Chapter 13
Corruption and Democratic Governance in India

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Since its independence from Britain in 1947, India has faced substantial problems of corruption, which impeded its economic, social, and political development (Ganesan 1997). A culture of corruption has always existed in India. In various historical periods, the national and state governments in India launched programs to combat corruption, but these efforts were seldom successful. Corruption is still a part of the routine in politics, business, and governance. However, in recent years, public knowledge and awareness about corruption has also increased. This increased awareness was evident in the uprising against corruption in India in October 2010. In October 2010, an umbrella organization for several civil society organizations launched "India Against Corruption" movement. The leaders of this movement demanded from government to pass the Jan Lokpal Bill. The Jan Lokpal Bill is one of the longest pending bills in the history of India that was not passed into law at the time of the writing of this paper.

The Jan Lokpal Bill would provide the creation of a national ombudsman institution as a tool to combat corruption at the national level. The Jan Lokpal Bill was first introduced in 1969. Since then several attempts to pass the bill were made and ended in vain (Rowat 1983). This happened mainly because investigative powers for political corruption were included in addition to administrative corruption in the ombudsman's jurisdiction. No government, so far, is in favor of passing the bill that could set an inquiry against their own ministers for political corruption through an ombudsman institution.

The concept of ombudsman has been discussed in India as early as 1963, and proposals had been made at state and federal levels. The idea of an ombudsman institution was suggested and encouraged by two corruption investigating committees: Santhanam Committee and Administrative Reforms Commission. At the federal level,

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in 1964, for the design of Jan Lokpal Bill, Santhanam Committee recommended the creation of a central vigilance commission—ombudsman-like institution that would be headed by a single commissioner and composed of three directorates: central police, vigilance, and general complaint and redress. The commissioner would have power and independence same as the auditor general. In addition, Administrative Reforms Committee recommended that this commission should not only deal with citizen's grievances but also with political and administrative corruption. Therefore, in addition to the powers similar to the auditor general, the commissioner can investigate corruption cases and initiate a prosecution against an officer in case of dissatisfaction with the action taken by the government on the commissioner's recommendation (Swamy 1964).

However, this proposal was not fully accepted, and the revised version was proposed by the government. Since then there have been several versions of the Jan Lokpal Bill, and the revised bills were presented to the lawmakers. None of the version was passed. In October 2010, the movement "India Against Corruption" was a push for one more attempt to introduce the Jan Lokpal Bill into parliament. The recent Jan Lokpal Bill is departed far from the original one in its nature. The current bill is directed at political corruption and allegation of misconduct against politicians rather than ordinary complaints against administrators. Therefore, none of the political parties including ruling government is in favor of the bill.

Although no proposal for an ombudsman institution was accepted at the national level, the states were heavily influenced by the national proposal of the Santhanam Committee and the draft bill of Administrative Reforms Commission. For example, the state of Rajasthan had officially made a proposal for an ombudsman institution in 1963. Several other states such as Punjab, Uttar Pradesh, Maharashtra, Karnataka, and Kerala among others have also set up ombudsman institutions to deal with corruption. In this study, I intend to look into the two cases of the state of Karnataka and Kerala by analyzing state-level ombudsman institution and workings of state ombudsman known as Lokayukta. The ombudsman institution was largely a success in the state of Karnataka, whereas, the state of Kerala experienced greater constraints (Stark 2011). In this paper, I will discuss these two state-level cases of ombudsman in the context of democratic governance to draw lessons for possible future applications of national ombudsman (Lokpal) if the Jan Lokpal Bill is adopted at the federal level. I will specifically address following questions. How come one of these ombudsmen (Lokayuktas) is effective and the other is not so much in eroding the corruption in their states? What are the elements that make one institute more effective?

To answer these questions and reach the conclusions, I have organized this chapter in four sections. In the first section, I will present nature of governance in India to provide context for this study. In the second section, I will present a literature review of the ombudsman and ombudsman institution. The discussion of two case studies on the ombudsman in Karnataka and Kerala states will follow this section. Finally, I will discuss the lessons from the experiences from Karnataka and Kerala state ombudsman (Lokayuktas) that could be useful for implementation of national ombudsman (Lokpal) and ombudsman institution in reducing corruption.

