 1955, the institution found its third and historically most important adoption by Denmark. Norway appointed an ombudsman for civil affairs in 1962 and in the same year New Zealand became the first country in the Commonwealth to adopt the ombudsman institution.

A modified form of Ombudsman titled 'Prokurator General', existed in the USSR and continues to be an effective institution. Over the years, this system has been transferred to the GDR, Poland and Romania. A similar, although not identical, office was established in the mainland of China in 1949, FDR 1959, New Zealand 1962, Tanzania 1965, Guyana 1966, UK 1967, Canada 1967, Northern Ireland 1969, Mauritius 1970, Switzerland 1971, Israel 1971, Australia 1972, Fiji 1972, Zambia 1973, France 1973, Portugal 1975, Papua and New Guinea 1975, Nigeria 1975, Austria 1977, Trinidad and Tobago 1977, Philippines 1979, Ghana 1980, Barbados 1981, Netherlands

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<sup>15</sup> Rowat C. Donald, "Parliamentary Ombudsman: Should the Scandinavian Scheme be Transplanted", *International Review of Administrative Sciences*, Vol. 28, No. 4, 1962, pp. 399-405.



1982 and Solomon Islands 1983.<sup>16</sup>

During the last few decades, there is a dramatic growth in the institution of Ombudsman all over the world. As of 2020, there are approximately 145 countries with ombudsmen type institutions throughout the world.<sup>17</sup>

### **1.3.2 National:**

Ever since Independence, India is committed to secure the life, property and freedom of the citizens. There are provisions in our constitution which provides equality before law, various freedoms, right to life in the chapter on 'Fundamental Rights.' The 'Directive Principles of State Policy' is concerned with socio-economic rights leading to social justice. These are the directives towards the state to increase the standard of life, to reduce inequality and absorption of wealth and such. It is essential to make administrative machinery effective, responsive and sensitive to fulfill these objectives given in the constitution. In order to achieve these objectives with a view to restructure administration in this direction, various efforts have been undertaken. There are a number of such devices operating at various levels which have been undertaken such as reports and committees. The relevant commissions and committees on maladministration and corruption for this research work are listed as under:

#### **1.3.2.1 Gorwala Report**

Professor A.D. Gorwala presented a 'Report on the Health of Public Administration' in 1951 based upon his study on Indian Administration. This report tried to make administrative functions more dynamic in India. The major suggestions of the Report include:<sup>18</sup>

1. The Minister should hold consultations with high civil officials on all official matters.

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<sup>16</sup> KS Shukla and SS Singh.(1988). Lokayukta (Ombudsman in India) A Socio-Legal Study. Delhi : Swatantra Bharat Press, p-5.

<sup>17</sup> Report on the working of Lokayukta (State level Ombudsman) in Indian States, Transparency International India, [www.transparencyindia.org](http://www.transparencyindia.org)

<sup>18</sup> Preeti Dilip Pohekar .(2010). A Study of Ombudsman System in India with Special Reference to Lokayukta in Maharashtra. New Delhi : Gyan Publishing House, p- 95

2. To maintain discipline and responsibility in the civil service, better pay scales and proper system of punishment to be introduced.
3. Responsibility of inspection and direction be entrusted to senior officials and of more responsible work be assigned to the junior officials.
4. The working procedure of the Cabinet be improved.<sup>19</sup>

These suggestions made by Professor A.D Gorwala were effective in removing defects in the original administrative reforms in Indian administration. Unfortunately, the government did not show interest in implementation of these suggestions and hence a very important opportunity of administrative reform was lost.

### **1.3.2.2 Appleby Report**

The Government of India invited a well-known American expert Paul H Appleby to study and suggest the administrative reforms in India. He visited various Indian states, studied government documents, papers and met the officials and Ministers and submitted his report on the basis of his observations on 15<sup>th</sup> January, 1953. There were 12 main recommendations in 3000 words report. Some of the important recommendations were:

1. There should be integrated system in Indian civil services.
2. For proper study of Public Administration, there should be an Institute of Public Administration at the national level.
3. The mismanagement in staff and line should be controlled.<sup>20</sup>

Paul H Appleby revisited India in 1956 and made some more recommendations as follows:

1. The applied principle of delegation of powers should be adopted in administrative system.
2. The Executive Ministers should develop their ability to handle financial and budgetary matters.

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<sup>19</sup> Ibid, p-95

<sup>20</sup> Ibid p- 96

3. The Parliament should discharge positive and constructive responsibility with regard to the progressive administration.<sup>21</sup>

Besides these suggestions, he made comments on a control of crooked administration. He said that it is obligatory to impose prompt and sufficient penalties. He said the ungracious suggestions reported against the colleagues be welcomed and those making them be protected against harm being done to them. Better laws for securing honest administration would do a good deal in this matter. Appleby advocates homogeneity among civil servants working as an agency or as a task force. He suggested doing well by homogeneity. Though, the government itself invited Appleby, it is surprising that the government did not take any interest in implementing the recommendations.

Gorwala and Appleby's recommendations would have been useful in correcting the rising maladministration in India those days. But, no due attention was given to the recommendations made by the experts. This negligence of their suggestions therefore resulted in increasing maladministration, which only gives birth to the widespread corruption in the Indian administrative system.

In India, increasing corruption in public life has been a major concern since the 1960s. The shortfall in implementation of development plans is due to lack of integrity at the political and administrative levels. Executives have been empowered to extend the scope of randomness, mismanagement, delay and unfairness. Even though checks and balances have been provided to redress the citizens by the Constitution through the legislature and the judiciary, yet, these bodies cannot be easily approached.

The Prevention of Corruption Act, 1947 was a measure which sought to eradicate corruption. But this measure failed to check the same. Due to this, there was an urgent need to think of growing corruption in society led to committees and commissions.

### **Santhanam Committee**

To investigate and combat corruption and to suggest administrative reforms, a committee was appointed in 1962 chairing K Santhanam. It submitted its report to the government in 1964. The most important suggestions made by the committee were as

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<sup>21</sup> Ibid p-96

follows:

1. To establish Vigilance Commission with its autonomy.
2. To review the public services and practical steps to be taken to make anti-corruption measures more effective.
3. The committee referred to the steps to be taken to fix the responsibilities of each department for checking corruption.
4. It also aimed at the changes in law, which would ensure speedy trial of cases of bribery; corruption and criminal misconduct and make the law otherwise more effective.<sup>22</sup>

The committee in order to liberalize the existing rules under section (5) of its recommendations suggested forming the central vigilance commissioner. Accordingly, this new technique was adopted and the Central Vigilance Commission, a non-statutory body was established in 1964.

In fact, efforts to establish this sort of institution started in 1960 when KM Munshi, a constitutional pundit, a noted parliamentarian and a novelist who was also a member of the Constituent Assembly, participating in the national debate on the need for a Permanent Tribunal of Inquiry, in a statement to the press, commended the Swedish practice regarding appointment of an Ombudsman to control maladministration.<sup>23</sup> The idea of Ombudsman has been gaining currency following publication of Whyatt Report (1961), and in 1962, M.C. Setalvad, the then Attorney General of India spoke about the need to undertake a study about the feasibility of ombudsman in India at the Inaugural Speech in Third All India Lawyers Conference (1962)<sup>24</sup>.

On 3<sup>rd</sup> April, 1963, while the demands for grants of the Law Ministry were being debated, Dr L.M. Singhvi, MP raised the issue of setting up an ombudsman office in very emphatic terms and consistently campaigned for it in the Parliament during the

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<sup>22</sup> K. Santhanam, (1964), Report of the ARC, Govt of Tamil Nadu, Madras.

<sup>23</sup> R.K. Swamy, "The Case For A Permanent Tribunal of Inquiry", Modern Review, April 1964, p- 264

<sup>24</sup> KS Shukla and SS Singh.(1988). Lokayukta (Ombudsman in India) A Socio-Legal Study. Delhi : Swatantra Bharat Press, p-8.

years 1963 to 1965.<sup>25</sup>

Meanwhile there was a strong and growing demand for the appointment of an all – India Administrative Reforms Commission. This led the Government of India to set up a high level Administrative Reforms Commission on 5<sup>th</sup> January 1966, under the chairmanship of Morarji Desai, to examine the public administration and make necessary recommendations. Its interim report on Problems of Redress of Citizens’ Grievances came with a powerful plea to set up the institution of Ombudsman in India to tackle the menace of corruption. Looking into the vastness of country, the commission recommended for the appointment of two special authorities, designated as Lokpal at the national level and Lokayukta at the state level for removing the public grievances against public officials. The government accepted the recommendation to appoint Lokpal and Lokayukta. A draft bill –the LokPal Bill of 1966 was submitted by the chairman of the commission on 20<sup>th</sup> October 1966 for consideration of the government which was accepted by the Government of India. Based on the patterns suggested by the LokPal Bill 1966 and partly on the ARC, on 9<sup>th</sup> May 1968, the Government of India introduced the Lokpal and Lokayukta Bills. The Bill was presented to the Lok Sabha in 1968.

In 1968, the Bill was referred to the Joint Committee of the two houses and it was passed in the Lok Sabha. While the bill was pending before Rajya Sabha, Lok Sabha was dissolved and the Bill could not be passed. The House passed it in 1969, but while it was pending. Lok Sabha was dissolved and the Bill lapsed. This was further introduced in 1971, 1977, 1989, 1996, 1998 and 2001 but was never passed.<sup>26</sup>

In the year 1977, during the fifth Lok Sabha, Indira Gandhi introduced the Bill but it again lapsed after waiting for six long years in a queue to be considered; the reason being that Lok Sabha dissolved. In the same year, the bill was again introduced by Morarji Desai’s Government and it was referred by the Joint Committee in the year

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<sup>25</sup> Govt of India, (1965) Lok Sabha Debate, 3<sup>rd</sup> series, Vol XVI, cc. 7556-58 and 7589-93.

<sup>26</sup> Lokpal Bill: Government vs Anna Hazare. News18. Dated 06.04.2011

1978. While the Bill was under consideration with Lok Sabha, the latter got prorogued and dissolved and therefore, the Bill again lapsed. In the year 1980, no such bill was introduced at the time of the seventh Lok Sabha. In 1985, the then Prime minister Rajiv Gandhi presented the LokPal Bill and this was referred to the Joint Committee, which again was of no use.

With failures in the consequent years, this Bill was again introduced in the year 2001, 2005 and in 2008. Each time the Bill was introduced in one House, it was referred to other Committees for recommendations such as Joint Committee and before a final decision could be taken by the Government, the House was dissolved. The introduction of this office has also been recommended at various seminars and conferences.

The second Administrative Reforms Commission, on August 31, 2005 had established under the chairmanship of Virappa Moili, Vinita Rai, V Ramachandran, Dr A.R Mukarji, Dr A.H Calaro are the members of the commission.

The commission in its report particularly on RTI and others strongly recommended for Lokpal. Its important recommendation is giving constitutional status to Lokpal. It also argue on inclusion of ministers, chief ministers, MLAs and inclusion of Prime Minister in Lokpal's perview. The commission stressed on establishment of Lokayukta in all the states as well as the local level and recommended for creation of national Lokayukta by amending the constitution.

The Lokpal and Lokayukta Act provided for the appointment of a multi-member anti-corruption authority at the centre and in the states for enquiring into allegations of corruption against public functionaries.

Although the Lokpal & Lokayukta Bill, 1968 was introduced in Parliament, no concrete action was taken for a long time. Public awareness was not sufficient to compel Parliament to pass the legislation. However by 2011, a powerful social movement erupted in the form of campaign on 'India Against Corruption (IAC)' led by a group of social activists such as Anna Hazare, Arvind Kejriwal, Swami Agnivesh, Kiran Bedi and

Baba Ramdev was initiated for passing a stronger anti-corruption Lokpal Bill in the Indian Parliament.

As a part of this movement, N Santosh Hegde, a former justice of the Supreme Court of India and Lokayukta of Karnataka, Prashant Bhushan, a senior lawyer in the Supreme Court with members of the India Against Corruption movement drafted an alternate bill, named the Jan Lokpal Bill with more stringent provisions and wider power to the Lokpal. Anna Hazare, a follower of Gandhian principles, opted for fasting unto death from 5<sup>th</sup> April 2011 at Jantar Mantar in Delhi and demanded to form a joint committee of the representatives of Government and civil society to draft a new bill with stronger penal actions and more independence of the Lokpal and Lokayuktas and the enactment of the long awaited Jan Lokpal Bill prompting the Parliament to act.<sup>27</sup>

Finally, the Lokpal and Lokayuktas Bill, 2011 was passed on December 17, 2013 by Rajya Sabha and on December 18, 2013 by Lok Sabha. The Lokpal and Lokayuktas Act, 2013, received assent on 1<sup>st</sup> January, 2014 by the then President of India Pranab Mukherjee and came into force with effect from 16<sup>th</sup> January' 2014.<sup>28</sup> The Parliament amended the Lokpal and Lokayuktas Act, 2013 to clear minor gap in 2016. Justice (Retd) Pinaki Chandra Ghose was the first Lokpal of India, along with eight judicial and non-judicial members on 19<sup>th</sup> March'2019.<sup>29</sup>

### 1.3.3 State level

The Lokayukta symbolizes one of the ideals of a welfare state. The office functions as People's Procurator and it is an agency of the legislature. It is a state level institution anti-corruption group. Lokayukta is responsible for the public's investigation of allegations of corruption against officials. The institution investigates and if complaint is justified, it recommends remedial measures to the government. the Lokayukta is a forum available to the public to effectively ventilate their grievances,

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<sup>27</sup> Think India. Community. Facebook. Dated 07.04.2011

<sup>28</sup> Lokpal and Lokayukta by Hemant More, dated October 28, 2019

<sup>29</sup> Ibid

allegations and ensure independent and impartial justice against administrative excesses<sup>30</sup>. The institution of Lokayukta facilitates an objective criticism and evaluation of administrative actions of the government and is a representative of the people.

The Lokayuktas are similar to the Lokpal, but function on a state level. Each of the states dictates how its Lokayukta is set up and its set of powers. This has led to various Lokayukta setup, with some more power than the others. Hence, there is a proposal to implement the Lokayukta uniformly across Indian states. The person appointed as Chairperson in the Lokayukta is usually a former High Court Chief Justice or former Supreme Court judge. Members of the public can directly approach the Lokayukta with complaints of corruption, nepotism or any other form of mal-administration against any government official. Written complaints are required from complainants by the Lokayukta office for investigation. If the complaint takes the form of an accusation, the office insists on the filing of an affidavit. Lokayuktas can either investigate the complaints using their suo motu powers under the state Act concerned or forward them to the heads of departments under the scanner for action or act as a mediator between the citizen and the government servant against whom the complaint is made. The Lokayukta is empowered to summon any person or document including public record. He can also examine the witnesses on oath and issue charge for examination of witnesses. Lokayukta can also utilize the services of any officer or investigative agency of government or any other person/agency. On the basis of inquiry, Lokayukta upon completion of inquiry, in case the allegations are established, makes a report to the Competent Authority i.e. President, Lt.Governor or Chief Secretary. The Competent Authority is required to intimate within three months, the action taken or proposed to be taken.

In India, Orissa became the first state to enact the Lokayukta Act, that is, Lokpal and Lokayukta Act, 1970 and came to force on October 2, 1983. Maharashtra was the

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<sup>30</sup> Kamal Jeet Singh, Sudhir Dutta and Anurag. The Lokpal and Lokayukta Act, 2013: A critical study. *Indian Streams Research Journal*. ISSN:2230-7850



first state to appoint a Lokayukta by enacting the Maharashtra Lokayukta and UP-Lokayukta , 1971 in September, 1971. Currently, there are 28 states in India that have established Lokayukta.

In Mizoram, the Mizoram Lokayukta Act,2014 was passed on November 13, 2014 and was further amended in the year 2016. The act provides for the establishment of a body of Lokayukta for the State of Mizoram to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto. The Lokayukta Act has been functioning officially in Mizoram from March 11, 2019 right after the appointment of its chairman C Lalsawta , IAS (Rtd.).

For even one year, the institution has been performing its role quite effectively. Several allegations of corruption against public functionaries in the state have come into limelight. Some of the allegations have been enquired into by the Lokayukta, yet the investigation has been incomplete. Mizoram is currently one of the only three states in India to have an online complaint facility. Among the states in India, it is also one of eight states to publish updated Annual Report on website.<sup>31</sup>

#### **1.4 Review of Literature**

*Lokayukta (Ombudsman in India) A Socio-Legal Study*, a book written by KS Shukla and SS Singh discusses the connection between people and administration. This book is a pioneer empirical and analytical account of Lokayukta in India. It focuses attention and analyses the appointment procedure, the structure of the support organization, the jurisdiction, the legal provisions related to the institution and the evaluation of the effectiveness of Lokayukta in the country. This book analyzes and offers a perspective for the institution of Lokayukta in India. It covers Lokayukta's operations in 10 Indian states. Studies in the book show that the institution did not achieve the desired results and made recommendations to strengthen the institution.

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<sup>31</sup> Report on the working of Lokayukta (State level Ombudsman) in Indian States, Transparency International India, [www.transparencyindia.org](http://www.transparencyindia.org)

According to the study in the book, the success of an institution depends on factors such as political will, the motivation to establish it, the appointment of qualified personnel with legal authority, and the proper functioning of the institution. They also traced the origin, evolution and development of the Ombudsman system throughout the world and included discussions on Lokpal and Lokayukta in India. This book is of great help to know the origin, growth and functioning of the institution.

*A Study Of Ombudsman System In India* is a book written by Preeti Dilip Pohekar . This book is a research report based book and it examines the Lokayukta with special reference to Maharashtra as well as the Ombudsman system in India at the centre as well as in Indian states. This book also reviews the entire worldwide ombudsmanic system and concentrated on the institutional remedies and their failure in remaining corruption.

*Ombudsman (Lokayuktas) in Indian States* written by Mary Parmar traces the origin of the Ombudsman system and writes on how its success has countries established the institution under different nomenclature. She describes the factors that were responsible for maladministration in India and how that had led to shortfall of implementation of development plans in India. Detailed efforts were made to establishment of the Lokayuktas and on how it came into being. She writes the functioning and procedures of Lokayukta with special reference to Himachal Pradesh and gives a critical appraisal to the working of Lokayuktas. She highlights the Lokayukta's delay of providing succour with factual different number of cases that had remained pending throughout different states. She also mentioned the need of independent investigative machinery within the Lokayukta saying that the body did not have an independent agency to enquire into the complaints. Aside from these a series of suggestions and how the institution should function are made by the author and stresses on the need for a good public relations system for the institution to become more efficient. She stresses on the need to educate the people about this institution as it is for the common man and that the main problem being the lack of awareness of the people

regarding this institution. The Lokayukta however is only one of the weapons to combat corruption as the reason for corruptions are multifarious and therefore to know why administrative evils have taken roots, the author felt that social psychology has to be examined.

*India's Anti-Corruption Authorities LokPal and LokAyukta*, an article written by Rajani Ranjan Jha has pointed out that the increased corruption in the Indian administration has been a concern since the 1960s. Since then, the demand for an institution or body like that of the ombudsman system has been suggested by various committees. Based on the LokPal Bill 1966 on mainly the pattern suggested by the Administrative Reforms commission (ARC) , the LokPal and Lokayukta Bills were introduced by the Government of India. The author gives an account of a number of LokPal legislations which were introduced in the Parliament. An account of Anna Hazare's fasting movement to move the LokPal Bill pressurises the government to take strong steps for instituting a strong LokPal institution that had remained elusive for more than the past five decades. This movement forced the government to take an unusual step on inviting Anna Hazare's representatives for talks on the nature and modalities of the LokPal Bill. But even though the process broke down, it finally led to the official version of the LokPal Bill , 2013, which was passed by the Parliament in 2013 which became the Act I of 2014. But LokPal in Indian has been a theoretical construct. The establishment of the LokAyukta in various Indian states has been listed with their appointments with Maharashtra to become the first state to appoint Lokayukta and Upa-Lokayukta through its Act in 1971. The author voiced out his opinions on how the country have failed to take up actions by not instituting a high powered institution to battle against corruption. Even though the Lokayuktas have been appointed at the state level, they have failed to make a major dent in the existing corruption. The government stating that there will be zero tolerance on corruption is not enough and that it is also in our national interest to fight corruption.

*The Mizoram Lok Ayukta Act, 2014 & The Lok Pal and Lok Ayuktas Act, 2013* is a booklet published by Law & Judicial Department, Government of Mizoram. This booklet contains detailed contents of the Mizoram Lok Ayukta Act, 2014 with regards to its establishment, rules, expenses, powers, declaration of assets, offences and penalties, the Mizoram Lok Ayukta Rules, 2016, the Selection Committee and more. It also contains the contents LokPal and Lok Ayuktas Act, 2013.

