ISSN (O): 2584-2196

INTERNATIONAL JOURNAL OF LEGAL AFFAIRS AND EXPLORATION

Volume 3 | Issue 2

2025

Website: www.ijlae.com

Email: editor@ijlae.com

ISSN (O): 2584-2196

THE ROLE AND EFFECTIVENESS OF THE OMBUDSMAN IN ENSURING ADMINISTRATIVE JUSTICE AND GOOD GOVERNANCE: A CRITICAL ANALYSIS OF ITS POWERS, LIMITATIONS, AND IMPACT ON PUBLIC ACCOUNTABILITY

Achin Nayak & Amrisha Kumari

Law Students, ICFAI Law School, The ICFAI University, Dehradun.

ABSTRACT

This article deals with the work of Ombudsmen across the world and special reference in the context of India. Ombudsmen are those who work as an independent body, who provide safeguards to the rights of the public. They play a crucial role in society as watchdogs over public officials. Whenever there is a violation of rights of public done by the acts of the public officials, and on the request or the complaint filed by the aggrieved party they came into action to provide the relief to the public or they have power to take action in violation of right of public by these authority on their own. In society, they also play the role of mediator between the public and public officials. However, it has evolved from the early period, which can be traced down in the history of Sweden where they were depicted to represent and who can protect the rights of public.

In the Indian context, there is Lokpal at the central level and Lokayukta at the state level to resolve the grievances. The role and power of Ombudsmen can be seen in the different acts to regulate laws related to it. They help to combat the corruption and malpractices done by authorities in the public services and to resolve the issues of local people. Their role especially helps in the good governance of any union-state. This article focuses on the origin, power, role, and limitations of the concerned topic and how they are regulated through the laws.

ISSN (O): 2584-2196

Keywords: Ombudsmen, Lokpal, Lokayukta, Good Governance, Maladministration, and Transparency

INTRODUCTION

'Ombudsman' is a Swedish term that has been used for centuries to elucidate a person who represents or protects the interests of the public at large. An Ombudsman is an agent, commissioner, delegate, or officer who holds public office and is appointed to investigate the complaints of individuals and grievances of maladministration of authority holding public offices.

Garner describes an ombudsman as *"an officer of parliament, having as his primary function, the duty of acting as an agent for parliament, for the purpose of safeguarding the citizen against abuse or misuse of administrative power by the executive".*

Accordingly, if there were any malpractices in the public offices, then the people have the authority to file complaints against that concerned authority regarding its misuse of power to the Ombudsman. He is known as an officer of parliament. To keep the checks and balances over the administration authorities working and to prevent injustice to the individuals, there is a need for a body to handle complaints against administrative faults. The ombudsman is one such mechanism.

A neutral person, such as a judge, lawyer, or higher official, is eligible to be an Ombudsman, appointed by the Parliament. However, the parliament and judiciary do not hinder the ombudsman's function. The ombudsman can offer suggestions and recommendations for changes in the administrative law that would improve transparency, justice, smoothness, and efficiency in the functioning of administrative authority.

ORIGIN OF THE WORD OMBUDSMAN[1]

Sweden is known to be the originator of the notion of the Ombudsman. Firstly, it was introduced by the King of Sweden, Charles XII, in the year 1809 with the title of "Justitieombudsman" and served as "an ear to the people". It is a Swedish term that depicts a person who represents and protects the interest of the public at large. Originally, the word was obtained from the Medieval Germanic Tribes, which refers to the third party who was

[1] Available at: https://thelegalquotient.com/administrative-law/ombudsman/2573/

ISSN (O): 2584-2196

responsible for collecting fines from the culprit family and giving that fine to the aggrieved families i.e. victim family. In Sweden, the Parliament of Sweden was unable to have an eye on the function of other Branches of government and to assist in working with the Executive and Judiciary. Furthermore, the lack of ministerial and judicial accountability led to the establishment of the ombudsman office.

MEANING AND NATURE OF OMBUDSMAN

The term "Ombudsman" is a Scandinavian term, which refers to an Officer or Commissioner in the administrative law, who is a Public Officer who acts as unbiased and functions fairly and independently[2]. The ombudsman is a watchdog institution that keeps an eye over the workings of the administrative authority and deals with the complaints and allegations by the citizens against the misuse and abuse of power by the administrative authority to correct the administrative machinery. He investigates in a confidential manner and makes reports on the complaints that are being filed by the citizens against the Government Authority and tries to resolve the issues, by the process of recommendation and mediation.