Nature of Governance in India

To understand the impacts of corruption and the ombudsman institution in India, it is important to establish the context. For that, I will present brief background on nature of governance in India. I will explain the nature of governance, in the backdrop of the political, sociocultural, and economic environment.

India is governed by a federal system (Elazar 1987). However, centralizing some of the elements of the constitution led some scholars to characterize it as a "quasi-federal system" (e.g., Wheare 1963) or even "unitary system" (e.g., Chanda 1965). The constitution states that India is a "union of states"; it does not use the term "federation."A better way to understand the governmental system is to consider the historical developments.

According to Bagchi (2003), the federalism in India developed in two phases: centralized federalism and cooperative federalism. In the first three decades after the independence (1947), the political power was concentrated in the center. The following two decades were marked as "cooperative federalism," as states demanded higher levels of autonomy. According to Seervai (1997), with the changing economic environment globally and domestically, to interpret "today's India political system as quasi-federal may be a mistake" (Seervai 1997, p. 8), because in recent times the states enjoy greater powers than what the constitution suggests (Copland and Rickard 1999). Also, the constitution has given statutory recognition to a third-tier (local) government: the villages (panchayats) and towns (municipalities). The current state of affairs can be summed up with the observation that states are seeking higher autonomy and the center is seeking to reassert its control.

This situation creates important dynamics for national unity and governance. India is regionally and ethnically very diverse. India has several hundred regional languages and eighteen official languages. Different regions have distinct historical traditions. Therefore, diversity has been a key part of the governance system. A major challenge for the federal government in India is to promote unity, while recognizing the diverse nature of the country. Keeping this in mind, after the independence in 1947, framers of the Indian constitution decided to continue the highly structured British civil service system under the new name of All India Services (AIS). The AIS is divided into various hierarchical administrative classes. For example, the first class consists of policy making and supervisory positions. The next are lower-technical functions; further down are the clerical staff; and the lowest are manual workers. Though, in general, public administration tends to be hierarchical and bureaucratic in nature, it has fueled corruption in the case of India. The major reason for this is the seniority-based promotion practices within the hierarchical system. For the administrators, the promotions are done mainly by seniority, with a limited emphasis on performance-based selection and promotion. This tends to create an environment that focuses more on pleasing the superiors and less on productive performance. Such an environment diminishes the professionalism and compromises the efficiency in operations; it also encourages the corruption through favors and favoritism.

Similar the combination of bureaucratic hierarchy and seniority-based promotion, hierarchical caste system, and strong affiliation to once own caste has created a culture of favoritism. The Indian society is stratified vertically and horizontally (Maheshwari 2005). Vertically, Hindus are divided into four major castes and numerous subcastes, and Muslims and Christians are divided into their subgroups. Although the caste system is fading gradually, it remains a mobilization device for political ends and to manipulate civil servants. Horizontally, Indian society is diverse along the regional, linguistic, and religious lines.

The hierarchical nature of the Indian society and the individual's submission to caste-based and religious preferences encourage favoritism for the superiors in government administration. Bureaucrats are expected to favor and help people from their own castes and regions, although they are supposed to be fair and objective. This incongruity between operative social norms and formal administrative roles expose administrators to stress when they perform their duties and push them to engage in acts of corruption. The forces of social and cultural segregation pressure administrators to submit to their demands. For example, the cultural preference to have a male child impacts the implementation of family planning programs. Those officers responsible to implement these programs are under the pressure of the preference for a male child; therefore they implement family planning programs only loosely.

Along with sociocultural dynamics, the country's economic condition also contributes to the growth of corruption. Despite the fast economic growth, a vast majority in India still face the poverty, unemployment, and general scarcity. According to Maheshwari (2005), poverty and unemployment are prominent reasons for corruption in the system. The resources, such as dispensing train tickets and propane gas cylinders for home cooking, are generally in shortage, and their supply is generally less than its demand. Therefore, citizens are willing to bribe the officials to get the resource. The administrative system gives government officials power to distribute the resources to the public. Government officials misuse this power and engage in bribery when they distribute the resources (Maheshwari 2005). Such discretionary powers vested in the bureaucracy, combined with the low salaries of government workers, contribute to the conditions of corruption. The constantly rising commodity prices force civil servants to complement their meager incomes. The bribes given to them in return of favors provide extra cash to them.