*Ombudsman- Historical Views*, a journal published in European Scientific Journal by Enika Hajdari has written about the ombudsman and its historical views. The main features of the institution of ombudsman have been analyzed with its operation. The paper highlights the existence of ombudsman like institutions since ancient times. The paper concludes with the importance of such an institution throughout history, and its existence currently in almost every country under different nomenclature. The relevance of it is also mentioned.

*Enactment and Enforcement of Anti-corruption in India*, an article written by Firoz Khan and Ramsamy Sudarshan writes about the scourges of corruption in India. It highlights how corruption has been a challenge in all countries. The article is divided into four sections. The first section highlights anti-corruption under British rule in India. It describes Macaulay's greatest achievement was that of drafting the IPC which was enacted on 6<sup>th</sup> October 1860 and came into operation on 1<sup>st</sup> January 1862. It also includes sub sections on the origin of the Delhi Special Police Establishment. Section two of the article is on post-independence anti-corruption developments. It traces the establishment of the Central Vigilance Commission recommended by the Santhanam Committee. It also includes a short history of the Central Bureau of Investigation. Section three of the articles focuses on anti-corruption legislation. Section four gives an account on the critical appraisal of India's anti-corruption laws.

*Lokayukta: The Indian Ombudsman and its desirability in Mizoram*, an article written by Emanuel Hrahsel throws light on the birth of the ombudsman. The legislation and establishment associated with the birth of the Lokpal and Lokayuktas in India is also

mentioned. The institutional structure, the success stories of Lokayukta in Indian states are also included. The differences of the Lokayuktas in different states in India are also highlighted. An account on the Mizoram Lokayukta with its structure and the functions it has performed so far is also included.

*Lokayukta System in India: A Critique*, a journal published in International Journal of Arts and Science Research by Renuka Sasanamari writes about the Lokayukta and the time of its introduction in India. The author showcases the role of Lokayukta and made several recommendations. The article is concluded with the recommendation that in order to have corrupt free nation, transparency in administration is required and certain measures have to be adopted.

*Lokpal and good governance*, an article written by Parishkar Shresth focuses on the need for good governance as the prerequisite for total development and that an institution like Lokpal can change people's mind about development. The main features of the Lokpal Bill are also mentioned in the paper. The paper concludes with corruption as a major challenge towards good governance. To tackle corruption, emphasis should be laid on the root and causes of corruption. In order to successfully tackle corruption, issues such as poverty and lack of education needs to be addressed first. The paper also highlights the significant issues of Lokpal and its impact on governance.

*The first Annual Report 2019-2020, Mizoram Lokayukta* is an annual report on the office of the Mizoram Lokayukta. The report provides a detail account of the working of the Lokayukta in Mizoram. The establishment, powers and functions, administration personnel, various wings, budgets, corruption cases are mentioned in detail in the report.

From the above, it is evident that there is sufficient literature available on the subject in several states, but the same is hardly available in the case of Mizoram. There is no proper study on the subject and therefore requires an in depth study and proper analysis.

### **1.5 Statement of the problem**

Corruption in Indian society has been dominant in some way for many years. The basic outbreak of corruption began with the opportunistic political leaders. Those who work on the right principles are not recognized in modern society. Corruption in India is a result of a bureaucratic, politician and criminal connection. In the past, bribes were paid for the wrong things, but now bribes are being paid for the right things done at the right time. In addition, corruption has become admirable in India with the participation of respected people. Social declines such as reduction in production weights, adultery of edibles, and various types of corruption have continued to dominate society. Political corruption is the worst of its kind in India. The main reason for concern is that corruption weakens the political system and undermines the fundamental importance of laws that govern the society. Elections in many parts of the country are associated with high levels of criminal activity. They threaten voters to vote for specific candidates, or physically block voters from voting, especially in the weakest parts of the society such as tribes, dalits and rural women, which often occur in many parts of the country.

Corruption affects the economy of central, state and local government agencies; it negatively prevents the economy from reaching new levels, also contributed to the problem of development in the country. Lack of effective management, poor management led to poor control of multiple departments and their tasks. This uncontrolled and unsupervised management provides a way to lead to small scale and large scale corruption. Due to lack of good leaders, it is hard to eradicate corruption in society. In the absence of significant social support and cooperation, good leaders are often defeated and oppressed. The country lacks a proper invigilation system. Some officials are eager to get illegal money and often fail to punish corrupt people; these often cause lack of economic stability which leads to unemployment and changes in living standards, which cause anxiety in the hearts of those affected by exploitation by corrupt people. Corruption leads to the lack of quality of good governance. Especially in

the context of Mizoram, this problem has affected the process of governance and developments. In view of this, the state has also established the Lokayukta to reform the deformities in the administrative systems. While there is an attempt to check corruption in the governance of the state, sufficient time is needed to implement them.

### **1.6 Scope of the study**

The study includes the growth of the Ombudsman institution, its historical growth at the international and national levels. A detailed study of the Lokayukta in India, in general, and Mizoram in particular is included. It also highlights the initial and recent developments made by the institution. The main focus of the study is on the functioning and implications to carry out good governance in the state. It also attempts to analyze the challenges of Lokayukta in carrying out its functions.

### **1.7 Objectives**

1. To study the origin and growth of Lokayukta in Mizoram.
2. To analyse the role and functions of Lokayukta in the state.
3. To study the main implications of Lokayukta in Mizoram.

### **1.8 Hypotheses**

1. Lokayukta has been established to check corruption in the administration in the state.
2. Performance of the Lokayukta has been very effective despite some limitations in the state.
3. Lokayukta has contributed towards good governance to some extent in the state.

## **1.9 Research Methodology**

The methodology adopted in this study is both qualitative and quantitative in nature. The required resources and data have been gathered through primary and secondary sources.

Primary sources include the annual reports, documents and interview based study. As part of the interview, besides the main functionaries in the Lokayukta as well as the state government, respondents belonging to various sections of civil society, such as MZP, PRISM, political parties like MNF, ZPM, INC and some advocates have been approached. Due to ongoing pandemic, telephonic interviews were conducted with unstructured questions. Questionnaire with open ended and close ended were also distributed through Google forms of which the respondents were students, lawyers, lecturers, research scholars and government servants. So, the total number of interviews conducted for this study amounted to 20 while the questionnaire respondents amounted to 30.

Due to scarcity of sufficient books and articles on the role of Lokayukta in Mizoram, primary sources have been focused more than the secondary sources. Secondary sources have been gathered from sources such as journal articles, books, and internet based information, local and national newspapers.

## **1.10 Chapterization**

### **Chapter I: Introduction**

The first chapter contains the introduction of the topic, origin, concept, historical growth, meaning and definition of Ombudsman system and Lokayukta at the national and state levels.



**Chapter II: Lokayukta in Mizoram: Origin and growth**

The second chapter is about the original growth of Lokayukta in the state. The current growth, recent developments and progress since its origin is analyzed.

**Chapter III: Lokayukta in Mizoram: Role and functions**

The third chapter contains a study on the various roles played by the Lokayukta in the state, its role as a solicitor, its activities and functioning in the state administration.

**Chapter IV: Lokayukta in Mizoram: Main Implications**

The fourth chapter is about the implications of the Lokayukta in the state. The study analyzes the developments made in relation to good governance in the state administration and whether the components of good governance are realized.

**Chapter V: Conclusion**

The fifth chapter includes the findings from the research and with it, the concluding remarks and suggestions.

To sum up, the institution of the Ombudsman has existed under different nomenclature throughout history. The scourge of corruption has, have and will always be a problem in a society that curbs development, exploits the poor and hinders social justice. Therefore, the existence of an ombudsman with great power and function has always been the greatest desire for the people as this will be a huge solution to various problems that emerges in every country.

Even though anti-corruption institutions have had existed in India and its states, it has not proven to strongly curb corruption. The establishment of the Lokayukta with its long history of struggle in different states has clearly caught the attention of the public mainly due to the strong powers and abilities given to it to investigate government officials accused of corruption. The establishment of this institution came strongly after the Lokpal and Lokayukta Act, 2013 was finally passed stating all the

states in India to establish it in a period of one year after the commencement of the Act. Some states in India have had established it much earlier, but especially in the northeastern region of India except Assam, Lokayukta is established only in the last few years and therefore its achievements can only be judged on a small scale. The question of whether the institution is functioning as it meant to be is something worth waiting for and only time will reveal its true capability. Its efficiency and success greatly depends on the government in making it a strong body and of course with the awareness among the people.

## Chapter 2

### Lokayukta in Mizoram: Origin and Growth

The Indian Constitution makes a decision to ensure equality before law, social justice and egalitarian society. In order to realize these objectives, the work and the responsibility of administration has been ever-increasing day by day. The vital presence of the institution of Ombudsman and its attention into the public administration would definitely serve same purpose in this regard. It will help to achieve many objectives of the ideal and philanthropic administration. It can take some steps to reduce the detachment of bureaucracy to the common people. Under its influence, the irresponsiveness and insensitivity which is becoming a general trend in the Indian administration nowadays of the bureaucratic class can be reduced. It can instill a new spirit and hope in the public life. The most important achievement would be that it will educate the public to fight corruption and other unwanted trends present in the administration. Concept of the Lokayukta is based on the institution of Ombudsman in Scandinavian countries.

The establishment of Ombudsman is seen as an important mechanism for controlling corruption and maladministration. Lokpal has been functioning at the national level and Lokayukta has been functioning at the state level. The term Lokayukta is taken from the Sanskrit words 'Lok' meaning people and 'ayukta' meaning authority.<sup>32</sup> The term itself implies the Lokayukta to be authority of the people.

#### 2.1 Lokayukta in the states

Section 63 of The Lokpal and Lokayuktas Act, 2013 mandates that every State shall establish a body to be known as the Lokayukta for the State, if it had not been so established, constituted or appointed under law made by the State Legislature, to deal

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<sup>32</sup> Critically analyzing the productivity of Lokayukta system in India, Blog.ipleaders, dated 25<sup>th</sup> June, 2021

with the complaints concerning corruption against certain public functionaries, within a period of one year from the date of commencement of this Act.<sup>33</sup>

Some states have already established the institution beforehand. The first Lokayukta was established in the year 1971 in Maharashtra and ever since Lokayuktas have been established in all the other states and union territories. All the states also enacted their respective state's Lokayukta Act, generally following the pattern of Lokayukta setup in the original Lokpal and Lokayukta Bill, 2013 which resulted in certain level of similarities amongst these states.

The states that have established Lokayukta in India includes Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal. In Jammu & Kashmir, the institution has been dissolved and in Puducherry, no institution has been established yet. There are only four states namely Bihar, Manipur, Odisha and Tamil Nadu which have judicial and non-judicial members of Lokayukta appointed.<sup>34</sup>

Among all the states in India, the Lokayukta of Karnataka is one among the strongest in India. The reason for this is that the Karnataka Lokayukta Act, 1984 provides for plenty of independence to the Lokayukta to function and take tough decisions. Not only is the framework provided to the Lokayukta in Karnataka encouraging which allows it to function autonomously, but as compared to other states Karnataka has also been the most efficient with handling complaints. In 2013-14, it resolved a total of 10646 complaints, which is high compared to other states.<sup>35</sup> The fierceness can be observed when N. Santosh Hegde, former Lokayukta of Karnataka, uncovered one of the biggest mining scams (quantified at Rs.16000 crore) of the country

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<sup>33</sup> Part III Establishment of the Lokayukta, the Lokpal and Lokayukta Act, 2013.

<sup>34</sup> Report on working of Lokayukta (State level ombudsman) in Indian States, Transparency International India

<sup>35</sup> Statistics, Karnataka Lokayukta. Lokayukta.kar.nic.in

in 2011.<sup>36</sup> His activism and strong evidences resulted in the then Chief Minister B.S Yeddyurappa being jailed for 21 days in October 2011 and resigning from his office.<sup>37</sup>

## **2.2 Irregularity of Lokayukta Act in the states**

The Lokayukta Act in every state has differences which arise as a result of demography, size, and political party holding office. These differences make it tremendously complicated for all states to stick to the same Model Bill. Therefore, to guarantee efficient functioning, certain changes have been made by individual states.

While the intention for modification was to ensure effective functioning, the results have shown us otherwise. There does not exist much information regarding the nature of complaints that the Lokayuktas receive in several states, online complaint facility and official websites for the Lokayukta is not available for many states.

An overview of the different state laws on Lokayukta shows the lack of consistency in the provisions in the states. The jurisdiction of the state's Lokayukta varies. While in several states the Chief Ministers are within the ambit of the Lokayukta, in some states they are not. Several states consider complaints against the state administration to be a part of the jurisdiction exercised by the Lokayukta, while many states do not recognize the jurisdiction of Lokayukta to extend to include the same. Another difference between the states Lokayukta is the addition of public functionaries within the purview of Lokayukta, while some states have systemically excluded them, other states go so far as to even extend the scope of Lokayukta's power to include actions of Registrar's and Vice chancellors of Universities. For instance, the Lokayukta in West Bengal despite harsh criticisms do not include the office of the Chief Minister to be within the jurisdiction of the Lokayukta.<sup>38</sup>

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<sup>36</sup> Karnataka Illegal Mining Report, Karnataka Lokayukta

<sup>37</sup> The ABC of Lokayukta, <https://www.dnaindia.com/jaipur/report-the-abc-of-lokayukta-2597122> , dated 24th March, 2018

<sup>38</sup> Answerable only to people, says Mamata Banerjee as Bengal Lokayukta bill keeps CM's office out of ambit, Hindustan Times, by Sumanta Ray Chaudhuri, dated July 26, 2018.

Since Karnataka and Kerala are considered to have a strong Lokayukta, they can be considered model state level laws, which can be followed by other states and UTs.

### **2.3 Post of Lokpal & Lokayukta in different states and UTs**

In most of the state's Lokayukta, the person appointed is usually a retired judge of the High Court or a retired judge of the Supreme Court. The post of the Lokayukta still remains vacant in the states of Assam, Goa, Himachal Pradesh, Maharashtra, Rajasthan, and Uttarakhand while the post of the other member (Up- Lokayukta) remains vacant in most of the states.<sup>39</sup>

### **2.4 Why Lokpal and Lokayukta?**

The Anna Hazare agitation in 2012 reminds us of the reality of institutional corruption in government, and also highlighted the sadly low confidence of the public in their elected leaders. This is further compounded by the poor quality of responsibility that exists in our country, with so-called independent institutions like the Comptroller and Auditor General and the Election Commission of India not being fully insulated from political influence and/or interference.

#### **2.4.1 Situation before the enforcement of The Lokpal and Lokayukta Act, 2013**

Despite sufficient evidences, there was no imprisonment or punishment for political person or officer of senior grade. The reason was that CBI and other investigation bodies will directly come under the purview of government. Central Vigilance Committee was only the advisory committee, if it advised to start investigation or dismiss the services of any officer, the government took it as advice only.

Even in CBI and CVC, number of corrupt practices was evident. Bribery was a common practice while anti-corruption department was headed by weak and corrupt people.

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<sup>39</sup> Report on the working of Lokayukta (State level ombudsman) in Indian States, Transparency International India

### **2.4.2 Situation after the enforcement of the Lokpal and Lokayukta Act, 2013**

The Lokpal and Lokayukta are free bodies. The ACB and CBI will be converged into these bodies. It has capacity to start examinations against any official or legislator without requiring anyone's authorization. Lokpal and Lokayukta are having complete controls to order discharge of a corrupt officer. Lokpal and Lokayukta have force to research and arrange any adjudicator without requiring anybody's consent. All examinations in the Lokpal and Lokayukta will be straightforward. After completion of examination, all case records will be available to open thus maintaining transparency. Government officials will have definitely no privilege in determinations of Chairperson and individuals from Lokpal and Lokayukta and choices occur through a straightforward and open participatory procedure.

As per the available data on the websites and media reports as well as previous data



acquired by TII through RTI, the total number of complaints received by State

Lokayuktas are 3,76,109. The top five states Lokayukta in terms of the complaints

received being Madhya Pradesh, Maharashtra, Karnataka, Bihar and Rajasthan.<sup>40</sup>

### Total No. of Complaints received in Lokpal & Lokayuktas

S.No.	States	Cases Received	Data available for the years	Remarks
<b>A</b>	<b>Central Level- Lokpal</b>	1496	2019 to October, 2020	As per statistics on Official Website
1	Delhi	2356	2012-2017	As per media report in Jan 2019, 1360 complaints were received during the last two years i.e. 2017 and 2018 out of which 1105 complaints were disposed off.
2	Andhra Pradesh and Telangana	19700	2012-2015	Post 2016 both the states have their own Lokayukta establishment.
3	Arunachal Pradesh	No Data Available		No data available on website
4	Assam	128	2012-2016	-----
5	Bihar	47803	2012-2016	-----
6	Chhattisgarh	1235	2012-2016	-----
7	Goa	70	2012-2017	Year wise data not provided. As per media report, The Goa Lokayukta office received a total of 191 complaints during the tenure of retired Justice Prafulla Kumar Mishra (April 2016 to September 2020).
8	Gujarat	2139	2013-2016	Data for cases received during year 2012 and 2017 not disclosed.
9	Haryana	4283	2012-2019	
10	Himachal Pradesh	330	2012-2016	-----
11	Jharkhand	3883	2012-2019	No data available for 2017. In the three months of the Corona era, more than 300 complaints have reached the Lokayukta office through registered post. So far in 2020, 445 complaints have reached the office.
12	Karnataka	48158	2008-09 to 2018-19	As per statistics on Official Website
13	Kerala	9990	2012-2016	-----
14	Madhya Pradesh	158942	1982-2018	As per statistics on Official Website
15	Maharashtra	50500	2012-2019	Data available till 30th June 2019 as updated on 26th Dec 2019
16	Manipur	No Data Available		Rules notified as recently as October, 2018. No data maintained on website
17	Meghalaya	No Data Available		No official website
18	Mizoram	14	2019-20	Lokayukta establishment took place in 11th March, 2019 officially.
19	Nagaland	136		As per media reports
20	Odisha	2464	2012-2019	272 complaints till 15th Feb 2020
21	Punjab	Not maintained	2012-2016	Data for the received cases not maintained regularly
22	Rajasthan	20485	2012-2017	-----
23	Sikkim	No Data Available		No official website
24	Tamil Nadu	No Data Available		No official website
25	Tripura	27	2012-2016	-----
26	Uttarakhand	1970	2012-2016	-----
27	Uttar Pradesh			Data provided but not maintained properly.
28	West Bengal	No Data Available		No official website
29	Puducherry	No establishment Yet		
	<b>Total</b>	<b>376109</b>		

Note: Jammu and Kashmir Accountability Commission is dissolved

Disclaimer- Minimum No. of complaints have been noted as per available data or media report, the real number might be more

## 2.5 Lokayukta in Northeast states

In the Northeastern states of India, Assam with its Assam Lokayukta and Upa Lokayukta Act, 1985 received the assent of the President on 12<sup>th</sup> December, 1986. Hon'ble Justice TC Das assumed the charge as the first Lokayukta on 1<sup>st</sup> February, 1989.

The other northeastern states followed with drafting of the Lokayukta Bill roughly by 2014 but did not come into force immediately. Therefore, in 2018, the Supreme Court directed Chief Secretaries of twelve States to explain the five-year delay in appointment of anti-corruption ombudsman Lokayukta and Uplokayukta.<sup>41</sup> A bench led by Justice Ranjan Gogoi found that several states had not moved a muscle to appoint Lokayuktas despite the Lokpal and Lokayuktas Act coming into existence in 2013.<sup>42</sup> Hearing a petition filed by advocate Ashwini Kumar Upadhyay, the court found that Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Tamil Nadu, Telangana, Tripura, West Bengal and Arunachal Pradesh have not appointed Lokpal, Lokayukta or Uplokayukta.<sup>43</sup>

The Meghalaya Chief Minister was the first to react to this. Conrad K Sangma issued a statement stating that the government was on the job by appointing and would soon call a meeting and start the process at the earliest. According to a statement issued by the Office of the Chief Minister (Communication Cell), the chief minister said that a high powered committee was selected along with the Chairman, but when the

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<sup>41</sup> Why have you not appointed Lokayuktas yet, SC asks 12 States, The Hindu dated 23<sup>rd</sup> March, 2018

<sup>42</sup> Ibid

<sup>43</sup> Why have you not appointed Lokayuktas yet, SC asks 12 States, The Hindu dated 23<sup>rd</sup> March, 2018

appointment was about to be given, elections came and the process could not be completed.<sup>44</sup>

Bound by the model code of conduct, the other two states of Northeast India – Nagaland and Tripura went on for polls on February 27 and 18, 2018, were unable to carry ahead with the process. However, with new government in place it soon came into force later.

