

Motto

To Champion the Rights of the People, to ensure that Justice always prevails

Mission Statement

The Office of the Ombudsman pledges with God's guidance to faithfully serve the Nation of Antigua and Barbuda by impartially and efficiently investigating complaints of members of the public against unjust administrative decisions of officers of Government or Statutory Bodies with a view to righting wrongs and so contribute to good governance and the further development of the democratic process in the Country.

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EXECUTIVE SUMMARY

This is the eighth Annual Report submitted to Parliament since the inception of the Office of the Ombudsman in 1995.

The Office was established in keeping with Antigua and Barbuda's 1981 independence Constitution (Appendix I) and the Ombudsman Act 1994 No. 5 of 1994 (Appendix II). The Act provides for the functions and operation of an independent office.

The Ombudsman's main function is to investigate complaints made by members of the public against unjust administrative decisions of public officials and to make recommendations for redress where the complaints have been found to be justified.

In the year 2002 some 277 cases were received making a total of 1,423 dealt with since the coming into being of the institution.

An example of a few of the typical cases dealt with during the year have been highlighted covering such areas as Foreign Affairs, Health, Housing (CHAPA) Antigua Public Utilities Authority, Public Works, Education and the Environment.

Some successes have been reported but concerns have been expressed about some systemic weaknesses in administration particularly with regard to tardiness by Government officials in responding to correspondence. Recommendations made, for example, for the payment of outstanding money to a citizen for lands acquired since 1999 for a public purpose have not yet been implemented. No action has yet been taken by Government pertaining to enactment of appropriate legislation to facilitate payment of maintenance allowances by delinquent fathers. It is heartening to note, however, that some action is being taken with regards the introduction of a Legal Aid Scheme as recommended in my 2001 report.

The Ombudsman continues to play an important role not only nationally but also regionally and internationally. He was reelected as President of the Caribbean Ombudsman Association (CAROA) and a Member of the Board of Directors of the International Ombudsman (IOI). He attended a CAROA meeting in Trinidad, an IOI Board meeting in Tunisia and a meeting in Madrid, Spain between Ombudsmen of the European Union, Latin America and the Caribbean. A member of staff also participated in meetings in Costa Rica sponsored by the Inter-American Institute on Human Rights.

Our Investigations Officer was recently seconded to the Passport office to assist with the detection of fraudulent documents. This means that our work will be affected somewhat until he returns or until he is replaced. We will, however, continue to do our best.

1. INTRODUCTION

The time is here once again for me to give an account of my stewardship by way of my annual report, the eighth since assuming office in 1995 as Antigua and Barbuda's first Ombudsman.

The job as expected has been challenging but I am pleased to say in many ways rewarding from the point of view of the assistance I have been able to give the public. It has been particularly gratifying when some complainants have return to say thanks. My staff and I will continue to do the best we can with God's help. We will continue, too, to seek ways and means to improve our service particularly as it relates to timeliness in delivery. This will depend to a large extent on the appointment of an Investigations Officer and on improved cooperation of senior officials. There is still some concern about the tardiness of the latter in replying to our correspondence. This is evidently a systemic problem in the public service as a whole which needs to be addressed.

2. SUMMARY OF ACTIVITIES

I now present a summary of the highlights of the year's activities.

i. Investigations of Complaints

During the year under review the office received 148 written and 129 verbal complaints making a total of 277 a record number of cases received to date. The summary in Table I clearly shows a significant increase in the number of written complaints and a decrease in the number of verbal complaints. Overall there has been a total increase of 43 cases over the previous year. Table II gives an analysis of complaints made against various Ministries.

Table 1.

Complaints Received in 2002 compared with 2001 and 2000.

	2002	2001	2000
Number of Written Complaints	148	88	106
Number of Verbal Complaints	129	146	131
Number of written complaints investigated		87	99
Number of complaints awaiting processing		01	07
Number of cases completed		77	51
Number of cases still under investigation		10	48
Number of cases found justified		52	40
Total Number of Complaints	277	234	237

Table II

Analysis of Complaints Made Against Various Ministries

	<u>2002</u>	<u>2001</u>	<u>2000</u>
Ministry of Agriculture, Lands & Fisheries	14	10	14
Ministry of Education, Culture & Technology	10	08	05
Ministry of Finance	10	02	11
Ministry of Health	07	08	13
Ministry of Information	01	03	-
Ministry of Justice and Legal Affairs	35	16	19
Ministry of Labour	04	04	02
Ministry of Planning & Civil Service Affairs	-	03	01
Ministry of Public Utilities and Housing	15	08	15
Ministry of Public Works & Communications	02	04	07
Ministry of Trade	02	01	-
Prime Minister's Ministry	13	06	06
Ministry of Sports & Youth Development	02	-	-
Ministry of Tourism & The Environment	02	-	01
Miscellaneous	<u>31</u>	<u>15</u>	<u>12</u>
Total	148	88	106