The Ombudsman and Ombudsman Institution

The efforts to reduce or eliminate corruption in developing countries can be grouped into three broad categories: "businessman's" approach, "market" approach, and "lawyer's" approach (Shah and Huther 2000; Jain 2001, p. 98). In the businessman's approach, incentives such as increased wages or official benefits are provided to corrupt officials to "buy them out." In the market approach, the role of market forces is increased to reduce the range of corrupt transactions through an increased competition between the private market and bureaucracies. In the lawyer's approach,

corrupt behaviors are made less attractive by increasing the costs and risks involved in engaging in corrupt behavior.

The anticorruption agencies that are established in many countries are examples of the lawyers' approach. These agencies are developed to deter corruption through investigative, preventative, and communicative functions that exploit and increase the risks and costs associated with corrupt behavior (Heilbrunn 2004; Meagher 2005). The form and compositions of anticorruption agencies vary among countries. The needs of the countries and the types of political pressures that public officials face from external groups, such as civil society or international funding organizations, help shape these differences. For example, Singapore and Hong Kong have developed single anticorruption agencies for their administrative systems, while the United States has adopted a multiple-agency approach that does not concentrate anticorruption capabilities within the auspices of one authority (Meagher 2005). This difference in approaches reflects the differences in the sizes and governmental systems of these countries: whereas Singapore and Hong Kong are small counties with unitary governments, the United States is much larger and has a federal system.

One of the tools that are used in both the multiple-agency and single-agency anticorruption approaches is the ombudsman. The model of the classical ombudsman emerged in 1809, when the Swedish Parliament provided for the establishment of the ombudsman office and charged it with task of monitoring the activities of the executive branch. The classical ombudsman is, "a public sector office appointed by, but separate from the legislature, [that] is given the authority to supervise the general administrative conduct of the executive branch through investigation and assessment of that conduct" (Reif 2004, p. 2). The three defining characteristics of a classical ombudsman are an office provided for by the legislature and headed by and independent public official that is responsible to the legislature; the receipt of complaints or grievances from persons against public authorities or agencies; and the ability to investigate, prosecute, and recommend corrective actions to the legislature (Abedin 2011). The authority of the ombudsman to investigate, prosecute, and recommend corrective actions must be exercised in such a way that is impartial to the administration (Giddings 2001).

It is important to note that there are two ways an institution could not meet the criteria for a classical ombudsman: first, if the ombudsman institution does not have an independent "ombudsman" who works independently outside of any other agencies that comes under the jurisdiction of ombudsman and, second, if the ombudsman institution falls short because of external pressure or internal weakness. For example, ombudsman lacks power because the efforts are blocked by the police or the institution's staffs are incompetent. Frank Uggla (2004) addresses this issue and takes variation in power and autonomy into consideration to classify ombudsman institution into four categories. The four categories are proper ombudsman, political instrument, "dead-end street," and "façade." "Proper ombudsman" institution is autonomous from the state and has the power to act on its findings. The ombudsman institution is a "political instrument" if it has power but lacks autonomy. In this situation, ombudsman can initiate prosecution but only if the power who controls the institution allows it to happen. The ombudsman institution falls into the "dead-end street"

category when there is autonomy but no power. In this case, the ombudsman institution can allow citizens to file the case but will take no further action. If the ombudsman institution has no power and no autonomy, it falls under "façade" category. In this case the institution has no interest in receiving complains nor acting on them.

Many countries have adopted the ombudsman institution under multiple sociopolitical influences. Denmark instituted ombudsman in 1954. New Zealand adopted the ombudsman institution in 1962. Latin American countries such as Nicaragua, Guatemala, and Peru created ombudsman offices in the 1980s and 1990s (Uggla 2004). However, implementation methods and success vary greatly among countries. The likelihood of the success of anticorruption agencies such as the ombudsman institution in developing countries is limited. One of the main determinants of the success of any ombudsman institution is the degree of the involvement and investment of the political leadership in the mission of the institution (Jain 2001; Heilbrunn 2004; Meagher 2005).