In Arunachal Pradesh, the Pema Khandu cabinet in 2017, fixed concrete timeline for getting functional the state Lokayukta by constituting three committees viz, Drafting Committee, Search Committee and a Selection Committee. The Drafting Committee was supposed to submit a comprehensive draft rules required for carrying out the provisions of the Act to the government within 60 days while a search committee – members of which will not be state government employees – was to submit a panel of names to be appointed in the Lokayukta to the government within three months. Finally, the Selection Committee, which would be headed by the Chief Minister as the Chairperson with Leader of the Opposition, Chief Justice of Guwahati High Court or a Judge nominated by the Chief Justice and Chief Secretary as Members will recommend the names to the Governor for appointment as the Lokayukta Chairperson and Members within 30 days from the date the Search Committee submits the panel of names.<sup>45</sup>

In the month of March, 2018, in reply to Supreme Court, the then Mizoram Chief Minister Lal Thanhawla has stated that establishment of Lokayukta could not be expedited as the Chief Justice of Gauhati High Court needs to involve in the Selection Committee and that he could not come to Mizoram to take final decision. The State

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<sup>44</sup> Why no Lokayukta? SC asks 6 Northeast states; Meghalaya CM first to react, The Northeast Today, dated 24<sup>th</sup> March, 2018

<sup>45</sup> Several landmark decisions made by Khandu cabinet, Arunachal24.in dated 12<sup>th</sup> August, 2017

government, he stated, is waiting for the convenience of the Chief Justice along with Chief Minister and opposition leader for the final establishment.<sup>46</sup>

In Manipur, the Lokayukta is still not initiated by the state government despite several demands from concerned citizens of the state, who had even petitioned the Governor last year, urging him to give direction to the state government for setting up the Lokayukta to curb corruption and improve the standard of public administration and administration of justice.<sup>47</sup>

## **2.6 Role played by other bodies**

As Mizoram is moving towards development, one of the biggest factors that hinder the growth in the state and an escalating tension in relation between the government and the people is corruption and nepotism. Corruption can be seen as rampant in the state, which makes people aware of the negative impact it has on all the people living in Mizoram. Due to this, anti-corruption movement and institutions have always taken the attention of the people in fighting corruption. But even then, the people have doubt on the government itself as they do not see real punishment for the culprits which often lead them to be skeptic and lack of interest in the system itself. The people had a glimpse of hope with the Lokpal and Lokayukta Bill, 2013 pushed forth by Anna Hazare movement and hoped that the establishment of Lokayukta in Mizoram too would create change.

Before the establishment of Lokayukta in Mizoram, there are a few anti-corruption bodies present , both governmental and non-governmental, which includes the Anti Corruption Bureau (ACB), People's Right to Information and Development Implementing Society of Mizoram (PRISM), Society Of Societal Actions and Mizo

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<sup>46</sup> Why no Lokayukta? SC asks 6 Northeast states; Meghalaya CM first to react, The Northeast Today, dated 24<sup>th</sup> March, 2018

<sup>47</sup> Ibid

Zirlai Pawl (MZP), a number of prominent pressure groups which played a significant role in the establishment of Lokayukta and can be said to be the primary organizations that had led to its formation in Mizoram. Therefore, to study the origin of Lokayukta in Mizoram, there is a need to study the anti-corruption agencies that had paved way for fighting against corruption and that have existed beforehand in Mizoram. A brief introduction of the formation of these various anti corruption bodies are explained under:

### 2.6.1 Anti-Corruption Bureau (ACB):

The Anti- Corruption Branch of Mizoram Police was established on 2<sup>nd</sup> February, 1976 under the administrative control of the Inspector General of Police and the branch was put under the charge of one Deputy Superintendent of Police. Thereafter, the Anti- Corruption Branch was constituted as a separate branch of the Police Department under the administrative control of the Chief Vigilance Officer who is also the Chief Secretary of the Government of Mizoram. The branch was headed by the Senior Superintendent of Police as Head of the Office. The Anti- Corruption Branch was then renamed as Anti- Corruption Bureau (ACB) on 17/01/2008 and functioned under the direct supervision of the Chief Vigilance Officer. The minister in-charge is the Chief Minister.

With a view to strengthening the functioning of the anti-corruption bureau to combat corruption, the government upgraded the ACB by creating 33 new posts on 15/08/2009. However, Government of Mizoram, vigilance department superseded the previous notification conveyed sanction to the creation of 32 posts with the post of a Director (IGP Rank) to head the ACB in addition to existing 51 posts.<sup>48</sup>

The ACB now functions as a separate Directorate under the control of a Director (IGP Rank) and SP. The Bureau is administratively under the Vigilance Department, but under the direct supervision of the Chief Secretary-cum-Chief Vigilance Officer. The

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<sup>48</sup> About us. Official website of Anti-Corruption Bureau, Govt of Mizoram, [www.acb.mizoram.gov.in](http://www.acb.mizoram.gov.in)

Director, ACB hereinafter referred to as “Director” is the Head of the Bureau and a designated as Head of Department. The Superintendent of Police , ACB hereinafter referred to as “Superintendent of Police” or “SP” is the Head of Office under the supervision of Director, ACB in respect of financial matters, disciplinary action, budget and all other matters in the context of investigation, enquiry and prosecution of anti-corruption cases, enquiries and complaints. A total of 55 cases are registered from a period of 2013-2018.<sup>49</sup>

## ORGANISATION

The Bureau has its Headquarters at Aizawl and functions under the overall control and supervision of the Director, ACB. He / She is assisted in administrative and investigative matters by Superintendent of Police, Additional Superintendent of Police and Deputy Superintendent of Police.

All the posts in the ACB are filled up on deputation for a period of two years which may be extended in deserving cases. All police personnel posted in the ACB are granted Special Incentive Allowances to Police personnel on deputation to ACB @ 15% of basic pay with immediate effect.<sup>50</sup> Therefore, all police personnel posted in ACB are entitled to get this special incentive.

### 2.6.2 SOSA

Society for Social Action (SOSA) is an anti-corruption organization formed in 2005 by a group of intellectuals to fight against corruption in Mizoram. The SOSA submits a number of information requests to the government agencies. They collect important information which results in the filing of Public Interest Litigations (PIL).

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<sup>49</sup> About us. Official website of the ACB, Govt of Mizoram, [www.acb.mizoram.gov.in](http://www.acb.mizoram.gov.in)

<sup>50</sup> Ibid



An example on the work done by SOSA is PMGSY (Pradhan Mantri Gram Sadak Yojna), which is a central sponsored scheme for road connectivity. After collecting the necessary information, surveillance was done and it was found that facts were distorted to hide embezzlement of money. This suspected embezzlement of public money had led to the filing of PIL by SOSA in 2006.

Along with PRISM, SOSA organized a rally in Aizawl ‘Mizoram against Corruption’ in support of social activist Anna Hazare’s Aam Admi Movement. The then President of SOSA SL Sailova greatly emphasized the need for Lokayukta in Mizoram and said the ACB, Mizoram is helpless to prosecute the Chief Minister and Chief Secretary who are vigilance minister and state chief vigilance officer respectively, and all corrupt politicians and bureaucrats could not be punished if the chief minister and chief secretary decided to shield them.<sup>51</sup>

In recent times, SOSA has also taken part in filing of a case with PRISM and FOMTU representatives on 19.06.2019 against Robert Romawia Royte, the current Minister of Mizoram.

### **2.6.3 PRISM**

Peoples Right To Information and Development Implementing Society of Mizoram (PRISM) was formed officially on 1<sup>st</sup> August, 2006 at the residence of HK Liansawta. This date was chosen as to commemorate Mahatma Gandhi’s non-cooperation movement. It is an anti-corruption non-governmental organization that has worked hard to get the Mizoram Lokayukta established. The motto of their organization is ‘Together we can make a change.’ At its first General Body Meeting, Vanlalruata was elected as the President and continues to be so.<sup>52</sup>

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<sup>51</sup> Aizawl rally to support Hazare. Times of India. Dated 18<sup>th</sup> August, 2011

<sup>52</sup> Interview with Vanlalruata, PRISM President on 17<sup>th</sup> April, 2021

The main idea behind their organization relies on the concept of the government being of the people, by the people and for the people, the very foundation that lies behind democracy ideals.

The main objectives of their organization are:

1. To help Government in implementation of its policies and programmes.
2. To work for the welfare of the people.
3. To work for implementation of Human Rights.

The major activities of PRISM includes development, election watch, Mizoram watch, anti-corruption, public education, RTI implementation and Monitoring & Evaluation.<sup>53</sup>

After analyzing the situations of corruption in Mizoram, PRISM believes that development could not take place due to three large factors which are a). Actions are not taken on corruptors b). Unfair practices in politics and c). Most NGO's and Churches overlook corruption.

The main form of method used by the PRISM to fight against corruption is using Right to Information (RTI). So using RTI, documents are requested and analysed to look into the progress, monitor and evaluate the workings of government. Suggestions are therefore sent to the government.

Also, to take actions on the wrong doers, FIR and PIL are submitted to the authorities such as the Central Bureau of Investigation (CBI) and Anti- Corruption Bureau (ACB). Various civil societies are also invited to join the cause to fight against corruption.

Main aim of the PRISM is to educate the masses to be brave and to pave way to fight for their development rights and protection of their human rights. Their work also

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<sup>53</sup> Ibid

includes making an effort for a real development plan for Mizoram so that there could be various reforms in financial, land and taxes.

The first work after they did after the establishment of PRISM is that of fighting against corruption in the state. The process of their work is whenever they have doubts regarding the works of the government; they use the RTI to get the necessary information they needed. They visited the places that gave them the most doubts and after checking the works of the government and seeing the wrongdoings they file FIR to the Central Bureau of Investigation and Anti-Corruption Bureau (ACB) which later includes filing of Public Interest Litigation to the Supreme Court and High Court. The FIR they filed against to the CBI includes centrally establishment like Assam Rifle. Filing of FIR and PIL due to corruption goes hand in hand with PRISM. Due to such actions, they were very much disliked by the government as claimed by them.<sup>54</sup>

Earlier, they ran social audits in randomly selected places. The first place they worked on was in Chawilung. They called for a public meeting and question the people on whether the agriculture, horticulture and such department have made developments for their areas. As such, they educate the masses on various schemes and projects available for them.

In the earlier years of their establishment, they solely rely on the leaders of SOSA and made an agreement on October 2006 to work together.

In the movement of India Against Corruption in 2011, they participated in the rally of Anna Hazare's movement. From then on, they were popularized and were often invited for such programmes like the Human Rights Watch. A few months after their participation in the India Against Corruption Movement, they started for the establishment of Lokayukta in Mizoram. The steps taken for the movement beforehand includes drafting of law for the Lokayukta to meet their demands for the formation of organization. But since they were disliked by the government, they believed that it was

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<sup>54</sup> Interview with Vanlalruata, PRISM President on 17<sup>th</sup> April, 2021

better to work together with Mizo Zirlai Pawl to push towards for the establishment of Lokayukta. So the movement was discussed with the MZP which accepted it.

For the real establishment of Lokayukta, it was impossible for the government to accept the draft of law made by the PRISM and a new one was needed. So, for the drafting of the Lokayukta Act, a drafting committee was formed by the government which included government officials, PRISM President Vanlalruata, SOSA President Sailova Sailo and MZP President Krawshnehzova.

Even though much work is done by the PRISM and many of the public funds were saved, its leaders felt that the since the corruptors were still left unpunished, the last resort was to form a political party themselves. In the Annual General Body Meeting, the motion to turn their anti-corruption group into a political party was passed. On 3<sup>rd</sup> November, 2017, the name People's Right to Information and Development Implementing Society of Mizoram was changed to Peoples Representation for Identity and Status of Mizoram (PRISM).<sup>55</sup>

#### **2.6.4 Mizo Zirlai Pawl**

For the establishment of Lokayukta, the Mizo Zirlai Pawl have taken a lot of steps in hosting various seminars with other civil societies and such to have a detailed analysis on its study. With the main objective of MZP to fighting against corruption, the MZP has taken a lot of steps for the installation of Lokayukta in Mizoram.

On 14<sup>th</sup> February, 2012, the MZP passed a resolution at its federal council sitting to pave way for the establishment of Lokayukta in Mizoram. On 13<sup>th</sup> April, 2012, the MZP hosted a seminar on 'Seminar on Anti-Corruption' at I&PR Auditorium.<sup>56</sup> The speakers of the seminar emphasized on the need to establish Lokayukta greatly gave strength and excitement to the MZP. On 5<sup>th</sup> May, 2012, it had established a Drafting Committee for the purpose of drafting a bill for the Lokayukta and have held 8 meetings

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<sup>55</sup> The Journey of PRISM, Official website of PRISM, [www.myprism.in](http://www.myprism.in)

<sup>56</sup> Interview with Anngu Lalmachhuana, Ex-Mzp General secretary on 3<sup>rd</sup> May, 2021

for it. The MZP invited various representations from various NGO's such as Mizoram Upa Pawl (MUP), Young Mizo Association (YMA), Mizo Hmeichhe Insuihkhawm Pawl (MHIP) and PRISM. The members of the Lokayukta Drafting Committee constituted members of high intellectual, legal adviser, judge, representatives of MUP, MHIP, CYMA and PRISM. A Draft Bill was constituted by the members of this Committee which included giving utmost power to the Lokayukta and even Anti-Corruption Bureau to be under it. The MZP was of the opinion that various corruption cases have been buried due to the influence of high ranking officials. It greatly believed that if the Draft Bill was passed, that would lead prosecution in the courts and therefore the MZP greatly emphasized on the need to pass the Draft Bill. The Draft Bill constituted was then submitted to the Govt of Mizoram.<sup>57</sup>

On 20<sup>th</sup> May, 2013, the Lokayukta Drafting Committee even sent a plea to the then Chief Minister of Mizoram, Zoramthanga for the quick establishment of Lokayukta.<sup>58</sup>

On 3<sup>rd</sup> July, 2013, a Symposium on Lokayukta Bill, 2013 was organized by the MZP at I&PR Auditorium. The main discussion in this symposium was the question on how to move forward for the establishment of Lokayukta.

In a Press Release by the MZP on 10<sup>th</sup> August, 2013, the MZP met with MNF President and the then ex-Chief Minister Zoramthanga at his residence to have a discussion on the establishment of the Lokayukta. Zoramthanga replied he was of the view that the Lokayukta was a good institution and that he would have a discussion with the leaders of the MNF party to put it up in the MNF's manifesto.

On 30<sup>th</sup> October, 2013, before election in the state, the MZP hosted a Joint Platform and invited all the political parties at the Ignite Studio to study about the various manifesto and to see if the Lokayukta would be instituted in the state of

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<sup>57</sup> Interview with B.Vanlaltana, MZP President on 17<sup>th</sup> April, 2021

<sup>58</sup> Interview with Peter Chhangte, MZP Vice President on 10<sup>th</sup> May, 2021

Mizoram. Each political party had promised to include in their manifesto the installation of Lokayukta. An interview with all the Presidents of different political parties was also conducted regarding this. After the elections and with the formation of government by the Congress party, the MZP started pushing forward on the promise made by the political party regarding the installation of Lokayukta.

On its Press Release on 18<sup>th</sup> February, 2014, the Monitoring Committee at MZP General Headquarters had a sitting and discussion of the Draft Bill made by the government was analysed and studied upon. It highlighted the various shortcomings in the draft bill.

The government on its part tried its best to fulfill the promise made. Therefore, on 19<sup>th</sup> February, 2014, the government held a Consultation on Lokayukta which was held at Secretariat Conference Hall to create a Lokayukta Drafting Committee. Here in this conference, the President of MZP, Lahmachhuana was invited to participate and to consult on the Mizoram Lokayukta Bill, 2014. Other than him, the PRISM President and SOSA President were also called for consultation of this drafting committee.<sup>59</sup>

Since the government made the Lokayukta Drafting Committee, the Committee made by the MZP was discarded and instead of it, the Lokayukta Monitoring Committee was constituted in its place. The Committee conducted three meetings and the main objectives of it being the wish for the Lokayukta to have the highest authority possible, above the grasp of the government officials and which would be able to with great courage to fight against corruption in the state. The Lokayukta Monitoring Committee continues to be a watchdog to see if the government has kept up their end of the promise made to the people. Even though the Lokayukta drafting Committee had come up with a Draft Lokayukta Bill, 2014, the MZP made different suggestions and amendment regarding the draft bill and even wrote suggestions to the Law Secretary to make changes in the bill on 3<sup>rd</sup> September, 2014.

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<sup>59</sup> Interview with B Vanlaltana, MZP President on 17<sup>th</sup> April, 2021

Later on, on 14<sup>th</sup> November, 2014 at the Mizoram Legislative assembly sitting, The Mizoram Lokayukta Bill was passed. On 1<sup>st</sup> July 2015, an extensive study and discussion on the concept of Lokayukta was hosted by the MZP at I&PR Auditorium. The guest of honour being Lalsawta, the then Hon'ble Minister of Law & Judicial. Zahmingthanga Ralte, Joint Secretary of Law & Judicial Department was invited as the resource person.

The Mizoram Lokayukta Act, 2014 was passed on the model of the original Lokpal and Lokayukta Bill pertaining to the provisions of states' Lokayuktas with certain modifications. It received assent of the Governor of Mizoram on the 28<sup>th</sup> November, 2014. The act was deemed to have come into force with retrospective effect from 01.10.2016. The Mizoram Lokayukta (Amendment) Act, 2016 was also passed to facilitate a single incumbent to perform the entire tasks of the Lokayukta and the amendment act was published in the Mizoram Gazette. The Mizoram Lokayukta Rules, 2015 was framed but was repealed when the 'Mizoram Lokayukta Rules, 2016' was framed and published.<sup>60</sup>

The Lokayukta is a statutory authority with a fixed tenure for its Chairpersons and members to enable it to discharge its functions independently and impartially. Under the provisions of the Act, any citizen can directly approach the Lokayukta with complaints of corruption, nepotism or any other form of maladministration leading to a form of corruption against public servants such as the Chief Minister, the Speaker, Ministers, MLAs, elected representatives and any government servant and also some office bearers, members, workers of certain societies and non-government organizations receiving aids from the State.

## **2.7 Lokayukta Bill in the Mizoram Legislative Assembly**

The origin and growth of Lokayukta can be traced back to various NGOs and the pressure put forth by them for its establishment. Even though there was an enactment of

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<sup>60</sup> Mizoram Lokayukta Annual Report ,2019-20

the LokPal and Lokayukta Act 2013, in Mizoram, the Mizoram Lokayukta Act, 2014 was passed on November 13, 2014 and was later amended in 2016. But the functioning of Lokayukta in Mizoram started from March 11, 2019 right after the appointment of its chairman C Lalsawta, IAS (Rtd). But since the Lokayukta assumed office in the last phase of financial year 2018-2019, its functions were limited.<sup>61</sup> Therefore, no major progress was made and actual work could not be accomplished during this period even though budget was separately allocated.

Establishment of Lokayukta in Mizoram had been considered way back in the later part of 2008 and certain initiatives were also made to draft a bill entrusted to certain officials.

In the process, certain interested groups particularly the Mizo Zirlai Pawl (MZP) even submitted a draft of the Mizoram Lokayukta Bill. When drafting of the bill by the government was in a smooth pace, there was a 'Aam Admi' movement at the central by Anna Hazare which led to the Central government in drafting the LokPal and Lokayukta bill. Since the bill includes establishment of Lokayukta in the states in all respects, the Government of India had put drafting of the bill in the back banner. Due to this reason, the initial steps taken in Mizoram were put to a halt.

When the Lokpal and Lokayukta Bill was put forth in the Parliament, Lokayukta provision was criticised sharply by the states as it was felt as a method by the Central government to curtail the powers of state government. Since it received harsh opposition, the then central coalition government did not carry through the bill. As a result, the Lokayukta provision was cut out from the bill that was introduced in the Parliament.<sup>62</sup> The Lokpal and Lokayukta Bill submitted by the Central government for its introduction in the Parliament excludes the provision relating to establishment of Lokayukta in the states except a single provision in section 63 which provides that the

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<sup>61</sup> Mizoram Lokayukta Annual Report, 2019-20

<sup>62</sup> Zahmingthanga Ralte, Secretary, Mizoram Lokayukta, Eirute hremtu tur Lokayukta Talk Show by Zonet, accessed on 15<sup>th</sup> March, 2021



State Legislature should make a law for establishment of Lokayukta within a period of one year from the date of commencement of the Lokpal and Lokayukta Act. Due to this specific provision, the drafting of Mizoram Lokayukta bill was started afresh.