It will be observed that the number of complaints against the Ministries of Justice and Legal Affairs, Public Utilities and Housing, (including (CHAPA), Agriculture, Lands & Fisheries and the Prime Minister (including Foreign Affairs) was relatively high.

ii) 2001 Launching of Annual Report

Our 2001 Annual Report was sent to the Government Printery in June 2002 but it was only received back in October. The delay was said to be due to lack of adequate resources on the one hand and to increased commitments on the other. We are exploring the possibility of printing privately but budgetary constraints may prove a problem. The report was laid in Parliament soon after it was received from the Printers.

An invitation was extended to the media to attend a launching ceremony of the report which took place at my office on 10th December, 2001, International Human Rights Day and the following were represented:-

The Antigua and Barbuda Broadcasting and Television Services (ABS).

Observer Radio

The Antigua Sun Newspaper

The Daily Observer Newspaper.

Also present was Mr. Raymond Simon, President of the Antigua and Barbuda Human Rights Association.

The launching took the form of an address by me followed by a question and answer session. There was then an Open House which many members of the public attended. Several reports along with newsletters and brochures were distributed and a film on the Role of the Ombudsman was shown. Favourable comments were received. The opportunity was taken by the Human Rights representative to distribute copies of the United Nations Declaration on Human Rights. We were satisfied with the publicity given by the media to the report and to the activities of the Office in general. There was a subsequent marked increase in the number of complainants coming forward.

iii. Other Public Awareness Activities

In addition to the media coverage mentioned above, news releases were given by my office from time to time on some of our other activities including conferences attended overseas.

iv. Conferences Attended

a) **Caribbean Ombudsman Association (CAROA)**

I attended a CAROA Council meeting in Trinidad February 18-20 in the capacity of President mainly to assist in preparations for our Biennial Conference which subsequently took place in Trinidad May 6-10, 2002 under the theme “The Role of the Ombudsman Institution in achieving accountability, transparency and good governance.” There were participants not only from the region but also from Seirra Leone, the United Kingdom, Canada, the United States, Spain and Denmark. There was also a representative from the Inter-American Institute on Human Rights based in Costa Rica and from the Inter-American Commission on Human Rights.

The keynote address was delivered by Dr. Bhoewanie, Principal of the Trinidad Campus of the University of the West Indies and the Conference was declared open by Her Excellency Dr. Linda Baboolal, Ag. President of Trinidad and Tobago. Several papers were presented including one by me entitled “The Development and Future of the Ombudsman Concept in the Caribbean.” (Appendix III). They were all well received. Prior to the meeting there was a one-day Regional Seminar for Investigators of Caribbean Ombudsman Offices. It was attended by our Investigations Officer, Mr. Haynesworth Buckley. A summary of the conference proceedings appears in Appendix IV.

As President, I must take the opportunity to again express our sincere thanks and appreciation to the Commonwealth Secretariat through Dr. Victor Ayeni and also to the Government of Trinidad and Tobago through the Ombudsman Justice George Edoe for their significant financial contributions to CAROA which made it possible for us to hold a very successful biennial meeting.

b) **International Ombudsman Institute (IOI)**

I attended the Board of Directors meeting of the IOI which took place in Tunisia October 12-18. A list of the Members of the Board appears in Appendix V. The new President Mr. Clare Lewis Q.C., Ombudsman of Ontario, Canada succeeded Sir Brian Elwood, Chief Ombudsman of New Zealand who is due to retire shortly. Important decisions taken included (a) approval of the publication of a document entitled Conducting Effective Investigations and (b) Approval for Antigua and Barbuda to host the Board Meeting in 2005. The 2003 annual Board of Directors Meeting will be held in Quebec City, Canada in October and the International Conference will take place at the same venue in September 2004.

c) Other Meetings

Other meetings attended included (a) A meeting in Jamaica for National Human Rights Institutions in the Americas (b) Meeting in Madrid, Spain between Ombudsmen of the European Union, Latin America and the Caribbean (c) A conference in Oxford on “The Changing Face of International Co-operation in Criminal Matters in the 21st Century”.

3. STAFF MATTERS

(a) STAFF LIST

The Staff list appears in Appendix VI.

(b) SECONDMENT

Mr. Haynesworth Buckley, Investigations Officer, was seconded to the Passport Division of the Ministry of Foreign Affairs to assist with detection of persons who try to acquire passports by fraudulent means. This followed some cases which came to light which had some serious international repercussions.