However, in developing countries, the political will to eliminate corruption may be low, due to existing corruption in the political and administrative systems (Jain 2001). Shah and Huther (2000) found that in countries with endemic corruption, the ombudsman institution may even contribute to corruption by extorting rents. There are also examples of where the ombudsman institution can be successful. In those countries where the preconditions for good governance exist, such as Hong Kong, Australia, Malaysia, and Singapore, anticorruption agencies, particularly the ombudsman institutions, have been successful (Meagher 2005).

The literature outlining the characteristics of successful anticorruption is limited; the literature on the characteristics of successful ombudsman institution is even more so. Among those who investigated the issue of success of such agencies, Pope (1999) suggests that to build an efficient anticorruption agency, its size should be kept to a minimum; this would help avoid it being used as a political tool. The ombudsman should maintain its institutional independence and to some degree its financial independence. The agency should have strong research and prevention capabilities, including the ability to access financial and personal documents and to freeze assets and detain travel documents.

This would be possible if the agency is established within the "right" political and social structure and has a well-defined strategic plan and support for networked relationship across different departments of the government (Meagher 2005). Meagher also suggests that the accountability and formal independence of the institution are not as important as its de facto autonomy "to operate in a professional and non-partisan manner," which can cultivate respect and support for the organization (p. 95). Pope (1999) also emphasizes the importance of investigative, prosecutorial, and coercive powers, but argues that those powers would be ineffective without the appropriate funding and supportive resources. The last set of conditions Meagher (2005) outlined are the sociopolitical contexts in which the ombudsman can function successfully. These preconditions include adequate laws and procedures, free speech, an active civil society, macroeconomic stability, and, most importantly, an environment where corruption is not entrenched throughout the system.

In sum, literature indicates that for the success of the ombudsman institution, supportive political and social structure is important. This will enable independence

and autonomy to the ombudsman institution that is required for fair, professional, and nonpartisan investigations of grievances. These conditions are particularly relevant for India, as the discussion of two cases of the states of Karnataka and Kerala in the next section will illustrate.

The Karnataka State

In the Indian press and scholarly literature, the Karnataka Lokayukta is identified as one of the more capable state ombudsmen in the country, in terms of its ability to manage citizen grievances and address corruption (Bajwa 2011; Narayana et al. 2012) The Karnataka Lokayukta was established by the Karnataka Lokayukta Act of 1984. Justice A.D. Kashal, a former judge on the Supreme Court of India, was sworn in as the first Lokayukta of Karnataka in 1986 (Jha 1990).

In Karnataka, the Lokayukta is appointed by the governor, on the advice of the chief minister, in consultation with the Chief Justice of the High Court of Karnataka, presiding officers, and leaders of the opposition in Karnataka's legislature. The appointee must have been or be a judge of the Supreme Court of Chief Justice of the High Court. This requirement is unlike most other ombudsman institutions in India and in other countries around the world (Jha 1990).

The Lokayukta was also given investigative powers by the central government through the Prevention of Corruption Act of 1988. This act provides the Lokayukta jurisdiction over the Chief Minister of the state, members of the state legislature, all officers of the state and local government and government corporations, and individuals from nonprofit organizations. The Lokayukta was also granted additional powers of suo moto through an amendment to the Karnataka Lokayukta Act in 2010. Suo moto powers are when the ombudsman institution can act on its own cognizance, without initiation of complain by citizens. This power allows ombudsman institution to initiate the investigation of corruption cases independently as an institution without a citizen complaint. However, the Karnataka Lokayukta cannot use this additional power to investigate the Chief Minister, ministers, members of the legislature, or nonofficials appointed to government boards and business corporations (Narayana et al. 2012).

The Karnataka Lokayukta is charged with investigating the cases that have been brought by citizen complaints or through suo moto powers. Out of all the cases that have been brought to the Lokayukta, 65.9 % of the cases were sanctioned for prosecution, and out of those cases that have been investigated, 94.3 % were sent to trial (Narayana et al. 2012). This indicates that the ombudsman institution was actively attending to the cases of grievances and sending them for trial. Once the cases were sent to trial, the role of ombudsman institution is over. The Lokayukta does not have the ability to prosecute the cases; therefore, after the cases are investigated they are taken to criminal court, where the conviction rate of corruption cases is 20.5 % and the average age of these trial cases is 5.1 years old (Narayana et al. 2012). The backlog of corruption cases is heavy in criminal court as citizens have to wait for about 5 years for trial of their cases after Lokayukta has completed the investigation.