After the Lokpal and Lokayuktas Bill, 2013 was passed in the Parliament, various efforts were taken up with the then Law Minister Pu Lalsawta where a consultation involving certain NGO's such as PRISM, MZP and intellectuals, prominent citizens who had taken interest in having a powerful, independent and effective Lokayukta for the state was formed. A consultation took place at the SAD Conference Hall in New Secretariat where it was agreed that Lokayukta should be established. Therefore, for its establishment, a Drafting Committee was set up and various discussions were held.

The draft of the Mizoram Lokayukta Bill, 2014 was completed and the Mizoram Law and Judicial Department on August 28, 2014 issued notification of its completion in the Mizoram Gazette.<sup>63</sup> The draft bill was also uploaded in the Law and Judicial Department website for any suggestions or complaints regarding the bill from the people. This kind of initiative was also taken by the central as well as other state government in special cases. This was done so to give opportunity to whomever were interested as well as the common people to share their opinions. A period of one month from the date of the Gazette notification was given for any recommendations.

After the mandate of the states to establish a Lokayukta for every state by the Lokpal and Lokayukta Act, 2013, the Mizoram Lokayukta Act was legislated by the Assembly in 2014 after it receive assent from the Governor on the 28th November, 2014. While opposition members slammed the bill as 'toothless' and 'ineffective' in combating corruption, the ruling Congress members contended that it was one of the best Lokayukta bills in the country.<sup>64</sup> Lalsawta the then Law Minister claimed that the

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<sup>63</sup> The Mizoram gazette Vol. XLIII Issue No. 398 Dated 5/8/2014

<sup>64</sup> The Economic Times, Dated 13th November, 2014

drafting committee took many suggestions from the Karnataka Lokayukta Act, which is regarded as one of the best Acts in the country.<sup>65</sup>

According to the Mizoram Lokayukta Bill, all public servants including the Chief Minister were to be within the ambit of the Lokayukta and a separate Investigating Directorate would be set up under it. An anti-corruption watchdog - People's Right to Information and Development Society of Mizoram (PRISM) - slammed the bill and urged the Speaker to prevent its passage in the legislature. However, PRISM President Vanlalruata described the bill as toothless which would encourage corruption rather than punishing the corrupt people.<sup>66</sup>

## **2.8 Establishment of Lokayukta**

Even though the Mizoram Lokayukta Act, 2014 was passed, but the real establishment of Lokayukta took place after five years not only in Mizoram but also in many states in India. It was only after a petition was filed by Hon'ble Justice Ranjan Gogoi and Hon'ble Justice R Banumati that real initiative was taken by the government. These petitions were called on for hearing on 19<sup>th</sup> April, 2018. In a reply made to the petition, the representatives of Mizoram reply the affidavit filed on behalf of the State of Mizoram has been tendered in Court. It is stated that the Search Committee has completed the requisite task and a panel of 4 (four) persons have been forwarded to the Selection Committee for recommendation for appointment. It is also stated that the provision for infrastructure including manpower is 6 currently pending before the Finance Department of the Government of Mizoram. The Court would expect all the necessary formalities in this regard to be completed and Office of the Lokayukta to commence functioning from 1st July, 2018. List the matter again on 10th July, 2018 for consideration of the report of compliance to be submitted on behalf of the State of

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<sup>65</sup> Ibid

<sup>66</sup> Ibid

Mizoram.<sup>67</sup> But on a hearing held on 10<sup>th</sup> July, 2018, no status report has been filed for the state of Mizoram and the state was also not represented.<sup>68</sup>

According to the respondents from interviews, it is claimed that the late establishment of the Mizoram Lokayukta is due to the government in not giving its priority and insufficient finance in the state. It was delayed over and over again. The appointment process of the Lokayukta was also a long process which also contributes for its late establishment. Furthermore, once the members of the Lokayukta are appointed, the process of dismissal is a long process. This makes it difficult for the government to appoint an authority that could actually investigate them. The then Congress led state government in Mizoram claimed that the establishment was delayed as the 14th Finance Commission did not allocate funds for the purpose as sought, according to former finance minister Lalsawta.<sup>69</sup> Therefore, the establishment of Mizoram Lokayukta could not be completed during the Congress Ministry.

It was during the MNF ministry that the Mizoram Lokayukta was established. With the change of ministry after the election in 2018, preparations were made for the establishment of Lokayukta and were completed within a period of two months by the Law Minister TJ Lalnuntluanga.<sup>70</sup> The minister also mentioned that since the establishment of Mizoram Lokayukta was part of the MNF's party manifesto, priority was given to it. The Mizoram Lokayukta is deemed to have been established with effect from 11.03.2019, the date on which the first Chairperson C Lalsawta IAS (Rtd) assumed office of the Lokayukta.

The Law & Judicial Department was the Nodal Department initially, having been entrusted with the tasks of framing the Mizoram Lokayukta Act and Rules and of paving the grounds for appointments of Chairperson/Members and office staff, and for arranging office accommodation and such. However, soon after its establishment, the

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<sup>67</sup> Record of proceedings, Supreme Court of India. Item No 7. Writ Petition (Civil) No (s). 684/2016

<sup>68</sup> Record of proceedings, Supreme Court of India. Item No 23. Writ Petition (Civil) No (s). 684/2016

<sup>69</sup> Eastmojo.com, Mizoram News. Henry L Khojol. Dated 12<sup>th</sup> March, 2019.

<sup>70</sup> Interview with TJ Lalnuntluanga, Minister of State, Law & Judicial on 12<sup>th</sup> February, 2021

Government amended the Government of Mizoram (Allocation of Business), making the Vigilance Department as the Nodal Department to act as a link between the Government and the Lokayukta.<sup>71</sup>

## **2.9 Important Provision of the Mizoram Lokayukta Act**

### **2.9.1 Appointment of Chairperson, Members and Qualifications**

The process and system of appointing the Lokayukta is prescribed in Chapter II, Section 3 of The Mizoram Lok Ayukta Act, 2014.<sup>72</sup>

The Lokayukta may composed of not more than three members namely, Chairperson and one or two members including a judicial member. According to it, the Lokayukta shall consist of a Chairperson, who is or has been a Chief Justice of the High Court or a Judge of the High Court or a person qualified to be a High Court Judge or a person who has vast knowledge of law and experience in judicial matters or court, or a person who fulfils the eligibility of impeccable integrity, outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management. For the eligibility to be a Judicial member, he/she should be a person who is qualified to be a High Court Judge or a person who has vast knowledge of law and experience in judicial matters or courts.

To be a Member (Administration), the eligibility required should be that of a person of impeccable integrity, outstanding ability having special knowledge and expertise of not less than 20 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law, and management.

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<sup>71</sup> Mizoram Lokayukta Annual Report, 2019-2020 p-

<sup>72</sup> The Mizoram Lokayukta Act,2014 p-13

The Chairperson or member of the Lokayukta should necessarily fulfil the following conditions:<sup>73</sup>

1. The person should not be a member of Parliament or a member of the Legislature of any State or Union territory;
2. He should not be convicted of any offence involving moral turpitude;
3. He should not be a member of any Autonomous District Council, Village Council or Municipality;
4. The person should not be removed or dismissed from service of the Union or a state and shall not hold any office of trust or profit (other than his/her office as the Chairperson or a Member hereof) or been affiliated with any political party or carry on any business or practice any profession and accordingly, before he/she enters upon his office, a person appointed as the chairperson or a Member, as the case may be, shall , if
  - a). he holds any office of trust or profit, resign from such office; or
  - b). he is carrying on any business, sever his connection with the conduct and management of such business; or
  - c). he is practicing any profession, cease to practice such profession.<sup>74</sup>

The salary of the Chairperson would be same as those of a Chief Justice of the High Court and other members shall be the same as those of a judge of the High Court.

But after the Mizoram Lokayukta Act 2014 was amended in 2016, changes were made regarding the eligibility on the appointment of the Chairperson of the Lokayukta. The changes include the person eligible to be appointed as the Chairperson or as a Member other than a judicial member, to be a person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management. It also states a person to be

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<sup>73</sup> The Mizoram Lokayukta Act, 2014 p-14

<sup>74</sup> Ibid p-14

eligible for the Chairperson or a Judicial Member if such person is qualified to be a High Court Judge or has vast knowledge of law and experience in judicial matters or courts. So in the appointment of the present Chairperson of the Mizoram Lokayukta, the latter criterion is used. In the initial stages before the current Chairperson was appointed, there was an effort to place a retired High court judge for the position of the Chairperson of the Mizoram Lokayukta. Former Chief Justice of the High Court of Tripura, Justice T. Vaiphei was approached. But he was not available since he became Chairperson of Meghalaya Human Rights Commission.

In the present organizational structure of the Mizoram Lokayukta, till now, only the Chairperson has been appointed. The other neither members of the Mizoram Lokayukta has been appointed yet. The reason given by the present ministry includes lack of finances and the ability of the Chairperson to man the post at the moment without the other members. Not to question the integrity of the Chairperson, but a Judicial Member is highly required in such an institution where the real application of law is to be practiced. Biasness could also be in question if there is only one member in the Lokayukta. Therefore, it becomes a dilemma when only one out of the maximum three members is appointed. But as of the moment, there is no intention by the government to appoint the other members of the Mizoram Lokayukta.<sup>75</sup>

Since the Mizoram Lokayukta Act, 2014 & 2016 has no time limit or time frame in appointing the mandatory officials, government decision is waited upon.<sup>76</sup>

### **2.9.2 Procedures for Selection of Chairperson and Members:**

A Search Committee was constituted by the Selection Committee for preparing a panel of names to be considered for appointment of the Chairperson and Members. The Search Committee was to consist of at least 5 persons having special knowledge and expertise in the matters relating to anti-corruption policy, public administration,

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<sup>75</sup> Interview with C Lalramzauva, Advisor to Chief Minister on 15<sup>th</sup> June, 2021

<sup>76</sup> Interview with Lalmuanpuii, Under secretary, Vigilance Department, Govt of Mizoram on 30<sup>th</sup> June, 2021

vigilance, policy making, finance including insurance and banking, law and management or any other matter which may be useful in making selection of the Chairperson and Members.

A Search Committee was constituted on 3<sup>rd</sup> November, 2016. The chairperson and members are as follows:<sup>77</sup>

1. Chairperson – P. Singthanga, MJS
2. Members :
  - i) Rev Dr Laiu Fachhai
  - ii) Dr Hranghrima
  - iii) Dr K Robin, Associate Professor, MZU
  - iv) Dr LH Chhuanawma, Associate Professor, PUC
  - v) Laltanpuui, Lecturer (Retd), Govt Aizawl College
  - vi) Tlangthanmawii
  - vii) Vanlalruata, President PRISM

The Search Committee after several meetings submitted a panel of names for selection of Chairman/Members. The Search Committee sat four times, once in 2016 and thrice in 2017 and made recommendations to be approved by the Selection Committee. One and a half year after the recommendations, the government has not made any appointment. Instead, it has decided to form a fresh search committee, which is a clear violation of the rules as claimed by Vanlalruata, PRISM president.<sup>78</sup> He accused the Congress Government of failing to fulfill its electoral promise to set up Lokayukta.

On the suggestion from the High Court, the second Search Committee was constituted on 4<sup>th</sup> July, 2018 with Justice Ujjal Bhuyan, Hon'ble Judge of Gauhati High Court as its Chairman and consisting of top officials of the state as Members .The

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<sup>77</sup> Law and Judicial Department, Government of Mizoram Notification No. H. 12017/130/2014 – LJD. Dated Aizawl, the 3<sup>rd</sup> November, 2016

<sup>78</sup> Interview with Vanlalruata, PRISM President on 17<sup>th</sup> April, 2021

Search Committee again submitted its recommendations to the Selection Committee. The members of the second search committee are:<sup>79</sup>

1. Hon'ble Justice Mr Ujjal Bhuyan, Chairman, Search Committee, Lokayukta, Mizoram & Judge, Gauhati High Court, Guwahati.
2. Arvind Ray, Chief Secretary to the Govt of Mizoram.
3. Lalnunmawia Chuaungo, Principal Secretary, Finance Department, Govt of Mizoram.
4. LH Shanliana, Inspector General of Police (Intelligence, L&O), Govt of Mizoram.
5. Mrs Marli Vankung, Secretary, Law & Judicial Department, Govt of Mizoram.

(b). Selection Committee: The Selection Committee consists of: -

- (1) The Chief Minister as Chairman,
- (2) The Speaker of the Legislative Assembly as Member,
- (3) The Leader of Opposition/Opposition Group as Member,
- (4) The Chief Justice of Gauhati High Court or a Judge nominated by him as Member.

There were two Selection Committees in 2015 and 2019. This is due to the change in ministry in Mizoram. The Selection Committee of 2015 constituted of the following:<sup>80</sup>

1. Chairman – Lalthanhawla, Chief Minister of Mizoram.
2. Members:
  - i) Hiphei, Speaker of the Legislative Assembly of Mizoram.
  - ii) Vanlalzawma, Opposition Group Leader.
  - iii) Justice T. Vaiphei, Judge, Gauhati High Court.

The Selection Committee of 2019 was constituted on 28<sup>th</sup> January, 2019 which consisted of the present Chief Minister Zoramthanga, Speaker of the Legislative

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<sup>79</sup> Minutes of the meeting of the Search Committee, Lokayukta, Mizoram held on 18.08.2018 at New Judges' Bungalow, Gauhati High Court (Aizawl Bench).

<sup>80</sup> Law and Judicial Department, Government of Mizoram. Notification No. H. 12017/130/2014- LJD/Pt. Dated 23<sup>rd</sup> June, 2015.



Assembly Lalrinliana Sailo, Lalduhawma as leader of the opposition party and Justice N Kotiswar Singh.<sup>81</sup>

The Selection Committee selects the Chairman/ Members of the Lokayukta only from the panel of names prepared by the Search Committee and send its recommendations to the Governor for appointment. But since the first constituted Selection Committee could not finalize its selection from the panel of names recommended by the first Search Committee; and the next constituted Selection Committee finally made its selection from the panel of names recommended by the second Search Committee.

For the appointments of the Chairperson and Members of the Lokayukta, the Governor is the appointing authority. The Governor appoints them on the basis of the recommendations of the Selection Committee.

### **2.9.3 Appointment of the First Chairperson of Mizoram Lokayukta:**

The Hon'ble Governor of Mizoram Kummanam Rajasekharan appointed C. Lalsawta, IAS (Rtd.) as the Chairperson of Mizoram Lokayukta from the panel of names recommended by the Selection Committee on 28<sup>th</sup> February, 2019. He was sworn in as the first Chairperson and was administered oath of office by the Hon'ble Governor of Mizoram, Jagdish Mukhi in a swearing-in ceremony on 11<sup>th</sup> March, 2019. The Chief Secretary, Lalnunmawia Chuaungo presided over the swearing-in ceremony, which was held at Durbar Hall of Raj Bhavan. The Hon'ble Chief Minister Zoramthanga, The Hon'ble Speaker Lalrinliana Sailo, Cabinet Ministers, Ministers of State, MLAs and other high officials of the government and other dignitaries attended the ceremony.<sup>82</sup>

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<sup>81</sup> Interview with Lalmuanpuii, MSS, Under Secretary. Vigilance Department, Government of Mizoram on 30<sup>th</sup> June, 2021

<sup>82</sup> Mizoram Lokayukta Annual Report, 2019-20 p- 8

#### **2.9.4 Tenure and removal:**

The Chairperson and every Member, on the recommendations of the Selection Committee, are appointed by the Governor by warrant under his hand and seal and hold office as such for a term of five years or till attaining the age of 70 years whichever is earlier from the date on which he enters upon his office.<sup>83</sup>

#### **2.9.5 Ineligibility on reemployment:**

Once the term of the Chairperson and Members ceases to hold office, they are ineligible for:

- (i) Re-appointment as the Chairperson or a Member of the Lokayukta;
- (ii) Any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the Governor by warrant under his hand and seal;
- (iii) Further employment to any other office of profit under the Government of India or the Government of a State;
- (iv) Contesting any election of President or Vice President or Member of either House of Parliament or Member of a State Legislature or Autonomous District Council or Municipality or Village Council or Panchayat within a period of five years from the date of relinquishing the post.

A Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.<sup>84</sup> It means where the Member is appointed as the Chairperson, his/her term of office shall not be more than five years in aggregate as the Member and the Chairperson.

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<sup>83</sup> The Mizoram Lokayukta Act, 2014 p-16

<sup>84</sup> The Mizoram Lokayukta Act, 2014 p- 18

### **2.9.6 Member taking Charge of Chairperson:**

In the event of occurrence of any vacancy in the office of the Chairperson by reason of his/her death, resignation or otherwise, the Governor may, by notification, authorize the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy. When the Chairperson is unable to discharge his/her functions owing to absence on leave or otherwise, the senior-most Member available, as the Governor may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his/her duties.<sup>85</sup>

### **2.9.7 Appointment of Secretary to the Lokayukta, Director of Inquiry and Prosecution, Officers and Staff of Lokayukta:**

The Mizoram Lokayukta Act, 2014 also states that there shall be a Secretary to the Lokayukta in the rank of Secretary to the State Government, who shall be appointed by the Chairperson from a panel of names sent by the Government.<sup>86</sup>

Zahmingthanga Ralte currently serves as the Secretary of the Mizoram Lokayukta on deputation from the Law & Judicial Department and has taken dual charge.

It also states there shall be a Director of Inquiry and Prosecution not below the rank of the Additional Secretary to the State Government or equivalent, who shall be appointed by the Lokayukta.<sup>87</sup>

Separate Directorate of Enquiry and Directorate of Prosecution are clubbed together here whilst in other States' Lokayukta Acts and Lokpal and Lokayukta Act, they are provided with separately. It was therefore expected that either the Act could be amended or provide for even without amendment the posts of Director of Enquiry and Director of Prosecution be created and filled up.

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<sup>85</sup> The Mizoram lokayukta Act, 2014 p- 18

<sup>86</sup> Ibid, p- 19

<sup>87</sup> Ibid, p-19

In the current scenario, the post of the Director of Enquiry is not filled up. Proposals are sent to the government for the creation of the posts of Director of Prosecution and Additional Public Prosecutor. The appointment of post of Public Prosecutor was turned down. On the requisition by the Lokayukta, through the Government, the Mizoram Public Service Commission issued Advertisement No. 19 of 2019-2020 dated 17th March, 2020 for the recruitment of Assistant Public Prosecutor. CR Zothantluangi currently manned the post of Assistant Public Prosecutor.

The appointment of officers and staff of the Lokayukta are to be made by the Lokayukta. Provided that the Governor may by rule require that the appointment in respect of any post or posts as may be specified in the rule, shall be made after consultation with the State Public Service Commission.

Subject to the provisions of any law made by the State Legislature, the conditions of service of secretary and other officers and staff of the Lokayukta shall be such as may be specified by regulations made by the Lokayukta for the purpose: Provided that the regulations made under this sub-section shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor.<sup>88</sup>

### **2.9.8 Removal of Chairperson and Members:**

The Governor may remove the Chairperson and Members according to the following prescribed procedures:

- (1) A petition for removal of Chairperson and or Members on the ground of misbehavior, signed by at least two-third Members of the Mizoram Legislative Assembly may be presented to the Governor;
- (2) The Governor may, on the basis of such petition or on his own make a reference to the Supreme Court for enquiry;

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<sup>88</sup> Ibid p-18

(3) The Supreme Court may hold enquiry in accordance with the procedure prescribed in this behalf [i.e. Judges (Enquiry) Act, 1968] and may report to the Governor for their removal on grounds of misbehaviors if found guilty;

(4) The Governor may accordingly remove them from office on grounds of misbehaviors. They may also be removed.