Unfortunately this means that our work output will be affected and it will become necessary for us to seek a replacement as soon as possible. It is hoped, too, that we will be able to obtain the services of other personnel including a Legal Officer to assist with legal research.

(c) TRAINING

The Assistant Investigations Officer Mrs. Gloria Samuel attended a workshop in Costa Rica in April on Ombudsnet – an integrated information and communication system for the Ombudsman offices in Latin America and the Caribbean that will allow them to access information relevant to their work in a systematic manner.

A report appears in Appendix VII.

A training course in Accounting, sponsored by the Training Division was also attended by the Senior Clerk Ms. Joycelyn Richards.

4. OTHER

We are grateful to the Ministry of Finance for providing the necessary funds for the purchase of a generator and a Pathfinder vehicle. The generator has helped us considerably in maintaining operations of our Air conditioners and general office

equipment during power outages. Prior to this we had on such occasions to bear the great discomfort of an extremely hot building. Lack of electricity also meant that the use of virtually all of our equipment came to a standstill which greatly affected our productivity.

The acquisition of the Pathfinder has facilitated site visits, for example, to areas with poor roads and drainage and generally rugged terrain.

5. SUMMARY OF SELECTED CASES

I) ANTIGUA PUBLIC UTILITIES AUTHORITY

A complainant through his Legal Counsel wrote to me concerning the failure of the Antigua Public Utilities Authority (APUA) to supply him with water service despite an application which he had submitted over a year ago. He claimed that there was a service to a home less than 300 yards away and felt that there was a deliberate plot to deprive him of this service for reasons unknown. He further stated that the assistance of his Parliamentary Representative and the Minister in charge of APUA was sought, all to no avail, hence the reason for seeking my intervention.

APUA replied to the complainant and copied the letter to me indicating that the Authority had prepared an estimate in 1999 which amounted to \$10,000.00 for installation of the service. They requested a deposit of seven thousand dollars (\$7,000.00) before the start of the job and three thousand dollars (\$3,000.00) on completion.

They further stated that the Authority would be more than willing to install this service but that according to the DCA Act, the developers were responsible for infrastructural development such as access road, water and electricity. On the other hand, the complainant said that the land was purchased from the Ministry of Agriculture who at the time said that the cost of infrastructural development was included. To prove this, I was provided with copy of a letter addressed by the Ministry of Finance to APUA which confirmed that government sold the land and that it was their responsibility to provide basic infrastructure. They, therefore, sought APUA's assistance in providing the water. APUA insisted that their resources were limited and that some consideration would be given when materials became available. I wrote to APUA in May, 2002 recommending that they did everything reasonably possible to accommodate the complainant "by the end of the year."

In July, 2002 the water service was indeed installed and I received a letter from the complainant expressing thanks for our "diligence and perseverance" in pursuing the matter.

I, in turn, replied to him stating that we were very pleased with the outcome and for his letter “which all help to make our jobs worthwhile.” I also wrote to APUA thus: “I wish to express my sincere thanks for your kind cooperation as we all seek to serve the people of Antigua and Barbuda in the best way possible.”

II) MINISTRY OF FOREIGN AFFAIRS

I received a complaint from an Antiguan national (by birth) on behalf of his wife of fifteen years standing who was from a non-Commonwealth country and was experiencing difficulty in obtaining Antigua and Barbuda citizenship. Copies of Birth and Marriage Certificates were enclosed with his letter.

The complainant stated that his wife had been to the Passport Office on three separate occasions. On the first occasion she was denied a citizenship form because she complained that the clerk interviewed someone before her who had no number. The clerk said that the complainant was rude and refused to look at her documents or to give her the relevant form for completion. On the second occasion the documents were presented to another Clerk but they were not accepted on the basis that the complainant did not have her baptismal certificate. She was again refused the form required for her lawyer to fill out. On the third occasion she took a letter of recommendation from her Constituency Representative along with her Birth and Baptismal Certificates. She was again refused an Application for Citizenship Form and was told that she would have to return to her country of birth in order to change her passport to include her married name. The complainant said that she asked the attending Clerk her name but that she refused to give it.

I, therefore, wrote to the Permanent Secretary concerned thus:-

“Having considered the matter, I feel that my best approach at this stage is to ask you kindly to investigate this matter internally with a view to seeking a solution to the problem, if possible. I am fully aware of the need to ensure that all documentation is in order so that only people eligible in accordance with the law will obtain citizenship and by extension passports. In this regard it may be useful for the Passport Office to establish an official Code of Conduct if it does not already have one and for it to issue guidelines which can be clearly understood by the public with a view to minimizing frustration which delays may cause.”

I received a reply from the Permanent Secretary which stated *inter alia*:-

“Such allegations as indicated in your letter require urgent attention, bearing in mind the responsibility of staff to be courteous and helpful to

the public at all times and to treat all persons with the dignity and respect they deserve.

