

FAQ: India's Lokpal and Lokayukta Act 2013

The Lokpal and Lokayukta Act 2013 regulates and controls corruption in public institutions. The lokpal (literally, “public guardian,” or officer of the government of India) acts as an ombudsman to look into corruption allegations against administrators, including legislators and public servants. However, NPOs and charitable institutions have also been included within the purview of this act. The act is regulated by the Ministry of Personnel, Public Grievances, and Pensions. The Act was not in force as of May 2020.

1 WHY WAS THE LOKPAL AND LOKAYUKTA ACT ENACTED?

The act was enacted to regulate and control corruption in public institutions. Because nonprofit organizations (NPOs) are considered voluntary organizations serving a public purpose, they are covered by the act.

2 TO WHOM DOES THE ACT APPLY?

The act applies to all public servants.

3 HOW IS A PUBLIC SERVANT DEFINED?

According to the act, the term “public servant” includes each member of the governing board of an NPO, including any decision-making officer such as the chief executive officer and chief operating officer, that receives more than ten million Indian rupees (approximately \$154,000) in grants from the central or state government or one million rupees (approximately \$15,400) in donations or grants from foreign sources under the Foreign Contribution Regulation Act (FCRA).

4 WHAT IS TO BE DECLARED OR DISCLOSED UNDER THE ACT?

All public servants must declare their assets and liabilities in the manner provided by the act.

5 TO WHOM SHOULD THIS DECLARATION OR DISCLOSURE BE MADE?

If an NPO receives government grants, it must make a declaration to the ministry providing the largest proportion of government grants during the previous year. For example, if an NPO received a \$100,000 grant from the Ministry of Health and a \$10,000 grant from the Ministry of Culture, it sends its declaration to the Ministry of Health only.

Additionally, if the NPO also receives foreign contribution (regardless whether it also receives government grants or not) it must make declarations to the Ministry of Home Affairs.

Ministries publish all disclosures on their websites by August 31 of each year. This means that information about the assets and liabilities of every public servant is publicly available.



Under the act, the term “public servant” can include the board members and decision-making officers of an NPO - but only if the NPO’s grants from government or foreign sources exceeds certain thresholds.

Photo: Paul Asman and Jill Lenoble

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WHAT ARE THE CONSEQUENCES OF NON-COMPLIANCE?

Non-disclosure of assets by public servants is considered a civil offense. The lokpal has the authority to initiate an inquiry and even confiscate the assets of non-compliant public servants.

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WHY ARE THERE CONCERNS ABOUT THE ACT'S APPLICATION TO NPOS?

Board members of NPOs in India, like board members around the world, are private about their wealth and do not want personal information to be shared in the public domain. These individuals worry that if their wealth is disclosed in the public domain, this may potentially attract the attention of extortionists or fundraisers. Many also dislike declaring their wealth simply because they are volunteering their time or expertise as board members.

In addition, NPOs are concerned that the act may demotivate individuals from becoming board members and assuming leadership roles in civil society.

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WHY IS THIS LAW NOT YET IN FORCE?

At present, the act has been amended so that there is no requirement to file declarations until the government drafts new or amended rules. Compliance will be necessary once the new rules and forms are issued.



WHERE CAN I LEARN MORE ABOUT PHILANTHROPY LAW IN INDIA?

More information about the Lokpal and Lokayukta Act may be found in ICNL's India Philanthropy Law Report, which offers detailed information about national laws and regulations affecting philanthropy in India:

<https://www.icnl.org/post/report/india-philanthropy-law>



THE LOKPAL WEBSITE

The National Informatic Centre, which was instrumental in steering e-Governance in India, launched the website for Lokpal in May 2019.

The website provides basic information about Lokpal's structure and activities and can be accessed at: <http://lokpal.gov.in>.