(a) if they are adjudged to be insolvent (by a competent court of law), or

(b) if they are engaged in any other paid employment or (c) if they are unfit to continue in office by reason of infirmity of mind or body.<sup>89</sup>

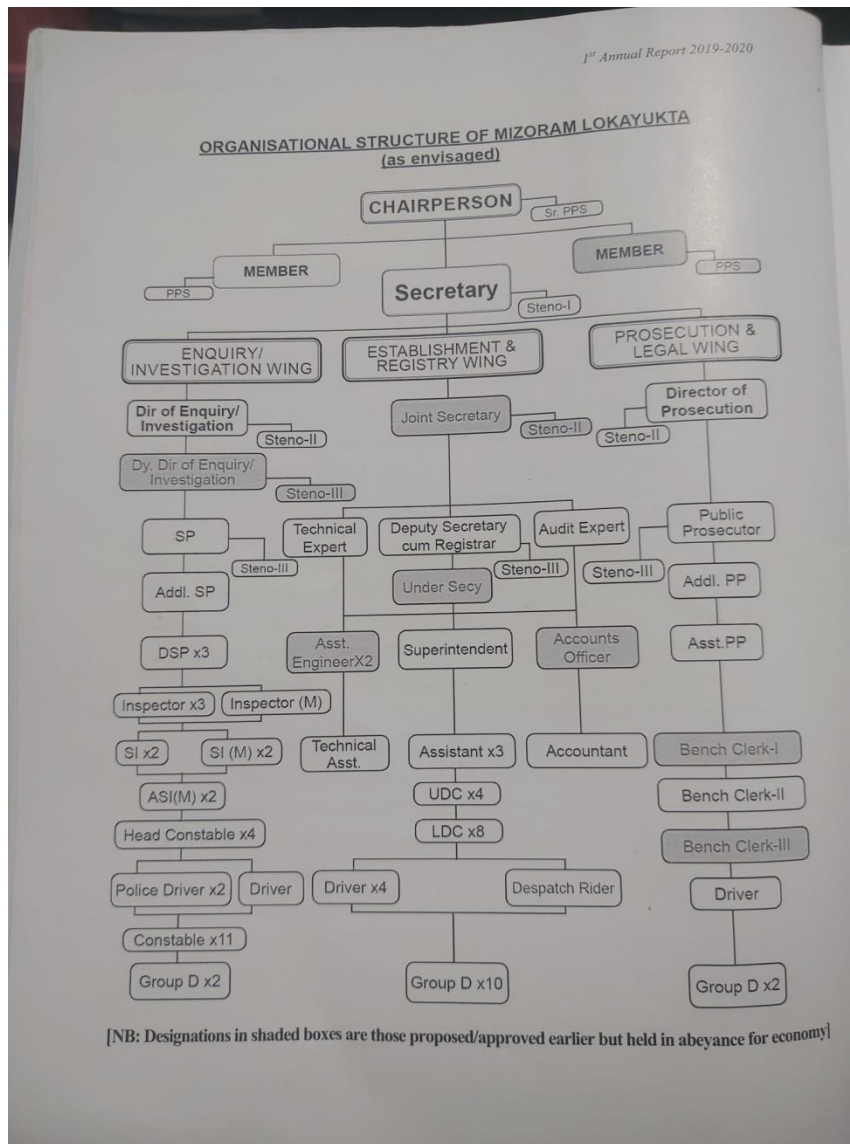
### **2.9.9 Expenses of Lokayukta**

The administrative expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, Members or secretary or other officers or staff of the Lokayukta, shall be charged upon the Consolidated Fund of the State and any fees or other moneys taken by the Lokayukta shall form part of that Fund.

### **2.9.10 Organizational structure of Mizoram Lokayukta:**

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<sup>89</sup> Mizoram Lokayukta Annual Report, 2019-20 p- 13



Source: Mizoram Lokayukta Annual Report 2019-20

The above data is the organizational structure of Mizoram Lokayukta.

The Government of Mizoram in the Law & Judicial Department initially sanctioned 35 (Thirty-five) posts including Chairperson and one Member. As the sanctioned posts are inadequate for a full-fledged and effective functioning of the Lokayukta, a proposal was sent to the Government for creation of 92 (ninety-two) additional posts to the Government through Vigilance Department on 4th February,

2020. This was done with a view to have a small, compact and effective manpower and for reasons of economic measures. Even then, the sanctioned 35 posts were not filled up. Out of it, only the posts of 27 is filled.

It was noted that even the Anti-Corruption Bureau which used to have a more limited role and which now has little independent role has a large manpower of 83 posts even without counting the prosecutors. Section 14 of the Act enjoins that all pending cases before the ACB or any other authority stands transferred to the Lokayukta, meaning thereby that in future fresh cases would also come directly to the Lokayukta thereby reducing further the workload of ACB and increasing the workload of Lokayukta.<sup>90</sup> It is noted that the number of sanctioned Posts and the incumbent officers and staff (nearly 50,000) of Mizoram are very large in comparison with the sizes of its area, population, economy and the scarce resources. Hence the posts are meant to be filled up not only by direct recruitments but mainly by deputation from existing manpower, involving more of redistribution of existing manpower rather than sudden increase in overall manpower. Even then, on an informal advice from the Government the total requirement of Officers and staff was further reduced to 89.<sup>91</sup>

### **2.9.11 Personnel:**

The tentative requirement of 35 (Thirty-five) posts already sanctioned and 92 (ninety-two) proposed additional posts make it to total post of 127. Out of these, only one regular appointment, which is of the Chairperson, has been made. The services of one officer of the State Government have been utilized as a part-time Secretary. On the Annual Report 2019-2020, Superintendent, one Assistant, two Stenographers/PAs have been taken on deputation. The appointments of one UDC on contractual basis, 4 LDCs,

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<sup>90</sup> The Mizoram Lokayukta Act, 2014 p- 25

<sup>91</sup> The Annual Report of Lokayukta, Mizoram 2019-20 p- 15

6 Drivers and 10 Group D as Provisional Employees have been accomplished. Thus, the combine manpower strength in the Mizoram Lokayukta now reaches 27.<sup>92</sup>

### 2.9.12 Recruitments

Recruitments for contractual and provisional employments of Group- D, Drivers, LDC and UDC were conducted during October to November 2019. Typing test for recruitment of LDC was conducted at ICT, Khatla, Aizawl and driving test for recruitment of Driver was conducted at MVI Office, Edentharr, Aizawl. Personal Interviews for each post were held separately on various dates by a Selection Committee which consists of Zahmingthanga Ralte, Secretary, Mizoram Lokayukta, Vanlalchhanhima, Superintendent, Mizoram Lokayukta and Prof. Lalnuntluanga, Controller of Examinations, MZU under the chairmanship of the Secretary, Mizoram Lokayukta.

Dates of Recruitments for Various posts during 2019-2020 are shown in the following table:

Table 2.9.12.1

Sl no	Name of post	Date of written exam	Date of interview	Date of typing test	Date of driving test
A	B	C	D	E	F
1	UDC	8.10.2019	22.11.2019		
2	LDC	5.10.2019	22.11.2019	20.11.2019	
3	Driver	30.11.2019	9.12.2019		25-29.11.2019

<sup>92</sup> Ibid p-15



4	Group-D	2.10.2019	21.11.2019		
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Source: Mizoram Lokayukta, Annual Report 2019-20

During the period under report, Mizoram Lokayukta conducted direct recruitment examinations as indicated in the following table: -

Table 2.9.12.2

Sl no	Particulars	No of vacant posts	No of candidates appeared in the written examination	No of candidates selected for interview	No of candidates recommended for appointment
A	B	C	E	F	G
1	UDC	1	224	5	1
2	LDC	3	350	9	3
3	DRIVER	4	67	11	4
4	GROUP-D	6	334	15	6
	TOTAL	14	995	30	14

Source: Mizoram Lokayukta, Annual Report 2019-20

The efforts to take police officers on deputation to conduct Preliminary Enquiries and Investigations have not succeeded as the ACRs of willing officers have not been sent to the Lokayukta, it is hoped that these repeated reminders would receive attention at appropriate time. The additional required posts also have to be sanctioned by the Government.

On the requisition by the Lokayukta, through the Government, the Mizoram Public Service Commission issued Advertisement No. 19 of 2019-2020 dated 17th March, 2020 for the recruitment of Assistant Public Prosecutor, which is under process.

To sum up, even though the Mizoram Lokayukta Act, 2014 was passed and its real functioning took place only in the year 2019, it is an important milestone worth remembering on the part of the government. But nevertheless, the organizational structure of the Mizoram Lokayukta is incomplete. It would not be wrong to say that it is a toothless anti-corruption institution. Unless, all the provisions of the Act are carried out, there is no scope for its proper functioning at the moment. For instance, the Lokayukta is to consist of a three member body, but the current structure includes only one whereas the required two members are not yet appointed. The Chairman is the only person in the entire institution to have a regular appointment. The current Lokayukta do not have a separate investigating agency on its own, or a prosecutor. Unless the mandatory posts are filled, it is just a hollow institution.

## Chapter – 3

### Lokayukta in Mizoram: Role and functions

The Mizoram Lokayukta is deemed to have started functioning from 11<sup>th</sup> March, 2019 and technically completed 21 days in 2018-19 and virtually 2019-2020 is the first year of its functioning. Without mandatory manpower and supporting staff, the first year of its existence was committed to building up the office, to lay the foundation of its establishment and to initiate preliminary work of its main functions. So, there could not be any big achievement in terms of prosecution and convictions. However, the Lokayukta made its presence felt amongst the people and their public servants in its fights against corruption.

Fresh cases were taken up and initiated in the first year were pursued in the succeeding years to bring them to logical conclusions. In this way, the Mizoram Lokayukta expects to compensate the Government and the people for the expenses incurred for its set up and functioning by saving substantial public fund by reducing the pervading corruptions in the State.

In a democracy governed by the value of rule of law, the enactment of an Act on its own highlights the determination of the state to tackle the challenges posed by publicmen and officials in creating an atmosphere of distrust or lack of faith in the orderliness of a system.

The legislation dealing with the institution of Lokayukta in Mizoram is the Mizoram Lokayukta Act, 2014 and the Mizoram Lok Ayukta (Amendment) Act, 2016.

In this chapter, functions and power of Lokayukta in Mizoram is being discussed. It consists of provisions with the Act itself which are mentioned in detail. The process of case inquiry, jurisdiction and others are mentioned.

#### 3.1 Jurisdiction

### 3.1.1 Jurisdiction in respect of Inquiry

Subject to other provisions of The Mizoram Lokayukta Act, the Lokayukta can inquire or cause an inquiry into any matter pertaining to or arising from, or connected with, any allegation of corruption made in a complaint or in a case initiated on its own motion in respect of the following which are:

1. Any person who is or had been Ministers and members of the State Legislature, all officers and employees of the State from amongst the public servants, all officers and employees in any body or Board or corporation or authority or company or society or trust or autonomous body established by an Act of Parliament or of the State Legislature or wholly or partly financed by the State Government or controlled by it when serving or who had been such officer or employee, any member who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust wholly or partly financed or aided by the State Government.<sup>93</sup>
- 2). The Lokayukta shall not inquire into any Member pertaining to or arising from, or connected with, any such allegation of corruption against any Member of the State Legislature in respect of anything said or a vote given by him in the State Legislature or any committee thereof covered under the provisions contained in clause (2) of article 194 of the Constitution.<sup>94</sup>
- 3). The Lokayukta may inquire into any act or conduct of any person other than those mentioned above, if such person is involved in the act of abetting, bribe giving or bribe taking or conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person provided that no prosecution under this Act shall be initiated against the person serving under the Central Government without obtaining approval from competent authority of Central Government.<sup>95</sup>

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<sup>93</sup> The Mizoram Lokayukta Act, 2014 p- 22

<sup>94</sup> Ibid p- 24

<sup>95</sup> Ibid p-24

4). No matter in respect of which a complaint has been made to the Lokayukta under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952.<sup>96</sup>

An explanation is given for the removal of doubts, it is hereby declared that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

Since the Mizoram Lokayukta Act, 2014 is framed in likeness with the Karnataka Lokayukta Act which is considered one of the strongest in India, Mizoram Lokayukta has a great potential in combating corruption if the lack of basic infrastructure and inadequate staff is resolved. Due to its wide jurisdiction for inquiry among the all the public servants, it is suppose to have the authority to look into all alleged cases of corruption within the state. Most Lokayuktas in India are in a moribund stage. Many do not have a proper infrastructure, adequate staff, proper complaint format or online accessibility thus hindering its full functioning. However, in Mizoram Lokayukta, despite its lack of many requirements, it has made its accessibility to complaints as uncomplicated as possible for complainants.

### **3.1.2 Pending Cases**

Any matter or proceeding relating to allegation of corruption under the Prevention of Corruption Act, 1988 pending before any agency or authority prior to commencement of this Act shall stand transferred to the Lokayukta excepting cases pending before the court.<sup>97</sup>

During the year 2019-20, a total of six cases were transferred from the Anti-Corruption Bureau to the Mizoram Lokayukta.<sup>98</sup>

Even though the cases are transferred and the Mizoram Lokayukta has the power to use any investigating agency, but its lack of staff is a challenge for its proper

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<sup>96</sup> Ibid p- 24

<sup>97</sup> The Mizoram Lokayukta Act, 2014 p- 25

<sup>98</sup> Mizoram Lokayukta, The First Annual Report, 2019-20 p-22

functionality. If all the pending cases are transferred, it can cause unnecessary delay and there are other various other complications regarding this. The question arises as to whether all the cases from different district be transferred as well and since a lot of time have usually passed since the cases were received, there is a chance of loss of information regarding the case history and such. Thus, in reality, the process of how it will function is not clear enough.

### **3.1.3 Transfer of pending case**

On an application for transfer made by the complainant or the public servant, the Chairperson, after giving an opportunity of being heard to the complainant or the public servant, as the case may be, may transfer any case pending before one bench for disposal to any other bench.<sup>99</sup>

## **3.2 Power and function**

### **3.2.1 Powers to Initiate, Supervise and Prosecute:**

The Lokayukta may, suo moto, or on receipt of complaint initiate appropriate actions against any public servant, who is alleged to be involved in any act of corruption.<sup>100</sup> It has the power to exercise superintendence and give direction to the investigating officers for smooth and proper investigation.<sup>101</sup> It has the power to prosecute the accused before the Special Court.<sup>102</sup>

This gives the Mizoram Lokayukta the power to instigate an investigation on any public servant without any request by the parties involved. A total number of fourteen complaints were received by the Mizoram Lokayukta in the year 2019-20. Out of the fourteen cases, a total number of eight cases were directly received by the Mizoram Lokayukta and six cases were transferred from the Anti-Corruption Bureau.

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<sup>99</sup> The Mizoram Lokayukta Act, 2014 p- 26

<sup>100</sup> Ibid p-33

<sup>101</sup> The Mizoram Lokayukta Act, 2014, Section 19 (5)

<sup>102</sup> Ibid Section p- 28

When fresh complaints are received in the Mizoram Lokayukta, they are first examined to decide on whether to drop the case ab initio if it clearly has no merit or call for clarification if the information received is indistinct, inadequate and such or whether to order preliminary Enquiry by its Enquiry Wing or by any outside agency. But the Enquiry Wing of the Mizoram Lokayukta is still not established therefore the Anti-Corruption Bureau is the outside agency.

After the complaint is examined by the Mizoram Lokayukta and upon acceptance, it has the power to direct any investigating agency to conduct the Preliminary Enquiry which is mentioned under section 19 (1) of the Mizoram Lokayukta Act, 2014.<sup>103</sup> The Anti-Corruption Bureau being the existing corruption investigating body fully functioning existing prior to the establishment of Mizoram Lokayukta, is entrusted with the task. The Mizoram Lokayukta considers all the cases that are referred to it. After considering the prima facie merit of each case that it received, the Mizoram Lokayukta passes a speaking order to get across its decisions.

Out of the fourteen cases that the Mizoram Lokayukta received, a total of eleven cases were referred to the Anti-Corruption bureau for preliminary enquiry. One case was referred to the Forest, Environment and Climate Change Department and the other two remaining cases were carefully examined internally for a final decision.<sup>104</sup>

As mentioned earlier, due to its absence of its own Enquiry wing, the Mizoram Lokayukta entrusted to conduct the Preliminaries Enquiries to the ACB, Government of Mizoram. The ACB submitted the preliminary enquiry reports on seven cases while it could not complete the remaining four preliminary reports even though section 19(2) of the Mizoram Lokayukta Act, 2014 stated the completion of preliminary enquiry to be in within a period of 45 days.<sup>105</sup>

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<sup>103</sup> Ibid Section p- 29

<sup>104</sup> Mizoram Lokayukta Annual Report 2019-20 p- 22

<sup>105</sup> Ibid p- 23

The Mizoram Lokayukta examined the preliminary report submitted on the seven cases and found that some reports were incomplete in some portion and some contain certain flaw, missing links or matters that need further clarification. Hence the Lokayukta had either ordered further inquiries or asked for necessary clarification on those preliminary enquiries and decided to proceed with the remaining cases.

With the completion of the preliminary enquiry, the Mizoram Lokayukta is required to offer the accused a chance of being heard for an explanation and to file written statements before regular investigation is carried out as per section 19(3) of the Mizoram Lokayukta Act, 2014.<sup>106</sup>

Therefore, hearings on two cases were conducted by the Mizoram Lokayukta on 18<sup>th</sup> February, 2020. The accused were heard accordingly but time was given to them as per their requests to file written statements. Some of them asked for extension of time due to impending Village council elections in the CADC area and demanding certain documents relating to the enquiry reports. Legal opinion was sought through Law & Judicial Department regarding the type of documents that could be furnished to the accused. But as Lockdown was imposed due to Covid-19 Pandemic in March, 2020, hence further hearings could not be conducted and decisions could not be taken as to whether to close the cases or to direct filing of regular case and to conduct further investigation.

After preliminary reports are examined and decision made on further investigation by the Mizoram Lokayukta, regular cases could be registered and investigation can be launched by the police only.

The Mizoram Lokayukta after investigations are conducted has the power to prosecute the accused before the Special Court. Not only that, it can recommend punishment of dismissal, removal or reduction in rank and also impose recovery of the loss caused to the public against the erring public servants after giving them full

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<sup>106</sup> The Mizoram Lokayukta Act, 2014. Section 19(3) p- 27



opportunities of being heard. The recommendation made by the Mizoram Lokayukta has to be executed by the appointing authority of the Government within a period of six months. In the event of non-execution on the part of the concerned department, the reason for non-execution is to be laid down before the Mizoram State Assembly.<sup>107</sup>

Even though the steps of prosecution are clearly mentioned in the Act itself, yet, in reality the Mizoram Lokayukta Special Court could not be established by the government. Also, the Special Public Prosecutor is not appointed either. On top of that, the Mizoram ACB did not complete investigation assigned to it by the Mizoram Lokayukta.

Due to its incomplete organizational structure, incomplete infrastructure and lack of required manpower, one can see that the Mizoram Lokayukta is incapable of functioning as it is meant to be. In an interview with the ACB, the officials claimed that the incompleteness of the structure and manpower of the Mizoram Lokayukta which prevents it from proper functioning only prolonged the timeline of the cases.<sup>108</sup>

Before the establishment of the Mizoram Lokayukta, all corruption cases in the state are handled by the Anti-Corruption Bureau which functions under the Vigilance Department of Mizoram. In the case proceedings, an FIR is directly submitted to the ACB and is received by the SP/OC. After receiving it, the FIR goes under the process of scrutiny by the OC on the grounds of whether it could be malicious information or not. After this, there can be two outcomes, firstly, the FIR gets rejected and secondly, it is accepted and sent to the Chief Vigilance Officer. If the complaint is approved by the CVO, with its permission, an enquiry is conducted by the Enquiry Officer who is appointed by the SP/OC. After a thorough enquiry is conducted, the enquiry officer come to the conclusion of whether the complaint submitted are found to be substantiate to the allegations or not. If the complaint is substantiated, a report is submitted by the Enquiry Officer to the SP/OC at the ACB which is further forwarded to the CVO to get

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<sup>107</sup> The Mizoram Lokayukta Act, 2014 , Section 25 (c) p- 33

<sup>108</sup> Interview with J Lalmuankima, MPS, ACB on 14<sup>th</sup> August, 2020

the approval for conducting an investigation. Then, the case gets registered and investigation starts. Once the investigation is over, it is followed by submission of charge sheet to special judge of the Special Court constituted under the Prevention of Corruption Act, 1988 and the case goes to trial.

But with the inception of the Lokayukta, this process is changed. The complaint directly goes to the Lokayukta which is followed by examining the circumstances of the complaint. Once accepted, the Lokayukta, since it does not have an investigating agency on its own, it calls upon the Anti-Corruption Bureau to start with preliminary enquiries. Due to this, the complaint goes to the CVO for permission of inquiry. If accepted the CVO refers the complaint to the Lokayukta instead of the ACB as mentioned earlier in the case process before which is then sent to the ACB. A total number of 45 days is given to conduct preliminary enquiries and since the file process is prolonged, it makes it difficult for the ACB to gather the necessary data.<sup>109</sup>

One can come to the conclusion that the difficulty faced in this regard is due to the non-establishment of Investigative Wing and Prosecutor Wing in the Mizoram Lokayukta.