In initiating investigations I have interviewed Mr. and Mrs. and members of the Passport Office whose account is somewhat different than that told by the virtual complainant. Mrs. it was disclosed, was very abusive to the staff and even referred to Antiguanas as thieves because of some experience she had with losing money.

I was able to speak to staff members involved and arranged for Mrs. to receive the necessary application forms and assured her of the expeditious dispatch of her business when she returns.”

I must commend the Permanent Secretary for her speedy action in dealing with the matter. It should also be stated that front line staff often have problems in dealing with some difficult members of the public. There is still, however, the need for using diplomacy and tact in dealing with such cases.

III) MINISTRY OF FOREIGN AFFAIRS/SOCIAL SECURITY SCHEME

A complainant who is an Antigua national was employed by the Antigua Public Utilities Authority (A.P.U.A.) for about three years from 1990 to 1993 and has since been employed by the Organisation of Eastern Caribbean States (OECS) Directorate of Civil Aviation (DCA) based in Antigua.

He said that while at A.P.U.A. he was afforded the right to become a member and contributor to the Antigua and Barbuda Social Security Scheme. That right and privilege was, however, taken away from him after he joined the staff of the Directorate of Civil Aviation – a regional organization. He complained that no option was given to him to continue in the Social Security Scheme.

He went on to state that he was employed with no proper protection and should any long – term illness or disability take place in his life he would be “a burden to society and the government of this country.”

He also said that he made requests to the management of the O.E.C.S. to be a part of the Social Security Scheme but to no avail. He requested my assistance in addressing the matter.

I wrote to the Director of the Social Security Scheme proposing a meeting between employer representatives, the employee and officials of the Social Security and Medical Benefits Schemes.

A reply was received from the Superintendent of the Medical Benefits Board of Control and copied to all parties concerned advising that the Scheme would wish to allow Social Security and my office to jointly agree on a settlement. "However, any settlement made in relation to retroactive payment would apply equally to the Medical Benefits Scheme." A subsequent letter to me from the Director of Corporate Services, OECS stated:-

"I am pleased to inform you that the Heads of the OECS Authority have agreed that effective 1 July, 2002 all non-contractual staff employed by the DCA will contribute to the Antigua and Barbuda Social Security Scheme.

The members of staff of the DCA have now been informed of this development and administrative arrangements are being concluded with Officials from the Antigua and Barbuda Social Security, including the issuing of Social Security numbers where appropriate."

IV) MINISTRY OF FOREIGN AFFAIRS

A complainant reported that he was born in Grenada of a Grenadian mother. His father who was born in Antigua now lives in Grenada.

The complainant said that he came to reside in Antigua in June 1995 and has been living here ever since. His passport was stamped by the Immigration authorities "Temporary residence" as his father was an Antiguan. He married an Antiguan in August 1997 and has been trying to obtain an Antigua and Barbuda Passport. He said that he sought guidance from the Passport Office re the procedure and was told that he needed to have his Birth and Baptismal Certificates and his father's Birth Certificate. His mother could not locate his Baptismal Certificate and the Church records had been destroyed in a fire.

On reporting the problem to the Passport Office he said he was told that since the Baptismal Certificate could not be found he would need an affidavit from his father. He got this and took it back to the Passport Office but was then told that it was incomplete since both father and mother had to sign the affidavit. He got another affidavit, this time with both signatures and took it back to the Passport Office. On this occasion another officer received it. The complainant reported that he checked again after a few months to find out whether the Passport was ready only to be told by the officer that he did not qualify without the Baptismal Certificate. He therefore sought my assistance in the matter.

I discussed the problem with the Passport Office and as a result the complainant received his Passport within a month.

I would here comment that it is absolutely necessary for the Passport Office to ensure that all Passports are issued in accordance with the law of the land. However, all the necessary information required should be provided when enquiries are made to obviate the need for one to make several trips to the office and the delays resulting such as was the case under discussion.

The complainant wrote a Thank you letter as follows:-

“It has not gone unnoticed that your intervention helped to speed the process and relieve the pressures we were experiencing due to the tortoise-like approach of the Ministry of Foreign Affairs. I will always be grateful to you. I now have my documents in order and has received my Antiguan Passport after almost a year of waiting.

Once more Sir – thank you kindly. It is my sincere wish that you continue to help those under-privileged members of our community.”