These data indicate that the ability of the Lokayukta to conduct investigations is adequate. The success of Lokayukta in investigating cases suggests that the legislative and bureaucratic structure in Karnataka is supportive of investigation of corruption offenses, but the process breaks down once the case enters the criminal justice system. The Indian criminal justice system is historically unable to manage the number of criminal cases that are presented. In many instances the trail can take more than 5 years to begin and can go on for several years before the judgment is released. Thus it is not surprising that officials who are investigated by the ombudsman are rarely convicted.

Based on the categorization of Uggla (2004), the Karnataka ombudsman institution falls somewhere between "proper ombudsman" and "political instrument." The state of Karnataka is largely considered a success for ombudsman institution because of its ability to prosecute the cases of corruption; however, if criminal conviction is a measure of success, then the ombudsman institution has achieved limited success. This limited success should be attributed to the choice of a criminal conviction model as the centerpiece for the ombudsman agency. The inefficacy of the criminal justice system confronts the efforts of ombudsman institution.

The Kerala State

The ombudsman institution was created in Kerala in 2001. Kerala is one of the first Indian states to practice decentralization by implementing a Kerala Panchayat Raj Act of 1994. In 2001, the act was amended to include provisions for the ombudsman institution. The three-tier Panchayat system includes the village, block, and district levels. The village is the grassroots level, the group of villages constructs a block level, and union of numerous blocks represents a district. The local institutions in all three levels are known collectively as Local Self Governance Institutions (LGSIs). Soon after the decentralization, state-level officials realized that efforts were needed to reduce the pervasive corruption in the LGSIs. In an effort to police corruption within these institutions, the state government created the Kerala ombudsman institution for the state's local self-government institutions. Before the provision of ombudsman institution in Panchayat Raj Act, the Kerala anticorruption agency was originally comprised of a seven-member committee. In 2001, the state government abolished the seven-member panel format by amending the Panchayat Raj Act of 1994 and appointed the first ombudsman to the newly created ombudsman institution. The position was filled by a retired high court judge.

To understand the challenges for the Kerala ombudsman institution, it is important to know its jurisdiction and workings. Unlike the Karnataka ombudsman institution, the Kerala ombudsman institution only has jurisdiction over Kerala's local self-government institutions. The working of the Kerala ombudsman (Lokayukta) is also somewhat different from the Karnataka ombudsman (Lokayukta). In order to deal with citizen grievances in Kerala, citizens must file a complaint with the ombudsman. The Kerala ombudsman does not have additional suo moto power to conduct

investigation independently. Another unique characteristic of the Kerala ombudsman institution is that the ombudsman has the sole authority in determining whether or not the grievance falls within the ombudsman's jurisdiction. If the ombudsman decides that the complaint falls within the jurisdiction of the institution and the complaint can be resolved easily, the ombudsman will resolve the complaint right away. If the complaint cannot be easily resolved, then the complaint will be addressed at "sittings" that are held in the various districts within Kerala. The ombudsman typically will hold about 15 sittings per month, and at each sitting there are multiple districts that are represented. Sittings are extremely abbreviated hearings, where citizens who file complaints present themselves in front of the ombudsman and the ombudsman determines how to proceed. The ombudsman can then work with various agencies to resolve service problems or carry out an investigation if it is necessary. However, the capacity of the ombudsman to carry out investigations independently is limited because the legal authority and resources that are necessary to conduct investigations are not available to the institution. According to the law, any investigations must be carried out through government officials and police personnel who are not associated with the ombudsman institution. Under this model, sustainability of investigative abilities and impartiality of the ombudsman function are compromised (Stark 2011).

Two of the most significant barriers affecting the Kerala ombudsman are the small size of the office itself and the lack of authority over investigations. Stark (2011) points out that there is extreme concentration of power in the Kerala ombudsman institution because of its small size (Stark 2011). There is only one ombudsman (Lokayukta) for the entire state of Kerala. This concentration of power goes unchecked and can create an opportunity for abuse. The size of the institution also creates a logistical problem in addressing all of the complaints posed by citizens. Former Kerala Ombudsman Hariharan Nair (2011) points out that there are nearly 150 cases filed each month and suggests that in order to be effective and efficient, there needs to be one ombudsman for every three to five districts.