Regarding the disposal of cases, the Lokayukta can close the case at various stages that is at the initial stage without formal enquiry or after examination of investigation report, if a case lacks merit or is barred by the law. So far, the Mizoram Lokayukta has disposed of eight cases.

Other than the public servant, the Lokayukta can also enquire into any act or conduct of any person, if the person is involved in the act of abetting, bribe giving or bribe taking or conspiracy relating to allegation of conspiracy.<sup>110</sup> The Lokayukta may authorize any investigating agency to search for and seize documents/articles which are considered useful or relevant to investigation, or are likely to be secreted elsewhere; and

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<sup>109</sup> Interview with J Lalmuankima, MPS, ACB on 14<sup>th</sup> August, 2020

<sup>110</sup> Mizoram Lokayukta Act, 2014. Section 13 (3) & 20 p- 24

it may also retain them till completion of enquiry/ investigation/trial and may issue appropriate direction to a public servant to protect such documents/records from destruction and alteration or to prevent transfer, alienation of any asset acquired through corrupt means. It may also require any public servant or any other person to furnish any information or produce any document in their possession which is relevant and required for investigation.<sup>111</sup>

The Lokayukta may utilize the services of any officer or organization or investigating agency of the State Government or the Central Government for enquiry and investigation.<sup>112</sup>

During the preliminary enquiry into allegations of corruption, the Lokayukta may also recommend transfer or suspension of public servants if they are likely to hamper investigation.<sup>113</sup>

The Mizoram Lokayukta has the power to compound the offence of corruption either by seizing and confiscating the assets and properties which are admittedly acquired by means of corrupt practices by the erring public servant or by compelling the defaulting public servant to recover the entire amount of loss to the public treasury.<sup>114</sup> It may also issue appropriate direction to the Government or the concerned authority for providing security to the witness to ensure that no physical harm or harassment is caused.<sup>115</sup>

It may also provide travelling allowance and daily allowance to those who are summoned to appear in person before it or the investigating agency for the purpose of investigation.<sup>116</sup>

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<sup>111</sup> Ibid Section p- 27

<sup>112</sup> Ibid -28

<sup>113</sup> Ibid p-40

<sup>114</sup> Ibid p- 34

<sup>115</sup> Ibid p-34

<sup>116</sup> Ibid p- 34

The Lokayukta may provide protection to public servants who report irregularities and corruptions in their organization under the Whistleblower Protection Act, 2011.<sup>117</sup>

The Lokayukta is not required to obtain sanction or approval of any authority for conducting investigation under section 197 of the Code of Criminal Procedure, 1973 or under section 19 of the Prevention of Corruption Act, 1988.<sup>118</sup>

### **3.2.2 Power of Civil Court and Contempt of Court.**

The Lokayukta has all the powers of Civil Court under CPC, 1908 in such matter as summoning and enforcing attendance of any person and examining him on oath, requiring the discovery and production of any document or article, receiving evidence on affidavits, requisitioning any public record or copy thereof from any court or office.<sup>119</sup> Any proceeding before the Lokayukta is deemed to be a judicial proceeding under section 193 of IPC. It may also provisionally attach property, proceeds of corruption under certain circumstances subject to confirmation by the Special Court.<sup>120</sup>

The Lokayukta and any officer, employee, agency etc are protected from any suit, prosecution or other legal proceedings in respect of anything which is done in good faith or intended to be done under the Mizoram Lokayukta Act, 2014 or the Rules or Regulations made there under.<sup>121</sup>

The Civil Courts do not have any jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine. The Lokayukta has the

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<sup>117</sup> Ibid p- 56

<sup>118</sup> Ibid p- 31

<sup>119</sup> Ibid p- 35

<sup>120</sup> Ibid p- 35

<sup>121</sup> The Mizoram Lokayukta Act, 2014 p-55

power to punish for contempt and shall have and exercise the same jurisdiction powers and authority in respect of contempt of itself as a High Court has.<sup>122</sup>

### **3.3 Administrative functions**

The administration of Mizoram Lokayukta is supposed to comprise and function under the following wings as stated in the Mizoram Lokayukta Act, 2014.

- i) Establishment & Registry Wing
- ii) Enquiry/Investigation Wing
- iii) Prosecution and Legal Wing

#### **3.3.1 Establishment & Registry wing**

The Establishment & Registry Wing is the heart of the Lokayukta Office. It manages different Wings and Units and provides services including pay and allowances, stationery and such to all other wings and units. It also prepares the Budget, control expenditures, maintain accounts and perform all other housekeeping jobs. It registers all complaint cases which come before the Lokayukta, monitor the enquiry/investigation and prosecution. It also provide technical and accounts expertise services through Technical Examiner Unit, Audit Expert Unit to be attached to it.

Technical Examiners Unit, Audit Experts Unit as and when they are formed will be attached to the Establishment & Registry Wing so that the experts can be deployed to different Wings for investigation and prosecution whenever needed.

The Establishment Wing currently functions under the supervision of two officers- a part-time Secretary and a Superintendent who also acts as DDO.<sup>123</sup> A weekly scheduled meeting is being held at the meeting room of Chairperson for the smooth functioning of the Mizoram Lokayukta.

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<sup>122</sup> Ibid p-56

<sup>123</sup> Government Notification No. G. 17011/7/2012-F-APF Dt. 14.8.2019

Interim Establishment Committee functions with the following members:

1. Chairperson, Mizoram Lokayukta – Lalsawta, Chairman
2. Secretary, Mizoram Lokayukta – Zahmingthanga, Member
3. Superintendent, Mizoram Lokayukta – Vanlalchhanhima, Member Secretary

This will be reconstituted as and when other Officers join the organization.

### **3.3.2 Enquiry/ Investigative Wing**

Section 11 of the Mizoram Lokayukta Act, 2014 provides for the constitution of Directorate(s) of Enquiry/Investigation and Prosecution and connected matters.<sup>124</sup>

Section 14 of the Mizoram Lokayukta Act, 2014 transfers all corruption cases pending before any Agency such as Anti-Corruption Bureau to the Lokayukta, hence the ACB no longer has any independent function to perform in investigation of corruption cases under the Prevention of Corruption Act, 1988.<sup>125</sup>

Hence for reasons of austerity measures and the economy, it was expected that the Government could easily downsize, disband or merge the ACB with the Mizoram Lokayukta by transferring the sanctioned posts, manpower and assets to it; so that the Lokayukta could be made functional with little or no extra sanction of post and expenditures. As of now, a total number of 25 personnel are borrowed for investigation related purposes.<sup>126</sup> But regarding the ACB, it was claimed that

Section 11(1) empowers the Lokayukta to constitute Directorate of Enquiry/Investigation but it has to wait for the decision of the Government regarding

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<sup>124</sup> The Mizoram Lokayukta Act, 2014 p- 20

<sup>125</sup> Ibid p- 25

<sup>126</sup> Interview with Lalchhanhima, Superintendent, Mizoram Lokayukta on 15<sup>th</sup> March 2021

down-sizing, abolition or merger of ACB or creation of posts, deputations and provision of facilities.<sup>127</sup>

Even though The Lokayukta also sent proposals for creation of posts and deputation of Police Officers to man the proposed Directorate of Enquiry/Investigation under the jurisdiction of the Lokayukta and also requested a panel of names with ACR for taking the services of officers on deputations, the matter is still under consideration and the decision of the government in this regard is awaited.

Till now the Lokayukta has no Police Officer of its own to conduct Preliminary Enquiries or regular Investigations as envisaged in the law and has to depend on outside agencies/officers that are not under its administrative control to carry out Preliminary Enquiries and Regular Investigations.

This situation is a real drawback for the Mizoram Lokayukta. One can come to the conclusion that the Lokayukta in Mizoram is established in name only, its requirements are not provided by the government for it to exercise its real power as it was envisaged in the Mizoram Lokayukta Act, 2014.

### **3.3.3 Prosecution & Legal Wing**

The Mizoram Lokayukta Act, 2014 does not explicitly provide for separate Directorates for Enquiry and Prosecution but clubs them together under section 11, thus leaving scope for interpretations.<sup>128</sup> It was therefore expected that either the Act could be amended to explicitly provide for (1) Directorate of Enquiry and (2) Directorate of Prosecution or even without amendment, the posts of Director of Enquiry and the Director of Prosecution could be created and filled up.

Hence, proposal was sent to the Government to create the posts of Director of Prosecution and Additional Public Prosecutor. In the meanwhile, proposal for

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<sup>127</sup> Ibid p- 20

<sup>128</sup> The Mizoram Lokayukta Act, 2014, p-20

appointment of Public Prosecutor against sanctioned posts was also turned down by Finance Department. The MPSC was on the job for appointment of Assistant Public Prosecutor and has appointed CR Zothantluangi for the post of Assistant Public Prosecutor. For the rest, the ball is in the court of the Government.

Ultimately, it is expected that in consonance with the provisions of Cr.PC and the Hon'ble Courts' Rulings, separate Prosecution Wing will function under the umbrella of the Lokayukta to render legal assistance to Investigators and to conduct or supervise prosecution of cases in the Special Court.

### **3.4 Special Court**

Section 34 (1) of the Mizoram Lokayukta Act, 2014 provides that the State Government shall constitute such a number of Special Courts as recommended by the Lokayukta, to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 or under this Act.<sup>129</sup> It also states that the Special Court constituted shall ensure completion of each trial by the period of twelve months from the date of filing the case. If the trial could not be completed during twelve months, the Special Court shall record the reasons and shall make an effort to complete the trial within a period of six months.

Accordingly, the Lokayukta requested the Government in the Vigilance Department to constitute a Special Court, in consultation with the High Court. The Vigilance Department in turn wrote to the Law & Judicial Department on 3.11.2019 to take necessary action for constitution of a Special Court or re-designation of the present Special Court as Special Lokayukta Court. In the interest of public service and with the approval of the Gauhati High Court, the Governor of Mizoram ordered the present Special Court under the Prevention of Corruption Act, 1988 to take dual charge of the

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<sup>129</sup> The Mizoram Lokayukta Act, 2014, p-42



Special Court under the Mizoram Lokayukta Act, 2014.<sup>130</sup> The reason for this being fewer cases filed in the state of Mizoram.<sup>131</sup>

A separate Special Court could not be constituted during the period of 2019-2020 and is expected to be done so in the near future. The need for Special Lokayukta Court will be prominent when the police complete criminal investigations and submit investigation reports for charge-sheeting/ prosecuting the accused.

### **3.5 Offences and Penalties**

#### **3.5.1 Offence and Compensation Thereof:**

- 1). Whenever any person makes any false and frivolous or vexatious complaint and causes arrest of a public servant, if it appears to the Judge of a Special Court by whom the case is heard that there is no sufficient ground of proceeding or for causing such arrest the Special Court may award such compensation not exceeding one thousand rupees to be paid by the person so causing the arrest to the public servant so arrested for his loss of time and expenses in the matter, as the Judge thinks fit.
- 2). In such cases, if more public servants than one are arrested, the Judge may, in like manner, award to each one of them such compensation not exceeding on thousand rupees, as such the Judge thinks fit.
- 3). No Court except a Special Court shall take cognizance of an offence under subsection (1).

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<sup>130</sup> Government Notification No.A.45011/1/2015-LJE dated 9<sup>th</sup> June, 2020, Government of Mizoram, Law and Judicial Department

<sup>131</sup> Interview with Helen Dawngliani, MJS, Law & Judicial on 12<sup>th</sup> February, 2021

4). Any compensation awarded under this section maybe recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding 3 months as the judge directs, unless such sum is sooner paid.<sup>132</sup>

### **3.5.2 Offences by Society, Association or Trust**

1). Where any offence under sub-section (1) of section 45 has been committed by any society or association of persons or trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the society or association of persons or trust, for the conduct of the business or affairs or activities of the society or association of persons or trust as well as such society or association of persons or trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offences was committed without knowledge or that he had exercised all due diligence to prevent the commission of such offence.

2). Notwithstanding anything contained in sub-section (1) , where an offence under this Act has been committed by a society or association of persons or trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of such society or association of persons or trust, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.<sup>133</sup>

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<sup>132</sup> The Mizoram Lokayukta Act, 2014, p- 53

<sup>133</sup> The Mizoram Lokayukta Act, 2014, p-54

### **3.6 Miscellaneous Functions**

#### **3.6.1 Report to the Governor**

It is the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the recommendation of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Mizoram Legislative Assembly.

#### **3.6.2 Whistle Blower Protection**

For the protection of complainant under The Mizoram Lokayukta Act, 2014, section 20 of the Anti-Corruption, Grievance Redressal and Whistleblower Protection Act, 2011 shall apply and the word 'Lokpal', whenever it occurs in that section, shall be construed as Lokayukta.

#### **3.6.3 Protection of Public Servant against things done in good faith**

No suit, prosecution or other legal proceedings under the Mizoram Lokayukta Act, 2014 shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

To sum up, various functions of the Mizoram Lokayukta have been discussed in this chapter. The provision of Mizoram Lokayukta Act have been detailed and shown how these contributed towards ensuring good governance in the state. Besides, the compositions of various wings and administrative structure have been discussed. Also, the role of various CSO and NGOs in the state are discussed, as these were responsible for better functioning of the Mizoram Lokayukta. Based on

the questionnaire responses and interview with some stakeholders, this chapter has been updated.

## CHAPTER – 4

### LOKAYUKTA IN MIZORAM: MAIN IMPLICATIONS

The Mizoram Lokayukta after observation of its activities and functions has different implications. It is too early to judge the success or failure of Lokayukta in its functions since it assumed office only in the last phase of the financial year 2018-2019. But with observation, there are more limitations in its functions which are caused by numerous factors. On the other side, even though it was newly incorporated, it has been performing its best despite the major challenges it faced such as short staff, insufficient budget and such. To understand how it contributes to good governance, an understanding of the concept of good governance needs to come to light. In this chapter, meaning and concept of good governance is studied to give a better idea of whether the components of good governance are realized. It also includes an analysis of the opinions of several interviewees who throws light on the present body of Lokayukta in Mizoram.

#### **..4.1 Good Governance**

Good governance is a concept used by not only a few but by also politicians and the public in general. There are different perspectives on the concept of good governance. Since it is an important implication of the Mizoram Lokayukta, good governance has to be understood in the context of Mizoram. Thus, the concept has been conceptualised to the state level initiatives of the Lokayukta.

By the term governance, it refers to a state's ability to serve its citizens. To simply put, governance refers the process of decision-making and the process by which decisions are implemented (or not implemented). It involves the rules, processes, and behaviours whereby interests are articulated, resources are managed and power is exercised in the society. Despite its open and broad character, governance relates to the very basic aspects of the functioning of society and its political and social systems. It is described as a basic measure of a society's stability and performance. As this society develops a more sophisticated political system, governance evolves into the notion of

good governance. Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.<sup>134</sup>

In the 1992 report entitled *Governance and Development*, the World Bank set out its definition of Good Governance. It defined Good Governance as “the manner in which power is exercised in the management of a country’s economic and social resources for development”.<sup>135</sup>

Government is one of the actors in governance. All actors other than government and the military are grouped together as part of the civil society. Recently, the term ‘governance’ and ‘good governance’ are being increasingly used in development literature. Bad governance is being increasingly regarded as one of the root causes of all evil within our societies.

The concepts of the rule of law, democracy, and good governance are the cornerstones of the modern state. These cornerstones make up the structure of the state and its institutions, the position of the governmental institutions and the citizens, and the norms for the relationship between the government and the citizens. The rule of law starts with the idea of the legal base of government actions and the need for protection of citizens’ fundamental rights. Democracy gives the rule of law depth and especially concerns transparency and participation of the citizens. Good governance is not only about the further development of the rule of law and democracy but it also includes the elements of accountability and efficiency of the government. Good governance is significant because it is both a norm for the government and a citizen’s right. This justifies good governance as a genuine third cornerstone. The development of these notions started at different moments in history and has often been linked to a state’s level of development. The first principle was the rule of law and the second was democracy. Both were to become major elements of the liberal state. Intertwined with

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<sup>134</sup> European Commission, *Communication on Governance and Development*, October 2003, COM (2003) 615; Boustra 2010.

<sup>135</sup> *Governance, the World Bank’s Experience*, published in 1992

them, aspects of good governance developed into the third vital dimension of the state. Rather than developing separately, good governance thus developed in a process of mutual influence. This process is still evolving.

#### **4.2 Good governance and its components**

Good governance is a process or function, or act of authority based on morale-conditioned management of public affair. It is a way in which policy decisions are formulated and implemented and extent to which governmental agencies are not allowed to encroach into the rights of citizens. Here, civil and political and human rights are governed by rule of law. It provides effective and non-corrupted public services to the peoples and utilizes public resources in an accountable and transparent way and with the aim of promoting the general social welfare. There is close nexus between good governance and welfare State concept. The effective existence and efficient execution of this democratic concept lies at good governance. The test of good governance has its root in the aims and objectives, schemes and measures of government, its policy and programs, manner of execution of their activities, results achieved and more over qualitative functioning of its various agencies, attitudes, and behaviour, the honesty of such agencies towards the public duty. Transparency, accountability, efficiency, effectiveness, vision and forwardness these are the inherent part of good governance and the success of democracy stands at these principles based on good governance and it can only boost the overall development of the nation.

India, having big heritage and history for its well-known administration is not a new face for such kind of administration. Past history of Indians witness such kind of governance by its ancient administrators. Moreover, time and again various Indian philosophers projected existence of such kind of morale situation in India. Kautilya in his Arthashastra propounded the traits of good governance by the ruler as follows “in the happiness of his subjects lies his happiness, in their welfare his welfare; whatever he please for himself he shall not considered as good, but whatever pleases his subjects, he shall considered as good.”

This ancient concern and concept exhibit the immemorial existence of good governance in India. Even after Indian independence this philosophy of good governance has been enshrined under the Indian Constitution. Preamble to the Constitution of India reveals that "to secure to its entire citizen justice social economic and political". The intension and vision of framers of our Constitution on good governance could be traced out by these words. Various international human rights documents also expressed their protective provisions over good governance.

International community concern over this aspect could be found in draft policy paper of Development Assistance Committee (DAC). It is stated that ".....it is increasingly apparent that there is vital connection between open, democratic, and accountable system of governance and respect for human rights and ability to achieve sustained economic and social development.

According to the United Nations ODC, good governance has eight major characteristics. Those are participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follow the rule of law.<sup>136</sup> When political systems do not adhere to these eight principles, their institutions tend to be incapable of delivering public services to fulfill people's needs. If political systems follow these, it assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.

### **Participatory**

It refers to the opportunity for active involvement by all sectors of the society in the decision making process. Participation by all sections in society is a key cornerstone of good governance. Participation could be either direct or through legitimate

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<sup>136</sup> Module 2 : Corruption and Good Governance, The Doha Declaration: Promoting a culture of Lawfulness, UNODC, published in September 2019



intermediate institutions or representatives. It is important to point out that representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. Participation needs to be informed and organized. This means freedom of association and expression on the one hand and an organized civil society on the other hand.<sup>137</sup>

### **Rule of law**

Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.<sup>138</sup>

### **Transparency**

Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.<sup>139</sup>

### **Responsiveness**

Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe so that all the interests of the citizens are protected.<sup>140</sup> It also refers to identifying and addressing built in discriminatory practices affecting ethnic or minority groups, including gender responsiveness and the participation of all genders in governance. Mechanisms to improve responsiveness may include selective decentralization so that local governments supposedly are more in tune

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<sup>137</sup> What is good governance? United Nations Economic and Social Commission for Asia and the Pacific

<sup>138</sup> Ibid p-2

<sup>139</sup> Ibid p-2

<sup>140</sup> Ibid p-2

with the needs of their constituents and can more promptly serve the people, who in turn could become more involved in decision making.

### **Government effectiveness and efficiency**

It exists where processes and institutions make the best use of resources to produce results that meet the needs of society. Effectiveness and efficiency require the enhancement of quality and standardization of public service delivery, the professionalization of the bureaucracy, focusing government efforts on vital functions, and the elimination of redundancies or overlaps in functions and operations. For public service delivery, agencies must promptly and adequately cater to the needs of citizens, simplifying government procedures and reducing red tape, using appropriate technology when feasible, as well as coordinating processes among various government agencies to eliminate redundant information requirements. Effectiveness and efficiency also demand that individual performance goals are aligned with the programmes and objectives of the agency. Adequate remuneration and non-monetary compensation may likewise be necessary to sustain competence and boost morale.