V) **BOARD OF EDUCATION**

A letter was received from a complainant which among other things stated that the Levy Department of the Board of Education had set out on a course of action to publicly embarrass him by publishing his name in the newspaper. There was an allegation that he owed them money even though he had addressed the concerns with documentary evidence and there was ongoing dialogue on the matter. He said that the situation had caused him much pain and hardship and that he was of the opinion that he was unfairly targeted with harassment. The complainant further stated his concerns that the advertisements in the newspapers mentioned that his assets would have been sold by Public Auction to offset past balances owed to the Board of Education. He stressed, however, that based on information filed with the Board, it was very unlikely that he had and funds owing to them. He, therefore, sought my intervention in the matter.

I arranged a meeting with Board of Education and Inland Revenue officials at which the complainant was present. An officer of the Board said that the action taken by them was due to the fact that the complainant ignored their letters. The latter, however, pointed out that he did in fact respond by visiting the office but that the person dealing with the matter was out which made it necessary for him to deal with someone else. Apparently the responsible official was not aware of this.

I recommended that in the circumstances the auctioneer be asked to delay further action until negotiations could be completed. This was done and a letter was subsequently sent by the Board to the complainant which *inter alia* stated:-

“Our record is now showing that you have an overpayment in the amount [of] \$156.44. Please submit your Education levy forms to the Department in order for us to liquidate this amount”.

It is unfortunate that this embarrassing situation arose, as it turned out, through no fault of the complainant. It is important that the facts be fully researched before such extreme actions are taken.

VI) MINISTRY OF TOURISM AND THE ENVIRONMENT

A letter was received from a supplier of plants to the Ministry of Tourism and the Environment complaining about the non-payment of money owed for some 1500 plants ordered for the Ministry’s Arbour Day programme the previous year. In order to resolve the matter, I decided to act as mediator at a meeting held at the Ministry to which interested parties were invited. Some of the main points emerging were that (a) payments were affected by budget cuts and the complainants were informed accordingly (b) some of the suppliers had Ministry and family connections which made it important to verify that everything was done above board.

Agreement was reached as a result of the discussions that:-

- 1) Staff members would visit the sites where the plants were said to be in storage in order to make the necessary checks with respect to quantity and quality.
- 2) The plants would then be removed following which a request would be made for invoices to be re-submitted.
- 3) Payment vouchers would then be submitted to the Treasury for payment.

I was subsequently advised by the Permanent Secretary that the agreement was implemented accordingly.

VII) MINISTRY OF PUBLIC WORKS

A letter of complaint was received from Property Owners of Seatons. It stated that earlier in the year the Director of Public Works was invited “to witness the deplorable condition of the hillside road in Seatons that serves all the shoreline properties with a view to having the said road safe for all users.”

At a site meeting his immediate response was that he would have the road properly fixed within a week and that within approximately two further months, a more permanent cap would be completed. To date nothing has transpired despite several calls each week.”

The following facts were further presented:-

- a) The property owners have done their fair share of maintaining the hillside road for the past 25 years. Government has never assisted.
- b) All properties are charged Property taxes.
- c) Many visitors are forced to park on the hill and walk down.
- d) A female pedestrian with a child in hand fell due to the loose, uneven, stony surface of the road.
- e) The road is also used by fishermen to get to their boats.

I visited the site and observed that the road in question was indeed in a serious state of disrepair as stated by the complainants. There was some query by an official as to whether or not the road was private. Villagers, however, confirmed that it was built by Public Works around 1970 and that the Antigua Public Utilities Authority (APUA) had erected utility poles along the way. I informed the Director of Public Works that “the request for Government to repair even 300 feet of the road at its most critical part is not unreasonable in the circumstances. Road users in general and not only the property owners would be the beneficiaries.”

Public Works has since done minimal repairs to a small section of the hill. Unfortunately much more needs to be done to alleviate the problem. For example, a longer stretch of road requires fixing and an asphalt cap laid. In this regard it was observed that an asphalt layer was placed on a nearby road leading to one home. It is a pity that the opportunity was not taken then to complete the road under discussion. The matter was again referred to the Director of Public Works and he has promised to look at it again.

VIII) CENTRAL HOUSING & PLANNING AUTHORITY (CHAPA) MINISTRY OF HOUSING

A complainant requested my intervention in a matter pertaining to a loan purported to have been taken out jointly by herself and ex-husband from CHAPA using a property they jointly own as security.

She mentioned that the loan was applied for by her ex-husband while she was overseas and that she only became aware of it when she was called in by CHAPA to sign a charge document after the money was already disbursed without her consent/permission. At the meeting, she made it clear that the loan application was never discussed with her previously and that if it was said to be a joint one, she wanted it to be clearly understood that the representation was completely false. She did not, therefore, consider herself liable to make payments in respect of the loan. She further stated that she would not sign the charge document and that if her ex-husband defaults in meeting payment obligations the said property could not be used to satisfy the same.