In order to expand the size of the office and to acquire separate investigative powers and abilities, the ombudsman must seek funding from the state government. Every former ombudsman asked for increased funding and resources because they felt that the problem of corruption within the state of Kerala was not being dealt with appropriately (Nair 2011). These resources were not provided by the state government. Consequently, the ombudsman is still unable to tackle larger and more complex cases in an effective manner. The current structure of the institution allows the ombudsman to address simple service issues that citizens may have, but it does not lend itself to addressing major corruption cases (Stark 2011).

In summary, the Kerala model is not very successful. Based on Uggla (2004) categorization, the Kerala ombudsman institution falls somewhere between "political instrument" and "dead-end street." The Kerala Ombudsman does not have power to investigate cases independently without citizen grievances. The small size of the institution itself and the lack of investigative capacity, together with high caseloads and lack of resources, diminish the chances of success. The current office structure allows the ombudsman to address simple service issues, but not to address major

corruption cases within the government. Legally, police is compelled to assist the investigation, but they rarely cooperate. There is no state funding to hire an investigative team, and the ombudsman (Lokayukta) rarely has enough information to decide a case. All these factors inhibit the workings of the ombudsman.

Lessons Learned: Important Factors for Successful Implementation of Ombudsman Institution

It is clear from the cases of Karnataka and Kerala states that the success of ombudsman institution depends on various factors. It is important to understand these factors. Figure 13.1 summarizes the lessons that can be learned from these two cases.

The two cases of Karnataka and Kerala indicate that without the political will ombudsman institutions would only have little impact on reducing corruption. Stark (2011) points out that the most obvious obstacle to the efficient workings of the ombudsman is "an unresponsive and neglectful government" (p. 391). Lack of political will results in unresponsive and neglectful government. The will impede the function of ombudsman institution as adequate resources are not allocated by the government to function effectively. Ombudsman institution can only serve as a powerful and independent force of accountability if it is fully supported by government.

Another impediment to accomplishing an ombudsman's mission is the lack of power to initiate investigations without citizens' complaints. This is important

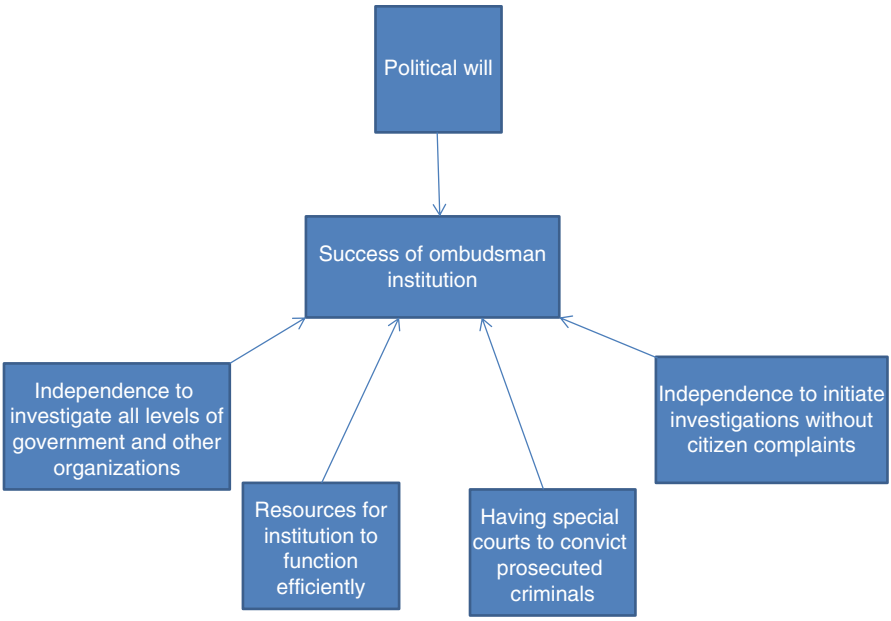

Fig. 13.1 Factors affecting workings of ombudsman institution

because citizens often lack motivation to file complaints for several reasons. Citizens do not want to file a case against a corrupt officer if they think that it could take a long time to resolve the case due to the inefficiency in the system. A citizen might have to go back to the same officers for their needs, and when a complaint is filed against them, the officers can create more difficulties for the citizen. To protect themselves, citizens might prefer anonymity when reporting a corruption case to the ombudsman. If the ombudsman is not provided the powers to act independently on its own without initiation of formal citizen complaints, the ombudsman will not be able to take any actions to start the investigation. The ombudsman agency should be provided powers for institution-initiated prosecutions.