The motive of the Ombudsman is to safeguard the citizens from the injustice caused by any of the organs of the government and make bureaucracy more humane. It also helps to vindicate the civil servants when unjust allegations are made against them.

THE OMBUDSMAN CONCEPT IN INDIA

The concept of the Ombudsman in India was first proposed by the Late Mr. K.M. Munshim, in "the national debate on the need for a Parliamentary Tribunal of Enquiry", commended the Swedish practice of appointing an Ombudsman for controlling maladministration, nonetheless the credit of creating a live awareness on Ombudsman goes to Late Mr. M.C. Setalvad, then the Attorney General of India, in an inaugural address to the "Third All India Lawyers Conference" in August 1962 (New Delhi) urged upon the participants to undertake a study about its practicability in India.. In India, the concept of ombudsman was proposed by the "Administrative Reform Commission" headed by Morarji Desai in 1996, which endorsed to set up the ombudsman at Center (Lokpal) and State (Lokayukta) with different degrees of power. The term Lokpal was coined by Laxmi Mall Singhvi in the year,1963, a member of parliament, about grievance mechanisms during a parliamentary debate. The word "Lokpal"

[2] Wade, Administrative Law, p. 75(Fourth Edn)

was derived from the Sanskrit words "Lok" (people) and "Pala" (protector/caretaker), meaning "Caretaker of People".[3]

LEGAL FRAMEWORK THAT GOVERNS POWER AND RESPONSIBILITIES OF THE OMBUDSMAN

In India, the legal framework that defines the powers and responsibilities of the Ombudsman is principally established through various laws and regulations. Here is the following framework: -

1. The Lokpal and Lokayuktas Act, 2013

- **Establishment of Lokpal**: This Act provides for the establishment of the Lokpal at the union level to address complaints against public administrative authority, which includes the Prime Minister, Ministers, and Members of Parliament, to deliver administrative justice and good governance.
- **State Lokayuktas**: The Act also foster the establishment of Lokayuktas in states to address complaints against state-level officials.
- **Powers**: The Lokpal or Lokayuktas has the authority to investigate complaints, conduct inquiries, and recommend action against public servants who are found to be engaged in corruption or wrongdoing.

2. State-Level Ombudsmen

- **State Lokayuktas**: Each state may form its own Lokayukta under the statutes of each state. The powers and responsibilities of these Lokayuktas may be different from state to state.
- **Jurisdiction**: State Lokayuktas mainly handle complaints against state government representatives, local bodies, and public sector undertakings.

3. The Right to Information Act, 2005

- **Transparency and Accountability**: This Act encourages the work of the Ombudsman by promoting transparency in government functioning. It enables citizens to request information from public authorities, which can aid the Ombudsman in investigations.

[3] Meenakshi, Short Essay on Jan Lokpal Bill.

4. Administrative Tribunals Act, 1985

- **Tribunals for Grievances**: While not directly related to the Ombudsman, his Act establishes administrative tribunals to address complaints related to the public official's service matters, providing an alternative accountability mechanism.

5. Consumer Protection Act, 2019

- **Consumer Redressal**: This Act form a framework for addressing consumer complaints, which may intersect with the Ombudsman's responsibility in ensuring accountability in public services.

BENEFITS OF AN OMBUDSMAN IN ADMINISTRATIVE JUSTICE[4]

1. **Work as a bridge between the government and the general public**: An impartial independent body plays a significant role in securing public security and maintaining trust in the government's action. An Ombudsman Office play the role of bridges between the government and citizens by fostering a more "people-sensitive" approach to government.
2. **Economic-Friendly Resolution of the Dispute**: The Ombudsman primarily focuses on the financial gain of the public, and many of them do not charge for their services, i.e., they are giving services in a pro bono manner.
3. **Protection of Rights of the Citizen against Maladministration**: As in the modern bureaucratic state, the involvement of the government has increased in the lives of the individual and developed a more complex administrative structure that leads to citizens with challenges like arbitrary or unfair administrative action. The ombudsman provides individuals a means to voice complaints and seek remedies for improper or unfair governmental acts. When the government acts unjustly, mishandles circumstances, or denies citizens their rights or benefits, the ombudsman provides a forum for addressing complaints and potentially upholding those rights.
4. **Public Administration becomes more efficient:** It does not only protect individual rights but also enhances the efficiency of the public administration. The ombudsman plays a vital role in government institutions by helping to spot and tackle structural issues within public administration. By investigating and understanding individual complaints, the Ombudsman's office builds technical expertise and develops strong

[4] Available at: https://www.un.org/ombudsman/about-us/an-ombudsman

record-tracking and classification skills, which allows them to uncover possible systemic problems that can lead to maladministration. When the Ombudsman's office effectively collaborates with various governmental institutions and earns a reputation for being fair and neutral, public authorities tend to take their recommendations seriously. Consequently, many government agencies often turn to the ombudsman for guidance, ensuring that administrative policies are both just and equitable for everyone involved.

