

Profile of the Office of the Ombudsman – The Gambia

The Office of the Ombudsman

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OBJECTIVES

The Institution's main objectives are :

- To subject government's use of power to close scrutiny and so help create an environment within the civil sector in which public officers, irrespective of their hierarchy, would refrain from unjust procedures
- To play the balancing act not only to enable public servants to understand how they can do their job better and thereby improve the standard of services to the public, but also to enhance the public understanding why Government takes certain decisions
- To dispense administrative justice through protocols that evolve to ensure fair, reasonable, expeditious administration of the Public Sector by using the reactive model, that is, wait for complaints and act on them, and the proactive model, that is, seek out matters of concern and initiate investigations
- To put civility, reasonableness and procedural fairness at the centre stage of public officers' dealings with the citizen
- To be accessible and responsive to the interests and complaints of all persons particularly those who are vulnerable to unfairness such as the poor, the physically handicapped, the incarcerated, the young, the old and women
- To be seen to be transparent and where necessary make public the findings and recommendation of its investigation.

MISSION

The Office of the Ombudsman is determined to carry out its role as an instrument of administrative justice and human rights with utmost transparency. It will remain firm to its task of promoting fairness and the rights of ordinary individuals in the administrative process of The Gambia. This task will be diligently carried through without partiality to any Government institution; and investigations will continue to be conducted with the vigour and fearlessness with which this Office was charged since its inception.

Vision

To promote a culture of respect for the rights and obligations of all people

Current Ombudsman: Mrs Fatou Njie Jallow

Establishment of the Office of the Ombudsman

The creation of an Ombudsman Office in the Gambia is a Constitutional requirement, as stated in Chapter X (ten) Section 163 of the 1997 Constitution of The Republic of The Gambia which states ***“Subject to the provision of this Constitution, An Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision of his or her functions and duties.”***

The Office of the Ombudsman was therefore established by the Ombudsman Act of 1997. ***The Act which was enacted by the President and the National Assembly defines and prescribe the powers, duties and functions of the Ombudsman.*** The Office of The Ombudsman is an independent public Institution. The Office consists of the Ombudsman and two Deputy Ombudsmen, who are appointed by the President in Consultation with the Public Service Commission and subject to confirmation by the National Assembly. They are appointed for a period of five years and eligible for re-appointment. The Ombudsman and any

Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision. The Ombudsman and deputies shall before entering upon the duties of office , take an oath of office. A person shall not be qualified to hold office as Ombudsman or Deputy Ombudsman if he or she is a member of the National Assembly, A Minister or holds any other Public Office.

In May 1999, the first Ombudsman and the two Deputies were appointed by His Excellency the President in consultation with the Public Service Commission and confirmed by the National Assembly. The Office of the Ombudsman became operational in August 1999.

The Ombudsman is required to submit periodic reports to the President and an annual report to the National Assembly as stipulated in section 13 and 15 of the Ombudsman Act.

The Role and Functions

The role of the Office of the Ombudsman is to ensure fair and good administration and respect for human rights in government departments, and other public bodies. It serves as a safety net, as an early warning system and a catalyst of change. It ensures that no unfair practices hide in the shadows as the office monitors the progress of every complaints initiated by the complainant. The Ombudsman also ensures administrative justice and observance of human rights by responding to complaints that public authorities have not acted lawfully, fairly and reasonably and by improving the standard of public administration by identifying causes of problems and making recommendations for changes to procedures, practices and policies to prevent similar problems occurring. This contributes to the quality of public confidence in government. The Ombudsman therefore sees its Mission as to promote good governance through the elimination of corruption, removal of mismanagement and abuse of power in public offices. The services of the Ombudsman are free - of - Charge

His Excellency President Jammeh, in his speech at the opening of the national workshop on 'Developing the Role of the Ombudsman Office in the

Gambia' at Kairaba Beach Hotel on 23rd January 2001, said : ***“....there was a dire need to provide a system of appeal equivalent to that found in the judicial system. The right to appeal to higher authorities is the most important process for rectifying erroneous decisions. Moreover, the traditional controls over Government bureaucracy, that is the legislature and the courts, have proved inadequate avenues of redress for the citizen against the might of that bureaucracy.”***

He further said: ***“...there is no doubt that the gap of distrust entertained by the citizen against the government bureaucracy should be bridged. Consequently, the Ombudsman has been created as a broker, not only to articulate the rights of the ordinary citizen, but also to act as a check on the administrative arm of government.”*** section 163 (1) of the 1997 constitution and section 3 (1) and (2) of the Ombudsman Act outline the functions of the Ombudsman. They are as follows

To investigate complaints of injustice, corruption, abuse of power, maladministration, mismanagement, discrimination and unfair treatment of any person by a public officer in the exercise of official duties;

To investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment to those services or fair administration in relation to those services;

To recommend appropriate action or steps to call for or require the remedying, correction and reversal of matters or instances complained of;

To inform the complainant of the outcome of the investigation carried out.

Independence

A crucial foundation stone of the Ombudsman is the independence of the office from the executive organ of government, which is clearly stipulated in section 165 (1) and (2) of the constitution. The constitution states that “**...in the exercise of his or her functions, the Ombudsman and a deputy Ombudsman shall not be subject to the direction or control of any other person or authority but subject only to the constitution and the law**” The Ombudsman decides for himself which cases to investigate based on the Act and the Constitution. In their investigation and be genuinely independent from the institutions of Government they are investigating. This is a vital and fundamental ingredient of a mature system of justice “

Decentralization

The popularity of the Office of the Ombudsman has grown immensely since its inception, as demonstrated by the number of cases received and dealt with yearly and by the distribution of the complainants in terms of institutions and geographical area. In the beginning there was only one office in the country, but a decision for expansion was taken which is in line with His Excellency the President's call for decentralisation. In September 2008, the Office of the Ombudsman opened a branch in Basse , the regional headquarters of the Upper River Region. Since then its decentralization programme has been gaining momentum with the establishment of a second office in Mansakonko, the headquarters of Lower River Region in 2011; and finally the Office has established its third regional office in Kerewan, the headquarters of North Bank Region.

On average, the Office of the ombudsman received over 100 cases a year. In 2013 , A total of 95 cases were registered and investigations were conducted on all cases registered. Fifty-two (52) complaints were registered at headquarters and out of these, 17 cases were satisfactorily resolved in favor of the complainants, 13 dismissed after full investigation due to lack of merit, 10 discontinued due to the fact that they were frivolous and not made in good faith, 2 sub judice and 10 pending.

Nine (9) complaints were registered in Kerewan Office and out of these, 6 cases were settled in favour of the complainants, 2 dismissed, and 1 pending.

Fifteen (15) complaints were registered in Mansakonko Office and out of these, 11 cases were settled in favour of the complainants, 2 dismissed and 2 pending.

Nineteen (19) complaints were registered in the Basse Office and out of these, 15 were settled in favour of the complainants, 2 dismissed and 2 pending.