I understood from CHAPA that at the particular time the loan was being properly serviced. I, however, wrote to CHAPA's Executive Secretary on the matter requesting a meeting of all concerned to discuss it. I did so bearing in mind the lack of proper Security on the loan. Only after several attempts was I able to arrange a meeting with the husband and wife at my office. A CHAPA representative who had promised to attend was absent having contacted us at the last minute to ask for an excuse since some other urgent matters had arisen. I acted as Mediator but was unsuccessful in obtaining any settlement.

I recommended to CHAPA that bearing in mind the security situation they should do everything possible to ensure a speedy resolution of the problem.

IX) MINISTRY OF HEALTH

A complaint was made by someone who said that her mother had been in Holberton Hospital undergoing investigations after she was totally paralysed following other complaints. She mentioned that the Orthopaedics Team indicated that they did not have the necessary facilities to treat the particular condition but that they were available in Jamaica. She was told that if she travelled there she would be eligible to receive some financial assistance from the Antigua and Barbuda Government. She also said that she was advised that if she sought medical attention from outside the region no assistance would be forthcoming. The daughter, nevertheless, decided to take her mother to New York where they have relatives. They had none in Jamaica. They hired an Air Ambulance to airlift the patient at a considerable cost. She felt it necessary to take this action because of the severity of the illness and the fact that nothing could have been done locally. She said, however, that the resultant severe financial strain forced her to seek Government assistance in order to ease the burden. I pointed out that she should have consulted with the Chief Medical Officer (C.M.O.) prior to travelling.

I discussed the matter with the C.M.O. and he stated that the complainant was mis-informed about the non-availability of assistance if treatment was sought outside the region. He also indicated that stretcher cases could be accommodated on regular flights by removal of certain number of seats on the aircraft. He felt that only in extreme cases could the use of an air ambulance be justified. Following the discussions the C.M.O. agreed to recommend to the Superintendent of the Medical Benefits Scheme the reimbursement of the cost of an economy airline ticket to Jamaica plus EC \$2,000.00. This was conveyed to the complainant. She felt, however, that the amount recommended was small and that it would become necessary for her to have further discussions on the matter. This is still pending.

X) CENTRAL BOARD OF HEALTH – MINISTRY OF HEALTH

A complainant reported that she lives near a watercourse which backs up during heavy rains causing the water to flow into her premises threatening the security of her house. She said that the problem was reported by her to the Central Board of Health (CBH) on several occasions over the past year but although promises were made to rectify the situation nothing was done. She, therefore, decided to seek our assistance.

Our Investigations Officer visited the site and observed that among other things there was much debris from the watercourse which needed to be removed. Contact was made with a CBH official and as a result a backhoe was sent to clear the watercourse and nearby drains. This solved the problem to the satisfaction of the complainant.

XI) INDUSTRIAL DEVELOPMENT BOARD – MINISTRY OF TRADE

Two former employees of the Industrial Development Board reported that they had not received their pensions for two months. When they visited the office to make enquiries they found the building closed and padlocked but no one had said anything to them. The problem had been causing them financial difficulties and they sought our assistance.

The Chairman of the Board was contacted and fulfilled a promise to look into the matter. The pensioners have since been receiving their pensions uninterrupted from the Ministry of Trade.

The important point to note is that although the pensions were relatively small, they played an important part in the financial upkeep of the complainants. This should always be recognized by public officials and everything done to prevent problems of the nature reported from happening. At least a notice could have been posted on the office door to advise persons of the situation and the plans made to address it.

**XII) ROYAL ANTIGUA AND BARBUDA POLICE FORCE
MINISTRY OF LABOUR AND PUBLIC SAFETY**

The Superintendent Minister of a Church sought our assistance in dealing with a problem of security on the church premises. He did so after failing to obtain satisfactory help from the Police.

It was reported that the person complained about had been trespassing on the property for some eight years. His presence intimidates the staff and public and his behaviour on the whole is unacceptable. He has been abusive and has shown signs of aggression when spoken to. The use to which he puts the property has been unhygienic. Moreover, the person

sleeps and cooks on the verandah and is alleged to “do drugs” on the property. There is a real fear that there could be a fire which could lead to destruction of the property. He has also been using and wasting water for which the Church has to pay. All of the above were also confirmed in a letter written by a member of the congregation to the Commissioner of Police and copied to the Superintendent of the Church as well as to me.

I subsequently wrote to the Commissioner urging that urgent steps be taken to effectively deal with the situation without further delay. I said “It would be indeed sad, to put it mildly, if anything untoward happened before the matter is resolved.”