5. **Cooperation rather than Litigation:** Unlike litigation, where the advocate takes part of one party on the other hand the Ombudsman take a neutral stance and cannot impose legal binding on the party as like court. The Ombudsman investigate and use the process of mediation to find the solution which is mutually acceptable to both citizen and the administrative authority.

THE ROLE OF THE OMBUDSMAN IN ADMINISTRATIVE JUSTICE

In the Democratic setup, the rights of the citizens and the accountability of the government are the main aspects for good governance. The Ombudsman is the bridge between government and citizen which plays a vital role in ensuring fairness, transparency, put accountability on the administrative authority.

The ombudsman’s role is very crucial in maintaining public trust in the governmental institution as well as in promoting transparency in the functioning of the administrative authority or the governmental procedures. The Ombudsman, as a non-judicial check on the administrative authority by the fair complaint resolution mechanism, strengthens faith in the administration process, and this leads to public confidence in governance. The Ombudsman protect the rights of the citizens from maladministration actions of authorities who hold public offices by making them accountable.

In the administrative justice, the Ombudsman acts as Guardian of the administrative actions by the governmental institution and protector of the rights of the Citizens from unfair treatment, arbitrary action, actions that curtail the rights of individual. The purpose is to ensure the fairness, accountability, transparency, and compliance with legal and procedural standards in the government's administrative processes.

POWERS OF THE OMBUDSMAN

ISSN (O): 2584-2196

The ombudsman becomes one of the most prominent grievance redressal bodies. It has been a widely adopted concept by many countries, originally by Sweden. These powers are as follows:

1. The ombudsman shall have the same authority as the Civil Court for the investigation and inquiry.
2. The ombudsman shall have the authority to summon and enforce the attendance of any witness and examine him.
3. Pass an order on the allegation in the complaints, where the maladministration and irregularity involve by administrative authority.
4. Shall have power to receive the evidence on the affidavit and order to produce any document.

LIMITATION OF THE OMBUDSMAN

1. **Limited authority**: Ombudsmen are limited to making recommendations; they lack the authority to enforce decisions or impose sanctions penalties.
2. **Confidentiality Constraints:** The ombudsman does not disclose all the details during investigations due to confidentiality, which can limit transparency.
3. **Scope of the Complaints:** The Ombudsman cannot address the issues that involve government policy and that are currently in the court.
4. **Awareness among the public:** As it is a new concept, many people are not aware of the role of the ombudsman or how to access their services it limiting their services.
5. **Jurisdiction limited:** Some of the ombudsmen are entertaining specified sectors or types of complaint, which leads to some issues being unaddressed.
6. **Delays in resolution:** the process of resolution of complaints can be slow, and that causes frustration in the complainants by the time it takes to resolve.
7. **Limitation of the resources:** the offices of ombudsman may have limited budgets and staff, which affects their ability to handle many cases at a time.
8. **Standards variability:** The offices of the different ombudsman may have varying standards and practices, which leads to inconsistencies in complaint handling.

IMPACT ON PUBLIC ACCOUNTABILITY

The Ombudsman plays a crucial role in enhancing public accountability by acting as a bridge between citizens and the government. They investigate complaints, foster transparency, and

make sure that public officials are held responsible for their wrongdoing, ultimately fostering trust in public institutions.

1. **Promotes Transparency**: The Ombudsman clarifies the government's actions by looking into complaints and publishing reports, which makes it harder for misconduct to go unreported.
2. **Empower Citizens**: The Ombudsman gives citizens a voice and rights, enabling them to challenge unfair treatment and hold public officials accountable for their capricious and unfair conduct.
3. **Encourages Good Governance**: Public officials are more inclined to act responsibly or appropriately when they are aware that their actions can be examined by an independent body like the Ombudsman.
4. **Builds Trust**: When citizens are aware that there is a mechanism to address their complaints, it promotes faith in public institutions and encourages civic engagement.
5. **Identifies Systemic Issues**: The Ombudsman frequently identifies patterns of behaviour or systemic issues, which results in the necessary reforms that improve public services for all.
6. **Acts as a Deterrent**: The ability of an Ombudsman to investigate complaints can discourage public authorities from engaging in unethical or irresponsible behaviour.
7. **Facilitates Dialogue**: The Ombudsman frequently serves as a mediator, helping to resolve issues between citizens and government bodies, which can result in better communication and understanding.
8. **Informs Policy Changes**: Recommendations made by the Ombudsman can result in altering policies and procedures, ensuring that they are more aligned with the interests and rights of the public.
9. **Enhances Accountability**: The Ombudsman reinforces the principle that everyone in government is answerable for their conduct by making public authorities accountable for their deeds
10. **Encourages Citizen Participation**: The Ombudsman’s work can inspire more people to interact with their government because they know that their issues can be addressed.