The independence of the investigation process is the other issue. Kerala ombudsman has no independent in-office staff to conduct investigation. Therefore, ombudsman has to assign the case to a separate office and wait for their investigation findings to take any actions. The office—mostly village-level governance body called "panchayata"—is not always trained in conducting investigations. Furthermore, as Stark (2011) indicated, it is also an issue of second-order accountability and the effectiveness of the institution. What if panchayata will give faulty report? The fairness will not be guaranteed in such instance even if the ombudsman is impartial. Kerala ombudsman institution should have a trained team of investigators for greater efficiency.

In addition to the unavailability of resources for investigations, the processes of criminal court also create limitations. When ombudsman institution prosecutes a case and files the charge sheet in a court, the case enters the criminal justice system. In the case of Karnataka, the ombudsman institution has been adequately prosecuting the cases; however, the efficiency to resolve complaints decline drastically after the charge sheets are filed. When general courts are overloaded, hearings and judgments for the cases that are filed by the ombudsman are delayed. If it takes years to get the final verdict, the outcome may be meaningless and irrelevant for the citizen who filed the complaint. There should be a special court to try the individuals who are prosecuted by the ombudsman. This will save the time and increase the efficiency. The key problem for inefficiency of ombudsman institution lies at the criminal conviction model. The focus of reforms should be at the trial stage of the prosecuted corruption cases to improve the conviction of corrupt officials. Other issue that impedes the efficient functioning of the ombudsman institution, as Stark (2011) points out, is the citizen's accessibility to the ombudsman. The ombudsman institution requires citizens to attend hearings in person for complains. In the case of Kerala state, the ombudsman holds sittings in several cities; however, complainants from villages who are poor cannot afford to miss days at work frequently, and it is expensive to travel as well. Therefore, sittings should be held at various rural locations at certain number of times per year to mitigate this issue.

The issue of jurisdiction of ombudsman institution is also a reason for limited success of ombudsman. In the case of Kerala, the ombudsman institution has limited power to investigate higher level government officials and political leaders. Its jurisdiction is limited to local self-government institutions. Therefore, cases against the political leaders or higher level government officials cannot be investigated or prosecuted for the crime of corruption in Kerala. In the case of Karnataka, though

the jurisdiction of ombudsman institution includes state political leaders and all levels of government officials, the dynamics are complex due to financial resource dependence. In some instances the ombudsman is given jurisdiction to review officials of the agency that provide funding to the ombudsman institution for corruption charges. This clearly creates conflict of interest. It is difficult for an ombudsman to initiate an investigation against the officials who have the power to appoint the ombudsman and fund the office. This issue is not easy to solve and any solution would have its consequences. However, the ombudsman institution should have neutral relationship with agencies that support them financially. The financial resources for the ombudsman institution should come from sources that are not in the jurisdiction of the ombudsman institution to avoid conflict of interest. Last but not least, limited funding resources are a major reason for inefficiency of ombudsman institution. Government should provide adequate resources for ombudsman to function efficiently. It is clear from the two cases of Kerala and Karnataka that governments are not quite willing to fund their ombudsman offices. In the case of Kerala, the ombudsman institution has requested funding to create investigative teams for many years. However, their requests are repetitively denied. In addition, Kerala government has also denied the request for more accessible office and larger office space to accommodate the workload. It is important that the government be responsive to the needs of the ombudsman for a successful implementation of ombudsman institution.

The ombudsman institution has been used by thousands of citizens in India to resolve their complaints. The ombudsman institution has played an important and unique role in combating corruption, as it is less expensive and more accessible than the formal court. However, the functions of the institution are not without constraints, as the two cases of this study illustrate. In the case of Karnataka, the ombudsman institution is considered effective but not without limitations (Narayana et al. 2012). However, the case of Kerala ombudsman institution exemplifies greater challenges in meeting its expectation. If the ombudsman institution faces constraints in reaching to its full potential, then the challenge for democratic governance remains the same—how to combat corruption? The recommendations based on the analysis of the two cases presented in this section could help achieve the primary goal of the ombudsman institution to convict the cases of corruption at the national level.