A reply was received from the Commissioner appreciating the Reverend’s concerns, but more importantly his desire to have the vagrant evicted from the Church property. He further stated:-

“We have taken certain courses of action against the offender in the past, but were unsuccessful in having him either committed to the Asylum or incarcerated for the illegal acts allegedly committed. The Police Department is committed to curtail his illegal activities on the Church premises.” Consequent upon this, the Head of the Criminal Investigation Department has been directed to look into the complaint. This is with a view of bringing him to justice or if suspected to be of unsound mind to impress upon the court to commit him to the Asylum.”

I subsequently checked to receive an update. It is my understanding that the accused had since been committed by the Court to Prison on a few occasions. He has now taken up residence in an adjacent property. The threat has been, therefore, reduced but not entirely eliminated. I shall continue to monitor the situation.

6. GENERAL COMMENTS

1. Payment for Acquisition of Land

In my previous Report I commented on a complaint made re non-payment for lands acquired by Government. To date it is sad to report that still no payment has been made. I checked with the Lands Division and was told that money would be provided in the 2003 budget and hoped that payments would be effected.

2. Legal Aid Scheme

It is understood that this is being actively pursued and that the office will soon be established. Cooperation is being sought from

the Bar Association for the participation of their members in the Scheme.

3. Child Maintenance Arrears

This matter is being followed up with the Police. There has been limited success but amounts outstanding are still considerable.

I have been advised that the possibility of introducing appropriate legislation is being seriously considered.

4. Access to Beaches

There is still much concern by nationals pertaining to access to Yeptons Beach. At present, one has to pass through a gate. This was previously discussed with Management of the adjacent Hotel and with Development Control Authority Officials. A recommendation has been made for the acquisition of land by Government to allow for free access without having to enter through a gate. It appears that the owners of the hotel were not unwilling to have the problem solved in this way. So far the matter is still outstanding and I propose to have further dialogue with the Ministry concerned.

7. CONCLUSION

We will continue with public awareness campaigns to ensure that the role of the Ombudsman is clearly understood and that an efficient service is provided to all, within the limits of our resources.

8. ACKNOWLEDGEMENTS

In addition to acknowledgements already made, thanks are hereby expressed to our Senior Clerk Miss Joycelyn Richards, and our Assistant Investigations Officer Mrs. Gloria Samuel for the computer work done throughout the year and in particular on the production of this report. Thanks are also expressed to Mr. Haynesworth Buckley our Investigations Officer (at present away on secondment) for his assistance in investigating several of the complaints. All other members of staff continued to make their contribution towards the advancement of the work in the office and for this I express my sincere gratitude. I express our thanks to all Government Ministries and Departments who have helped in various ways and in particular the Ministry of Finance, The Treasury, Establishment Division, Training Division, the Office of the Prime Minister and the Government Printery.

Finally I thank the members of the public for their continued confidence in the office by bringing their complaints for our resolution. We also say thanks to the media for publicity given to our work from time to time.

We are thankful for what we have been able to accomplish throughout the year but do look forward to even greater achievements during the upcoming years.

Appendix I

SECTION 66 OF THE ANTIGUA AND BARBUDA CONSTITUTION

Part 5

The Ombudsman

Establishment, 66. –(1) There shall be an officer of Parliament who shall be known as the Ombudsman who shall not hold Appointment any other office of emolument either in the public service or otherwise nor engage in any occupation for functions etc. of reward other than the duties of his office.

Ombudsman

(2) The Ombudsman shall be appointed by resolutions of each House of Parliament for such term as may be prescribed therein.

(3) The Ombudsman shall not enter upon the duties of his office until he has taken and subscribed before the Speaker the oath of allegiance and the oath of office.

(4) Parliament may make provision for the functions, powers and duties of the Ombudsman.

(5) The Ombudsman may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) The Ombudsman shall be removed from office by resolutions of both Houses of Parliament if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to Parliament that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If by both Houses of Parliament it is resolved that the question of removing the Ombudsman under this section ought to be investigated, then-

- (a) the Speaker shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Speaker and recommend to Parliament through the Speaker whether the Ombudsman ought to be removed under this section.

(8) If the question of removing the Ombudsman has been referred to a tribunal under this section, both Houses of Parliament may by resolution suspend the Ombudsman from the functions of his office and any such suspension may at any time be revoked by resolutions of both Houses of Parliament, and shall in any case cease to have effect if the tribunal recommends to Parliament through the speaker that the Ombudsman should not be removed.

(9) If at any time the Ombudsman is for any reason unable to exercise the functions of his office, both Houses of Parliament may by resolutions appoint a person to act as Ombudsman, and any person so appointed shall, subject to the provisions of subsections (7) and (8) of this section, continue to act until the Ombudsman has resumed his functions or until the appointment to act has been revoked by resolutions of both Houses of Parliament.

(10) The Ombudsman shall, in the exercise of his functions under this Constitution, not be subject to the direction or control of any other person or authority.