### **Consensus oriented**

It ensures that the existing systems serve the best interests of society. There are several actors and as many view points in a given society which all needs to be taken into account. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved.<sup>141</sup> It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community. Public hearings, referendums, forums of debate, citizens' legal right to petition leaders about policy and

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<sup>141</sup> *Ibid* p-3

consultation mechanisms are examples of means to work achieving consensus or at least compromise.

### **Equity and inclusiveness**

A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well being.<sup>142</sup> Effectiveness and efficiency Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

### **Accountability**

It is based on the principle that every person or group is responsible for their actions, especially when their actions affect the public interest. Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Who is accountable to whom varies depending on whether decisions or actions taken are internal or external to an organization or institution. In general an organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.

### **4.3 Implications of Mizoram Lokayukta in executing good governance**

Anti-corruption institutions have always had the attention of the people of Mizoram. Corruption is seen as a parasite that eats away the privileges of development of the people. In the current scenario, the establishment of Lokayukta in the state has

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<sup>142</sup> Ibid p-3

taken the enthusiasm of the people towards fighting corruption. As seen in the earlier chapters, there was a lot of movement in pushing the government into establishing this institution which clearly shows that the people have wanted an institution strong enough that would help in fighting corruption and bring justice in the society.

As soon as it was established, Mizoram Lokayukta has been functioning at their level best and has taken in twenty-five complaints among which 14 have been given permission for investigation. A total number of eight cases were closed since it has officially started functioning and the rest are ongoing.

Sl. No	Case No.	Date of Hearing	Remarks
1	MLC-10/2020	20.01.2021	Completed
2	MLC-11/2020	21.01.2021	Completed
3	MLC-5/2019	22.01.2021	Completed
4	MLC-17/2020	28.01.2021	Completed
5	MLC-18/2020	29.01.2021	Completed
6	MLC-2/2019	29.01.2021	Completed
7	MLC-19/2020	09.02.2021	Completed
8	MLC-3/2019	11.02.2021	Completed

Source: Mizoram Lokayukta Website, [lokeyukta.mizoram.gov.in](http://lokeyukta.mizoram.gov.in)

The eight components of good governance, as set by the UN, are used as an indicator to measure the implication of Mizoram Lokayukta towards good governance in the state. In terms of participation, the creation of Lokayukta alone stimulates participation of various civil societies who represents the voice of the people. During the Drafting of the bill for the Mizoram Lokayukta, various NGO's were invited to take part in the process in giving their opinions and deciding what was best for the people. After the Bill was submitted, it was published in the Law & Judicial Department website for a period of one month and was open to public opinion for scrutiny and suggestions.

The Lokayukta functionaries were interviewed to know the actual procedure and working of Lokayukta. But there was not much chance of surveying the functionaries and therefore, there were informal discussions with them. Unlike many of the other states Lokayukta, the Mizoram Lokayukta does not charge any fee for complaints. For RTI information, a sum of Rs 10 is required. Other than that, there are no other charged fees. Also, it is one of the few Lokayuktas in India which have an online complaint facility which makes it easier for the people to access it. On this part, it is indeed a job well done and also to prove its easy accessibility for the people.

Through the informal discussions and through observation of the working of the staff, it could be concluded that the functionaries in the Lokayukta office were efficient, hardworking and helpful to the visitors of the office of Lokayukta. Information was freely provided about its structure and the disposed cases as well.

Looking into the Mizoram Lokayukta Act, 2014 itself, it does raise questions as to whether rule of law is applied here regarding the appointments. Out of three members in the Lokayukta, only one is appointed. The Lokayukta should comprise of at least one Judicial member. This system has not been fulfilled in the Mizoram Lokayukta even though it is listed in the Act itself. The necessary wings to carry out its functioning such as the Directorate of Inquiry/ Investigative wing and Prosecution wing is still under process. If the Mizoram Lokayukta does not have the mandatory officials to man the posts to carry out its functioning, the question arises as to how deep the effectiveness of the institution will be for the people. It still does not have an independent court of its own. On account of transparency, the Mizoram Lokayukta is currently working at its full capability to promote transparency in the institution. The process of files, the website, and the cases are all updated as it should be.

The responsiveness of the Mizoram Lokayukta is worth mentioning. Since its commencement till today, a total of eight cases are already closed despite its shortage of manpower. Even though some of the cases did not go through the timeframe due to failure of submission by the ACB, other than that, it has done its part in implementing its

duty. It has proven to be quite effective as of now, but since it is not fully armored as it is supposed to, its real effectiveness and efficiency is too early to judge. The components of good governance are somewhat fulfilled and somewhat incomplete. It would be right to conclude that all the components of good governance are partially fulfilled; it has done a great job so far. The limitations in its organizational structure are hindering its effectiveness. With this exception, it is observed that the various components of good governance are realized.

#### 4.4 Limitations of Mizoram Lokayukta

To take into account the history of fighting against corruption in the state, the many failures of implementing the law to punish the corruptors have led to a great skepticism among the people of Mizoram. This can be blamed on a number of factors such as its recent establishment, ongoing pandemic which resulted in downfall of economy in the state as well as the whole country which is a result in less budget allocation. It can be seen that the Mizoram Lokayukta is not functioning as it should be.

Table 4.4.1 Role of Mizoram Lokayukta

Respondents who are of the view that Mizoram Lokayukta is functioning as it should be	10%
Respondents who are not of the view that Mizoram Lokayukta is functioning as it should be	60%
Respondents who are not sure	30%

Source: Questionnaire responses

From the analysis of the answers from the questionnaire respondents, one can see that majority of the respondents do not find the Mizoram Lokayukta able to function properly. The majority of the respondents believe that this is due to less allocation of budgets and inadequate staff in the Mizoram Lokayukta. Some do believe that the cases

closed by Lokayukta are done so with leniency and there is more to it than what meets the eye behind the investigation. They believe that they did not go the extra length to bring justice as some of the cases were very suspicious. But the cases are just closed. This could be due to no proper investigation or coercion.

The Mizoram Lokayukta requires its own investigating agency that is under its administrative control. Even though any outside agencies can be directed to carry out its enquiries and investigations, having a separate investigating agency on its own would curb possible coercion and political influence.

Currently, the Mizoram Lokayukta has a total of 35 sanctioned posts out of which only 27 are posts filled. The post of the Chairperson is the only regular appointment while the rest of the posts are part-time, deputation, contract and provisional employees. If we refer to The Mizoram Lokayukta Act, 2014, in Chapter II, Section 3 states that the Lokayukta shall consists of not more than three members out of whom one shall be a Judicial Member. The only post that is filled in this regard is that of the post of the Chairperson while the rest are left vacant.

Regarding the investigation wing, the Mizoram Lokayukta till now do not have any police officers to handle the preliminary enquiries or regular investigations as envisaged in the law but has to depend on outside agencies who is not under their administrative control. Even though the Lokayukta has sent proposal for creation of posts and deputation of police officers to take charge of this wing, the response of the government is still awaited. In this wing, the post of the Director, Additional SP and Deputy SP are sanctioned posts, it is still not filled.

In the Prosecution and legal wing, CR Zothantluangi is taking charge as the Additional Public Prosecutor. The post for Director of Enquiry and Public Prosecutor, which is a sanctioned post currently lies vacant, the post of Director of Prosecution and Legal Wing too is a requirement.

To have a full fledged and efficient functioning, proposal was sent to the government for the creation of ninety-two additional posts. With the sanctioned post of 35 and proposal of posts sent to the government, the total is 127. But at the moment, the current manpower is only 27. While the Anti-Corruption Bureau has filled posts of more than 80, the Mizoram Lokayukta is immensely understaffed. Subsequently, this hinders the efficient functioning of the Mizoram Lokayukta. In addition, they do not have the proper infrastructure.

Initially, the establishment of Mizoram Lokayukta was highly anticipated by the public. However, due to its lack of essential machinery to carry out its proper functions, the Mizoram Lokayukta has been described as a toothless tiger, fierce on the outer surface but frail on the inside.

Table 4.4.2 Role of Government to strengthen Mizoram Lokayukta

Respondents who believes that the government is taking the maximum effort to make the Mizoram Lokayukta a strong ombudsman	5%
Respondents who do not believe that the government is taking the maximum effort to make the Mizoram Lokayukta a strong ombudsman	60%
Respondents who are not sure	35%

Source: Questionnaire responses

Majority of the respondents are of the view that the government is not making enough effort to make the Mizoram Lokayukta autonomous and a strong institution. They also hold on to the view that the government is making slow progress intentionally, fearing that the Mizoram Lokayukta would become a body that is strong and powerful enough to investigate them. Therefore, priority is not given by the government.



The question of the Mizoram Lokayukta not being prioritized by the government is a topic that can be debated on. A lot can be questioned regarding its late inception. Even after The Lokapal and Lokayuktas Act, 2013 was passed; the real establishment of the institution took place only after five years. Before the Mizoram Lokayukta Act, 2014 was passed, the Drafting Committee of the bill had different opinions regarding on how the Mizoram Lokayukta should be framed. They wanted it to be an autonomous body.<sup>143</sup> But after its establishment it was transferred and function under the Vigilance Department which caused a major revulsion in people. Even though the Government claimed that the Vigilance Dept is just a nodal department and would not undermine the functioning of the Mizoram Lokayukta, there was still dissatisfaction as the initial plan was for it to be an autonomous body. In a talk show hosted by Zonet, Vanlalruata and Saisanga of PRISM both pointed out that the anti-corruption bodies in India have failed earlier under the Vigilance Department. Placing the Mizoram Lokayukta under a failed system was regarded as a major disrespect to the public and regarded as an attempt of the government to let the Mizoram Lokayukta fail. Moreover, if it was not an autonomous body, there is a possibility of coercion and bribery at some point.<sup>144</sup>

The administrative expenses of the Lokayukta including the salaries of all the staff is charged upon the Consolidated Fund of the State. Regarding the question whether the government is giving priority or not, we can see it from their budget allocations. In the financial year of 2018-2019, the budget estimate and revised estimate was 159.34 in lakhs and the actual being Rs 40,29,354. No salaries were paid as there were no appointment of officers and staff. After its full functioning in 2019, for the budget of 2019-20, the budget proposal was Rs 671.06 (lakhs) but the revised estimate was Rs 371.06 (lakhs). In the budget, the various heads such as rewards, medical treatment, secret service expenditure, building budget heads were not given. But here the actual only turned out to be Rs 157,59,972 which is lesser than the revised estimate. In the financial year of 2020-21, the proposed budget was Rs 968.38 (in lakhs) but the

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<sup>143</sup> Interview with Vanlalruata, PRISM President on 17<sup>th</sup> April, 2021

<sup>144</sup> Eirute hremtu tur Lokayukta Talk Show, hosted by Zoram Kalsiam, dated 20.02.2020

budget estimate was only Rs 296.84. There is a drastic cut in the budgets compared to the proposed. Therefore, the shortfall came up to Rs 671,54,000.

The various proposed allocation such as rewards, office expenses, publication, other administrative expenses, supplies and materials, petrol, oil and lubricant, advertising and publicity, minor works, professional services, secret service expenditure, major works under 4062 CO on building were all either cut or given a meager sum. In the financial year 2021-2022, the budget estimate is only Rs 194.38 (lakhs). Ever since its inception, the proposed budget had been decreasing ever year. As a newly established institution, it clearly requires more budget allocation for its proper functioning. There is no hope of it becoming a strong ombudsman without having the necessary budget provisions to carry out its function. However, with the current pandemic and fall in economy, austerity measures are taken by the Finance Department. As various budgets proposed by different government departments are reduced altogether, the budget will hopefully increase once the ongoing financial problems are gone.

Table 4.4.3 Lokayukta in contributing to good governance

Respondents who believe that Lokayukta is contributing to good governance	20%
Respondents who do not believe that Lokayukta is contributing to good governance	25%
Respondents who are not sure	60%

Source: Questionnaire responses

Regarding this question, the respondents are of the view that due to its recent establishment, it is still early to determine whether Mizoram Lokayukta is contributing towards good governance. As a result, many of them are unsure.

As of the moment, the institution exists in name only. In order to fully carry out its functions as an anti-corruption body and contribute towards good governance, the lack of its proper infrastructure and manpower will remain a hindrance.

Table 4.4.4 Relationship of Lokayukta and ACB

Respondents who support amalgamating Lokayukta and ACB	55%
Respondents who do not support amalgamating Lokayukta and ACB	35%
Not sure	10%

Source: Questionnaire responses

Majority of the respondents believe that if Lokayukta is amalgamated with Anti-Corruption Bureau, then it would become full-fledged institution and would be able to carry out its functions even better. Also, it is not necessary to have a similar body since the vision of both institutions is the same. Some are of the view that both should function differently.

Regarding the amalgamation of ACB to Lokayukta, there are underlying tensions. There can be both advantages as well as disadvantages. In the section 14 of the Mizoram Lokayukta Act, 2014, it transfers all pending corruption cases before any agency to Lokayukta. Hence, the ACB no longer has any independent function to perform in investigation of corruption cases under the Prevention of Corruption Act, 1988. But the government has not made any initiatives towards amalgamating ACB and Lokayukta. The separation of power between the two remains unclear. It can be said that these two agencies are existing in parallel.

On the question of amalgamation, the advantage is that the ACB is already a full-fledged agency with over 80 plus staff. If that goes into Lokayukta, expenses would be saved and the true purpose and function of both the agencies could be carried out effectively. In its disadvantages, there is a possibility of clash of power between the two.

Since the Chairperson of the Lokayukta is not a retired judge, like in most cases of other states, some people of ACB have a certain unwillingness to work under Lokayukta because as of the moment, there is only one Chairman and the two members are not appointed yet. Therefore to be dictated by one authority who has power over them could be intimidating. The ACB does not support amalgamation of the two institutions. The argument presented regarding this was it is wrong for a state institution to be an autonomous body. Furthermore, it was claimed that to make the Lokayukta a really strong institution could become problematic since it could become bias. But this statement seems to be based on the current situation of the members of the Lokayukta which consists of only the Chairperson. It is in this regard, to reduce biasness; emphasis must be given by the government to appoint the other members of the Lokayukta so as to avoid such situations from taking place.

If ACB amalgamates into Lokayukta, and be entirely under its administrative control, there would be better investigations. Because it would be an autonomous body and no intimidation from high ranking officials would be possible. Therefore, the decision of the government is the main factor here in deciding this problem. There is no need for two identical agencies to exist. In other states such as Nagaland, Karnatak and Sikkim, ACB is amalgamated into Lokayukta and in some states like West Bengal the two agencies function separately. If there is a clear demarcation of powers between the two institutions, there is a possibility of both the institutions to function efficiently. But judging by the expenses that it is going to incur, it is almost impossible for a state like ours to be able to let it run efficiently.

Table 4.4.5 Awareness level of people

Respondents who believes more awareness is needed among the people	90%
Respondents who do not believe more awareness is needed among the people	5%

Source: Questionnaire responses

Majority of the respondents believe that there is no proper awareness among the people of Mizoram about the Mizoram Lokayukta in order for the people to be able to fully utilize it.

People need to be made aware of the powers of Lokayukta as well as its function. The mentality of the people is also important in this matter. Since the people are already skeptic of anti-corruption agencies, there is a huge responsibility on the part of both the government and Lokayukta to earn the trust of the people and make the people aware of what a benefit it could be. After all, if the people are not the ones utilizing it, then it is a waste of expense and loss.

To sum up, even though there are more negative implications of Lokayukta than the positive implications, it has now become an important part of all the states in India.

The reason that it has more negative implications is due to its lack of infrastructure and machinery that have hindered its functions immensely. If it is powered with all the necessary provisions, there could be a great change in the future and the people would greatly benefit from it. It is the duty of the government to make it possible to function properly and the duty of the people to see to it that the government fulfils it since they are our representatives. The potential greatness of the Lokayukta in the future lies in the hands of both the government and the people.

Some of the positive implications like check on the corruption among government functionaries at various levels and its contribution towards good governance are evident in recent times.

## CHAPTER -5

### CONCLUSION

The institution of the Ombudsman is not a new concept. An institution to keep a check on corruption and public grievances has been present throughout history in one form or the other. In India, Lokpal and Lokayukta in the states were established too after a long struggle in the hope that corruption would be eradicated from the country.

Corruption can be understood as the exploitation of entrusted power for private gain. Corruption erode hope, weaken democratic system, hinder economic development and further exacerbates inequality, poverty, social division especially in terms of the rich and the poor and causes more harm to the weaker sections of the society. Exposing corruption and holding the corruptors to account can only happen if we understand the way corruption works and the systems that permit it. The more we fight against corruption, the more people will get what is rightfully theirs to claim, which would bring an overall development to all. When we talk about corruption, it does not only refer to a few but includes politicians, government officials, public servants, civil societies, business people or even members of the public.

In India, post independence the administration was hectic. Even after experts were called in and committees to look into the administration were formed, the government did not heed to the recommendations which further led to rampant corruption and maladministration. Corruption then has become a major concern especially ever since the 1960s till today. The creation of Lokpal at the centre and Lokayukta at the states after much hassle has certainly become one of the amazement which got the attention of the people. In the northeastern states of India except Assam, Lokayukta is relatively a new concept. Even though there are anti-corruption agencies, there was lack of trust in them from the people because they were under the government. The ability of the Lokayukta to function as an autonomous body which have the power to investigate even the chief minister has people's attention and hope.

In Chapter II, the Lokayukta Act was gradually enacted and its establishment and implementation took even longer. This could be due to the reluctance of the states' government in establishing an institution that have a higher power and investigate them. Till date, a total of 29 states and UTs have established Lokayuktas in their respective states. Each individual state have certain changes made in their states' Lokayukta due to different demography, size and such for efficiency. In most states, the Lokayukta comprises of a retired judge as the Chairperson with two other Up-Lokayuktas. The post of the Lokayukta still remains vacant in some states while the post of the other members Up-Lokayukta remains vacant in most state. The Lokayukta of Karnataka is considered the strongest in India. Most of the Lokayuktas have great and easy accessability for the people. While some states still do not have official websites, some states have maintained online complaint facilities which are maintained during this pandemic which is of great convenience for the people. The Lokayukta can serve upto a term of five years. The Act also gives the Lokayukta power to appoint its own secretary and director, who will oversee enquiries, investigations and prosecutions of corruption cases including the cases the Lokayukta takes over from any agency so long as it has not been heard in court.

In Mizoram, the Mizoram Lokayukta Act, 2014 was passed after much pressure from the NGO's. NGO's especially PRISM, SOSA and MZP were the main organizations that had paved way for its formation in Mizoram. Even though the Act was passed in 2014, the real establishment of the institution is deemed on the day when the first chairperson Lalsawta assumed office on 11<sup>th</sup> March, 2019. The reason for its delay in establishment was claimed by the Congress government as the 14<sup>th</sup> Finance Commission did not allocate funds. Initially, a total number of 35 posts were sanctioned by the government. But Vanlalruata, president of PRISM accused the government of being fearful to set up Lokayukta in the state. Now, after two years of its establishment, the total manpower of the Mizoram Lokayukta remains 27.

Chapter III gave a detailed function of the Mizoram Lokayukta. Real function was carried out only from 2019-20 financial year. There was no real function in the financial year of 2018-19 since the Mizoram Lokayukta started functioning only in the end of the financial year. So there were no real big prosecutions and convictions. The period was used as only an introduction to the people. Since there all the staffs were newly recruited, they used that time to learn and train themselves for better function and efficiency.

In terms of its jurisdiction, the Lokayukta have suo moto which means an action taken by a court of its own accord, without any request by the parties involved to investigate cases and rope in any agency to aid in the investigations. It can investigate any person, the present or ex- Chief Minister, who is and had been the Speaker, Deputy Speaker, Council of Ministers, MLAs, bureaucrats, heads of corporations, societies, companies or trusts that are partly funded by the state or centre. Basically, any person who have served the State are included. It can provide protection to the public servant who report irregularities and corruptions in their organizations.