Conclusion

In this paper, I discussed the ombudsman institution and its effectiveness to reduce corruption in the democratic governance. The two states of India, Karnataka and Kerala, are presented. The lessons were drawn from the experiences of state ombudsman (Lokayukta) that would help implement ombudsman (Lokpal) and ombudsman institution at the national level. The ombudsman institution in Karnataka has been moderately successful, whereas the state of Kerala faced greater constraints. The two cases provided insights about the factors that could contribute to the

success of ombudsman institution. These factors are the independence to initiate investigations without citizen's formal complaint, having special courts to convict the prosecuted criminals, having resources for institution to function efficiently, and independence to investigate all levels of government and other organizations. Corruption in India is a deeply rooted problem across the nation. These two states provide important lessons that should be highlighted in implementation of the ombudsman institution at the national level. To reduce corruption, it will require not only the extremely powerful national ombudsman agency that is proposed in the Jan Lokpal Bill, but also a strong political will and highly contentious legal reforms. Without the legal reforms or having special courts to convict the corruption cases, the investigation rates and filling of charges will increase but the national ombudsman institution will not be able to secure more convictions. Similarly, in case of lack of political will, the national ombudsman institution will end up dealing with unresponsive government and face resource constraints due to that. These will fail the ombudsman institution achieve its primary purpose of reducing corruption through conviction of corrupt officers.

References

Abedin N (2011) Conceptual and functional diversity of the ombudsman institution: a classification. Adm Soc 43(8):896–929

Bagchi A (2003) Rethinking federalism: changing power relations between the center and the states. Publius 33(4):21–42

Bajwa H (2011, August 29) Watchdog with variable powers. The Indian Express

Chanda A (1965) Federalism in India. George Allen and Unwin, London

Copland I, Rickard J (eds) (1999) Federalism: comparative perspectives from India and Australia. Manohar Press, New Delhi

Elazar DJ (1987) Exploring federalism. University of Alabama Press, Tuscaloosa

Ganesan K (1997) Corruption in the political process: a case for electoral reform. In: Guhan S, Paul S (eds) Corruption in India: agenda for action. Vision Books, New Delhi, pp 29–59

Giddings P (2001) Whither the ombudsman? Public Policy Adm 16(2):1–16

Heilbrunn JR (2004) Anti-corruption commissions: panacea or real medicine to fight corruption? The World Bank, Washington, D.C

Jain A (2001) Corruption: a review. J Econ Surv 15(1):71–121

Jha R (1990) Lokayukta: the Indian ombudsman. Rishi Publications, Varanasi

Maheshwari SR (2005) Public administration in India: the higher civil service. Oxford University Press, New Delhi

Meagher P (2005) Anti-corruption agencies: rhetoric versus reality. J Policy Reform 8(1):69–108

Nair N (2011, April 23) Proposal for investigation arm for LGSI ombudsman ruled out. The Hindu

Narayana A, Krishnaswamy S, Kumar V (2012) Lokpal bill: lessons from the Karnataka lokayukta's performance. Econ Pol Wkly XLVII(1):12–16

Pope J (1999) Elements of a successful anti-corruption strategy. Curbing corruption: toward a model for building national integrity. World Bank, Washington, DC

Reif L (2004) The ombudsman, good governance, and the international human rights system. Martinus Nijhoff, Leiden, Netherlands

Rowat DC (1983) The need for an ombudsman in developing democracies. Indian J Public Adm 28:660–668

Seervai HM (1997) The constitutional law of India. Universal Book Depot, Delhi

Shah A, Huther J (2000) Anti-corruption policies and programs: a framework for evaluation, Report number 2501: World Bank Policy Research
Stark JJ (2011) Kerala's ombudsman: a mismatch of mission and capabilities. Governance: An international Journal of Policy, Administration and Institutions 24(2):389–392
Swamy RK (1964) The case of the permanent tribunal inquiry. Mod Law Rev 2:257–268
Uggla F (2004) The ombudsman in Latin America. J Lat Am Stud 36(3):423–450
Wheare KC (1963) Federal government, 4th edn. Oxford University Press, London