11. **Supports Ethical Standards**: The Ombudsman encourages ethical behaviour in public service, encouraging officials to uphold higher standards of conduct.
12. **Provides a Check on Power**: The Ombudsman acts as a check on the power of public authorities, ensuring they do not misuse their authority by looking into complaints against government actions.
13. **Enhances Public Awareness**: The Ombudsman raises awareness about citizens' rights and the importance of accountability, empowering individuals to advocate for themselves.
14. **Encourages Responsiveness**: Government agencies may become more responsive to public needs when they know the Ombudsman is monitoring their actions.
15. **Strengthens Democracy**: By ensuring that public officials are held accountable, the Ombudsman contributes to a healthier democratic process where citizens feel their voices matter.

These impacts of cooperatively enhance public accountability, making government more responsive and responsible to the needs of its citizens.

CASE LAWS ON ITS EFFECTIVENESS IN RESOLVING COMPLAINTS AGAINST PUBLIC BODIES

1. ***Dinesh Trivedi v. Union of India***[5]

   In this case, the Supreme Court has suggested that until the establishment of an ombudsman-like body, a high-level committee be appointed by the president of India in consultation with the Prime Minister of India. As revealed in the Vohra Committee report, the committee must monitor the investigation of the nexus between criminals and pillars of the administrative system and some members of the judiciary.

2. ***Justice K.P. Mohapatra v. Ram Chandra Nayak***[6]

   The Supreme Court, whereas examining the role of the Lokpal under Section 7 of the Orissa Lokpal and Lokayukta Act, 1995, emphasized the crucial responsibility of the Lokayukta in ensuring a clean and transparent administration. It highlighted that the

[5] (1997) 4 SCC 306
[6] (2002) 8 SCC 1

ISSN (O): 2584-2196

Lokayukta plays a key role in identifying and addressing instances of maladministration, as defined under Section 2(h)[7] of the Act, so that necessary action can be taken against those responsible. The Court also noted that the investigations conducted by the Lokpal have a quasi-judicial nature, meaning they involve legal procedures like those followed in a court of law.

OMBUDSMAN'S FUTURE IN ENSURING TRANSPARENCY AND GOOD GOVERNANCE

The evolving of changing technology and societal expectations would play a crucial role for shaping the future of the Ombudsman. The public offices need to be more transparent and accountable per se of citizens' increasing demand, the Ombudsman will need to adapt its approaches to meet these expectations.

- **Adopt the technological advancement**

  The technological integration could boost the ability of ombudsman to handle the complaints more efficiently. People can file their complaints by using the online platform, track their cases' progress and keep up with the ombudsman's work. This will increase more public engagement and improve accessibility.
- **Strengthening Collaboration**

  The ombudsman's influence on administration function can be enhanced by civil society organizations and other monitoring agencies collaborating with the media. By working with these organizations, we may promote vital governance reforms, build public confidence, and increase public knowledge of the Ombudsman's position.
- **Address Emerging Issues**

  As technology evolves, the acknowledgment of the ombudsman's role in addressing new challenges such as environmental justice, digital rights, and social equity, becomes crucial. The emerging responsibilities of the ombudsman in tackling these issues can enhance its relevance and effectiveness in fostering good governance.

CONCLUSION

It is giving citizens a medium to file complaints against public authorities, the Ombudsman plays a crucial role in maintaining administrative justice and good governance. Despite of its

[7] The Lokpal and Lokayuktas Act, 1995

ISSN (O): 2584-2196

shortcomings, such as dependence on cooperation, subjectivity in decision making and challenges like lack of resources, public awareness and accessibility, the impartial body continues to be a vital element of public accountability. At some point, the Ombudsman can effectively contribute to transparency and good governance by embracing technology advancement, encouraging collaboration, and adapting to new issues.