#### FINDINGS:

The main findings of the research are listed below:

1. The NGO's in Mizoram plays an active role for the establishment of the Mizoram Lokayukta. PRISM, SOSA and MZP in particular have strife hard towards its implementation by hosting various meetings and seminars to study Lokayukta since 2011. They remain an active participant even preparation of Draft bill of the Mizoram Lokayukta. They have taken an active part in the Anna Hazare's Movement to support the cause of implementation of Lokpal and Lokayukta Bill. The establishment of Mizoram Lokayukta was highly anticipated by these NGOs.
2. The Act to establish Mizoram Lokayukta took a lengthy time to become a reality. It was passed in 2014 but its full establishment took place after five long years. It



was only after the Supreme Court called for an explanation to the state that real actions were taken for its establishment after a long wait of five years. Even though lack of funds is said to be the reason for failure of its implementation, priority is also not given on the part of the government. Soon after it was questioned by the Supreme Court, it came into being. This shows that the government only took initiative after the Supreme Court intervened. Nevertheless, it was an important milestone for Mizoram.

3. Even with the irregularities of different states' Lokayuktas in India, Mizoram is one of the states where the state officials are within the ambit of the jurisdiction of the Mizoram Lokayukta. This is one of its best provisions that show its impartiality and that everyone is under the rule of law.
4. Even after two years of its function, the Lokayukta is still not equipped enough with the facilities that it so requires in carrying out its purpose. The Mizoram Lokayukta is immensely understaffed. The mandatory post remains vacant thus hindering its effective functioning. The posts of the Lokayuktas except for the post of Chairperson are still vacant. What makes the Karnataka Lokayukta so effective is the fact that the people who are appointed Lokayuktas have qualifications and credentials that match the requirements of the position. This is not to question the integrity of the current Chairperson, but a Judicial Member with experience is a must to run an effective Ombudsman. Even though there were 35 posts sanctioned initially, that too have not been filled up. The current strength of the office is only 27. Moreover, the Chairperson is the only regular appointment. The total requirement of posts in the Mizoram Lokayukta at the moment stands at 89. The other members of the Lokayukta, especially the judicial member need to be appointed to prevent biasness. But the government does not have any intention to appoint the said posts. There are no directors to run the investigative wing and the prosecution and legal wing. Therefore, preliminary enquiries have to be taken up by the ACB. It serves as a hollow organisation with no real power if it does not have its requirements. The reason

for the Mizoram Lokayukta in not having a separate investigative agency or the other posts is due to lack of finances to carry out recruitment.

5. The budget allocated to the Mizoram Lokayukta has been decreasing each financial year. Even though land is allocated to them for their office, proper funds are not provided to them for building it. The proposed funds for publication, supplies, professional services, advertisements, secret service expenditure, motor vehicles were all cut. In the financial year of 2020-21, the shortfall amount was Rs.671.54 lakhs. So one can see that the Lokayukta does not have enough funds to function. But this is also due to austerity measures taken up by the government due to the current pandemic.
6. The current Mizoram Lokayukta Act, 2014 and 2016 is in dire need of amendment. The Act gives power to call in any outside agencies including the CBI to assist in investigating cases. However, as per constitutional mandate for transfer of case to CBI, only state government has power to give consent as CBI is a central agency. Question arises as to why the Act is crippled even though it is framed by the government.
7. While the initial idea for the Lokayukta is to be an autonomous body, free from the government. Yet, it is still indirectly placed under the Vigilance Department which acts as its nodal department. Even though the Vigilance department is only a nodal department, permission has to be taken to the CVO for permission of enquiry and investigation. Thus this proves that it is indirectly under the government and not a full autonomous body. Since the Mizoram Lokayukta uses the ACB as its outside agency for investigation, the ACB reports to the CVO which can be said to be indirectly under the Chief Minister since Vigilance Department is under him. Therefore, as long as the Mizoram Lokayukta uses the ACB, the ACB has to report to the CVO which clearly shows the need for its own agency to run enquiry and investigations.
8. The public needs to be made aware of the Mizoram Lokayukta and its capabilities in bringing about justice. It is in the hands of the people to realize the

true potential and using it to their advantage. From the questionnaire responses, it is clear that the people have no proper direction on how to measure or determine the concept of good governance. Moreover, the people are not familiar with the working and functioning of Lokayukta. Therefore, more education and awareness on the role of government officials and government departments towards the public is needed. There needs to be more public involvement and attention given to the public in giving them awareness and educating the masses of what is rightfully theirs.

9. Amalgamation of the Lokayukta and ACB could be possible since Mizoram Lokayukta uses ACB as its outside investigating agency. Since they are both different establishments and a newly incepted institution in the state, the result by other states that amalgamates and does not amalgamate is waited upon. It is still under consideration by the state government. The Mizoram Lokayukta on its part waits upon the decision of the government regarding downsizing, abolition or merger of ACB. The underlying problem here is that even if amalgamation is to take place, the police officers of the ACB cannot be forced to join Lokayukta. Option needs to be given to the staff and willingness has to be signed too. If ACB was also to be abolished, then the staff of the ACB would have to go back to the state police first and if willing would then only join the Mizoram Lokayukta. There also seems to be tension regarding the two establishments since ACB does not want merger. Another solution could be the Mizoram Lokayukta in having its own agency and the ACB to function as it was. But for this to happen, there needs to be full implementation of the Mizoram Lokayukta which the government cannot go through with due to lack of finances. Even though amalgamation of ACB and Lokayukta is under consideration by the government, two years has passed since then. If there is no clear demarcation of functions between the two anti-corruption institutions, existing in parallel is not beneficial. It is a waste of money for the state government.

10. Overall, the Mizoram Lokayukta in theory is a strong and powerful ombudsman. But in practice, it does not have any real power. It is actually toothless. It does not have any real power since it is not equipped with its requirements. It would take years for it to function like it was meant to be.

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**ABSTRACT**

**ROLE OF LOKAYUKTA IN MIZORAM**

**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF  
PHILOSOPHY**

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**MZU REGN NO. 1600486**

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**DEPARTMENT OF POLITICAL SCIENCE**

**SCHOOL OF SOCIAL SCIENCES**

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**ROLE OF LOKAYUKTA IN MIZORAM**

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**IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE  
DEGREE OF MASTER OF PHILOSOPHY IN POLITICAL SCIENCE OF  
MIZORAM UNIVERSITY, AIZAWL.**

## ABSTRACT

Corruption is continuous dilemma in the society and occurs in all civilizations. It has many different shapes as well as many different effects, on the economy as well as the society at large. The universal causes of corruption are the political and economic environment, professional ethics and morality, habits, customs, tradition and demography.

Therefore, in any democratic setup, the search has been on for an institution or an office that exercise or wields moral authority over the government and commands confidence of the public. Such an institution would scrutinize the actions of executive and keep a constant surveillance on the functionaries with a view to enhancing their accountability to the legislature and, as an outcome, improving the image of government in public estimation.

.<sup>1</sup> The idea of Ombudsman has been gaining currency following publication of Whyatt Report (1961), and in 1962, M.C. Setalvad, the then Attorney General of India spoke about the need to undertake a study about the feasibility of ombudsman in India at the Inaugural Speech in Third All India Lawyers Conference (1962)<sup>2</sup>.

On 3<sup>rd</sup> April, 1963, while the demands for grants of the Law Ministry were being debated, Dr L.M. Singhvi, MP raised the issue of setting up an ombudsman office in very emphatic terms and consistently campaigned for it in the Parliament during the years 1963 to 1965.<sup>3</sup>

Meanwhile there was a strong and growing demand for the appointment of an all – India Administrative Reforms Commission. This led the Government of India to set up a high level Administrative Reforms Commission on 5<sup>th</sup> January 1966, under the chairmanship of Morarji Desai, to examine the public administration and make necessary recommendations. Its interim report on Problems of Redress of Citizens' Grievances came with a powerful plea to set up the institution of Ombudsman in

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<sup>1</sup> R.K. Swamy, "The Case For A Permanent Tribunal of Inquiry", Modern Review, April 1964, p- 264

<sup>2</sup> KS Shukla and SS Singh.(1988). Lokayukta (Ombudsman in India) A Socio-Legal Study. Delhi : Swatantra Bharat Press, p-8.

<sup>3</sup>Govt of India, (1965) Lok Sabha Debate, 3<sup>rd</sup> series, Vol XVI, cc. 7556-58 and 7589-93.

India to tackle the menace of corruption. Looking into the vastness of country, the commission recommended for the appointment of two special authorities, designated as Lokpal at the national level and Lokayukta at the state level for removing the public grievances against public officials. The government accepted the recommendation to appoint Lokpal and Lokayukta. A draft bill –the LokPal Bill of 1966 was submitted by the chairman of the commission on 20<sup>th</sup> October 1966 for consideration of the government which was accepted by the Government of India. Based on the patterns suggested by the LokPal Bill 1966 and partly on the ARC, on 9<sup>th</sup> May 1968, the Government of India introduced the Lokpal and Lokayukta Bills. The Bill was presented to the Lok Sabha in 1968.

Although the Lokpal & Lokayukta Bill, 1968 was introduced in Parliament, no concrete action was taken for a long time. Public awareness was not sufficient to compel Parliament to pass the legislation. However by 2011, a powerful social movement erupted in the form of campaign on ‘India Against Corruption (IAC)’ led by a group of social activists such as Anna Hazare, Arvind Kejriwal, Swami Agnivesh, Kiran Bedi and Baba Ramdev was initiated for passing a stronger anti-corruption Lokpal Bill in the Indian Parliament.

Finally, the Lokpal and Lokayuktas Bill, 2011 was passed on December 17, 2013 by Rajya Sabha and on December 18, 2013 by Lok Sabha. The Lokpal and Lokayuktas Act, 2013, received assent on 1<sup>st</sup> January, 2014 by the then President of India Pranab Mukherjee and came into force with effect from 16<sup>th</sup> January’ 2014.<sup>4</sup> The Parliament amended the Lokpal and Lokayuktas Act, 2013 to clear minor gap in 2016. Justice (Retd) Pinaki Chandra Ghose was the first Lokpal of India, along with eight judicial and non-judicial members on 19<sup>th</sup> March’2019.<sup>5</sup>

In India, Orissa became the first state to enact the Lokayukta Act, that is, Lokpal and Lokayukta Act, 1970 and came to force on October 2, 1983. Maharashtra was the first state to appoint a Lokayukta by enacting the Maharashtra Lokayukta and UP-Lokayukta , 1971 in September, 1971. Currently, there are 28 states in India that have established Lokayukta.

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<sup>4</sup> Lokpal and Lokayukta by Hemant More, dated October 28, 2019

<sup>5</sup> Ibid

In Mizoram, the Mizoram Lokayukta Act, 2014 was passed on November 13, 2014 and was further amended in the year 2016. The act provides for the establishment of a body of Lokayukta for the State of Mizoram to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto. The Lokayukta Act has been functioning officially in Mizoram from March 11, 2019 right after the appointment of its chairman C Lalsawta, IAS (Rtd.).

Corruption in Indian society has been dominant in some way for many years. The basic outbreak of corruption began with the opportunistic political leaders. Those who work on the right principles are not recognized in modern society. Corruption in India is a result of a bureaucratic, politician and criminal connection. In the past, bribes were paid for the wrong things, but now bribes are being paid for the right things done at the right time. In addition, corruption has become admirable in India with the participation of respected people. Social declines such as reduction in production weights, adulteration of edibles, and various types of corruption have continued to dominate society. Political corruption is the worst of its kind in India. The main reason for concern is that corruption weakens the political system and undermines the fundamental importance of laws that govern the society. Elections in many parts of the country are associated with high levels of criminal activity. They threaten voters to vote for specific candidates, or physically block voters from voting, especially in the weakest parts of the society such as tribes, dalits and rural women, which often occur in many parts of the country.

Corruption affects the economy of central, state and local government agencies; it negatively prevents the economy from reaching new levels, also contributed to the problem of development in the country. Lack of effective management, poor management led to poor control of multiple departments and their tasks. This uncontrolled and unsupervised management provides a way to lead to small scale and large scale corruption. Due to lack of good leaders, it is hard to eradicate corruption in society. In the absence of significant social support and cooperation, good leaders are often defeated and oppressed. The country lacks a proper investigation system. Some officials are eager to get illegal money and often



fail to punish corrupt people; these often cause lack of economic stability which leads to unemployment and changes in living standards, which cause anxiety in the hearts of those affected by exploitation by corrupt people. Corruption leads to the lack of quality of good governance. Especially in the context of Mizoram, this problem has affected the process of governance and developments. In view of this, the state has also established the Lokayukta to reform the deformities in the administrative systems. While there is an attempt to check corruption in the governance of the state, sufficient time is needed to implement them.

### **1.6 Scope of the study**

The study includes the growth of the Ombudsman institution, its historical growth at the international and national levels. A detailed study of the Lokayukta in India, in general, and Mizoram in particular is included. It also highlights the initial and recent developments made by the institution. The main focus of the study is on the functioning and implications to carry out good governance in the state. It also attempts to analyze the challenges of Lokayukta in carrying out its functions.

### **1.7 Objectives**

1. To study the origin and growth of Lokayukta in Mizoram.
2. To analyse the role and functions of Lokayukta in the state.
3. To study the main implications of Lokayukta in Mizoram.

### **1.8 Hypotheses**

1. Lokayukta has been established to check corruption in the administration in the state.
2. Performance of the Lokayukta has been very effective despite some limitations in the state.
3. Lokayukta has contributed towards good governance to some extent in the state.

## **1.9 Research Methodology**

The methodology adopted in this study is both qualitative and quantitative in nature. The required resources and data have been gathered through primary and secondary sources.

Primary sources include the annual reports, documents and interview based study. As part of the interview, besides the main functionaries in the Lokayukta as well as the state government, respondents belonging to various sections of civil society, such as MZP, PRISM, political parties like MNF, ZPM, INC and some advocates have been approached. Due to ongoing pandemic, telephonic interviews were conducted with unstructured questions. Questionnaire with open ended and close ended were also distributed through Google forms of which the respondents were students, lawyers, lecturers, research scholars and government servants. So, the total number of interviews conducted for this study amounted to 20 while the questionnaire respondents amounted to 30.

Due to scarcity of sufficient books and articles on the role of Lokayukta in Mizoram, primary sources have been focused more than the secondary sources. Secondary sources have been gathered from sources such as journal articles, books, and internet based information, local and national newspapers.

## **1.10 Chapterization**

### **Chapter I: Introduction**

The first chapter contains the introduction of the topic, origin, concept, historical growth, meaning and definition of Ombudsman system and Lokayukta at the national and state levels.

## **Chapter II: Lokayukta in Mizoram: Origin and growth**

The second chapter is about the original growth of Lokayukta in the state. The current growth, recent developments and progress since its origin is analyzed.

## **Chapter III: Lokayukta in Mizoram: Role and functions**

The third chapter contains a study on the various roles played by the Lokayukta in the state, its role as a solicitor, its activities and functioning in the state administration.

## **Chapter IV: Lokayukta in Mizoram: Main Implications**

The fourth chapter is about the implications of the Lokayukta in the state. The study analyzes the developments made in relation to good governance in the state administration and whether the components of good governance are realized.

## **Chapter V: Conclusion**

The fifth chapter includes the findings from the research and with it, the concluding remarks and suggestions.

### **FINDINGS:**

The main findings of the research are listed below:

1. The NGO's in Mizoram plays an active role for the establishment of the Mizoram Lokayukta. PRISM, SOSA and MZP in particular have strife hard towards its implementation by hosting various meetings and seminars to study Lokayukta since 2011. They remain an active participant even preparation of Draft bill of the Mizoram Lokayukta. They have taken an active part in the Anna Hazare's Movement to support the cause of implementation of Lokpal and Lokayukta Bill. The establishment of Mizoram Lokayukta was highly anticipated by these NGOs.
2. The Act to establish Mizoram Lokayukta took a lengthy time to become a reality. It was passed in 2014 but its full establishment took place after five long years. It was only after the Supreme Court called for an explanation to

the state that real actions were taken for its establishment after a long wait of five years. Even though lack of funds is said to be the reason for failure of its implementation, priority is also not given on the part of the government. Soon after it was questioned by the Supreme Court, it came into being. This shows that the government only took initiative after the Supreme Court intervened. Nevertheless, it was an important milestone for Mizoram.

3. Even with the irregularities of different states' Lokayuktas in India, Mizoram is one of the states where the state officials are within the ambit of the jurisdiction of the Mizoram Lokayukta. This is one of its best provisions that show its impartiality and that everyone is under the rule of law.
4. Even after two years of its function, the Lokayukta is still not equipped enough with the facilities that it so requires in carrying out its purpose. The Mizoram Lokayukta is immensely understaffed. The mandatory post remains vacant thus hindering its effective functioning. The posts of the Lokayuktas except for the post of Chairperson are still vacant. What makes the Karnataka Lokayukta so effective is the fact that the people who are appointed Lokayuktas have qualifications and credentials that match the requirements of the position. This is not to question the integrity of the current Chairperson, but a Judicial Member with experience is a must to run an effective Ombudsman. Even though there were 35 posts sanctioned initially, that too have not been filled up. The current strength of the office is only 27. Moreover, the Chairperson is the only regular appointment. The total requirement of posts in the Mizoram Lokayukta at the moment stands at 89. The other members of the Lokayukta, especially the judicial member need to be appointed to prevent biasness. But the government does not have any intention to appoint the said posts. There are no directors to run the investigative wing and the prosecution and legal wing. Therefore, preliminary enquiries have to be taken up by the ACB. It serves as a hollow organisation with no real power if it does not have its requirements. The reason for the Mizoram Lokayukta in not having a separate investigative agency or the other posts is due to lack of finances to carry out recruitment.

5. The budget allocated to the Mizoram Lokayukta has been decreasing each financial year. Even though land is allocated to them for their office, proper funds are not provided to them for building it. The proposed funds for publication, supplies, professional services, advertisements, secret service expenditure, motor vehicles were all cut. In the financial year of 2020-21, the shortfall amount was Rs.671.54 lakhs. So one can see that the Lokayukta does not have enough funds to function. But this is also due to austerity measures taken up by the government due to the current pandemic.
6. The current Mizoram Lokayukta Act, 2014 and 2016 is in dire need of amendment. The Act gives power to call in any outside agencies including the CBI to assist in investigating cases. However, as per constitutional mandate for transfer of case to CBI, only state government has power to give consent as CBI is a central agency. Question arises as to why the Act is crippled even though it is framed by the government.
7. While the initial idea for the Lokayukta is to be an autonomous body, free from the government. Yet, it is still indirectly placed under the Vigilance Department which acts as its nodal department. Even though the Vigilance department is only a nodal department, permission has to be taken to the CVO for permission of enquiry and investigation. Thus this proves that it is indirectly under the government and not a full autonomous body. Since the Mizoram Lokayukta uses the ACB as its outside agency for investigation, the ACB reports to the CVO which can be said to be indirectly under the Chief Minister since Vigilance Department is under him. Therefore, as long as the Mizoram Lokayukta uses the ACB, the ACB has to report to the CVO which clearly shows the need for its own agency to run enquiry and investigations.
8. The public needs to be made aware of the Mizoram Lokayukta and its capabilities in bringing about justice. It is in the hands of the people to realize the true potential and using it to their advantage. From the questionnaire responses, it is clear that the people have no proper direction on how to measure or determine the concept of good governance. Moreover, the people are not familiar with the working and functioning of Lokayukta. Therefore, more education and awareness on the role of government officials and

government departments towards the public is needed. There needs to be more public involvement and attention given to the public in giving them awareness and educating the masses of what is rightfully theirs.

9. Amalgamation of the Lokayukta and ACB could be possible since Mizoram Lokayukta uses ACB as its outside investigating agency. Since they are both different establishments and a newly incepted institution in the state, the result by other states that amalgamates and does not amalgamate is waited upon. It is still under consideration by the state government. The Mizoram Lokayukta on its part waits upon the decision of the government regarding downsizing, abolition or merger of ACB. The underlying problem here is that even if amalgamation is to take place, the police officers of the ACB cannot be forced to join Lokayukta. Option needs to be given to the staff and willingness has to be signed too. If ACB was also to be abolished, then the staff of the ACB would have to go back to the state police first and if willing would then only join the Mizoram Lokayukta. There also seems to be tension regarding the two establishments since ACB does not want merger. Another solution could be the Mizoram Lokayukta in having its own agency and the ACB to function as it was. But for this to happen, there needs to be full implementation of the Mizoram Lokayukta which the government cannot go through with due to lack of finances. Even though amalgamation of ACB and Lokayukta is under consideration by the government, two years has passed since then. If there is no clear demarcation of functions between the two anti-corruption institutions, existing in parallel is not beneficial. It is a waste of money for the state government.
10. Overall, the Mizoram Lokayukta in theory is a strong and powerful ombudsman. But in practice, it does not have any real power. It is actually toothless. It does not have any real power since it is not equipped with its requirements. It would take years for it to function like it was meant to be.

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