Appendix II

Ombudsman Act, 1994

Appendix III

The Development and Future of the Ombudsman Concept in the Caribbean

by
Dr. Hayden Thomas

The history of the Ombudsman concept as we know it today dates back to the year 1809 when Sweden gained a democratic constitution and its Parliament appointed an Ombudsman to investigate complaints made by citizens against officials of the State. Indeed the very origin of the word “Ombudsman” is from a Swedish word which means representative or agent also a person who examines.

It should be mentioned, however, in passing that according to reports, forms of ombudsmanship were practised long before this time in some of the eastern countries e.g. Pakistan and in Africa where elders often assisted in settling disputes between residents of various communities.

The Ombudsman is there to see how the Executive operates. He is like a **WATCHDOG** (as it were an intermediary between the people and government). He operates in complete independence of the Government and Parliament except in so far as funds and staff are required. He must be non-partisan. He swears to do the job without fear or favour, malice or ill-will. He is concerned with Equity. He deals with maladministration and he is an arbiter, not bound by legalities only, but seeks the truth. The Existence of an Ombudsman gives a feeling of security i.e. the citizen has a friend in court. The Civil Service in some countries actually come to regard the Ombudsman as defence against unjust criticism rather than enemy.

Some matters may be dealt with by the Ombudsman which may have been considered for Court, but this is sometimes expensive and may be long drawn-out. It is well known that “Justice delayed is Justice denied.”

Owen, a former Ombudsman in Canada once said:-

“The need for ombudsmanship is underscored by the slowness and expensiveness of the court system, the unreliability of the media’s investigations and the tendency of political parties to effect the subordination of the legislatures to Cabinets. Owen also identified new approaches to ombudsmanship which seek to refashion it as a constructive rather than reactive mechanism and opined that its reliance on constructive rather than confrontational values is one of its real strengths.”

Types of Reviewable Acts include: Any complaint relating to administrative decisions and acts of officers of Government and Statutory Bodies.

Faults in Administration may include:-

Delay

Bias

Unfair discrimination

Failure to give proper advice

Discourtesy

Harassment

Failing to follow recognized procedures.

The question may well be asked-

What sort of man should fill the Office of Ombudsman?

The answer: He must be a person with wide knowledge, high prestige, personal merit, great energy and abundant courage. He must be able to stand against criticism, concerned more about discharging a job of social worth than with personal popularity.

Professor Sandler wrote:

“He should be so carefully selected that there never could be a question of his honesty, integrity, ability or motive. In all the 160 years that Sweden has had its Ombudsman, the man has never been doubted.”

“Wherever the institution has been successfully transplanted its growth has resulted largely from the personality, energy and good sense of the first holder of the office. New Zealand and Tanzania are examples of this.”

It took over 100 years – in 1919 to be exact - for the Swedish concept to spread to Finland to be followed by Denmark in 1955 and Norway in 1962.

Guyana was the first country in the Caribbean and indeed in the western hemisphere and in the Third World countries to have an Ombudsman. The office was established in the Independence Constitution of Guyana in 1966. S. Y. Mohamed (2000) pointed out that “in England, when the Labour government came into power in 1967, it established the office of the ombudsman under the name of Parliamentary Commissioner of Administration. Thus, the United Kingdom Parliament gave Guyana an Ombudsman in its Independence Constitution of 1966 before it gave one to itself in 1967.”

The concept arose due to what was considered to be “racial imbalance” in the public service. The Ombudsman idea was accepted with the constitutional authority to investigate cases of

mal-administration including racial discrimination. As is widely known, Guyana is a multi-racial society with citizens of East Indian, African, Chinese, Amerindian and European descent, the Indo-Guyanese and Afro-Guyanese being by far the two largest groups.

The Guyana Ombudsman is appointed by the President after consultation with the Leader of the Opposition.

Trinidad and Tobago's first Ombudsman was appointed in 1976, Jamaica and Puerto Rico in 1975, St. Lucia which uses the name Parliamentary Commissioner in 1979, Barbados in 1980, Antigua and Barbuda in 1995 and Belize in 1999.

It is worthy of note that although Antigua and Barbuda's Ombudsman was only appointed in 1995 provisions for such an appointment was enshrined in the Constitution way back in 1981 when it became independent. Similarly, provision was made in the Belize Constitution in 1981 and in the Commonwealth of Dominica's independence Constitution in 1978. An appointment in Dominica is, however, yet to be made.

An Ombudsman (Protecteur du Citoyen) was appointed in Haiti around 1994 and more recently in 2000, a Complaints Commissioner was appointed in the Turks & Caicos Islands. Bermuda has established a Human Rights Commission under the Human Rights Act 1981 and it is understood that legislation has now been enacted for the appointment of an Ombudsman and that this matter is now being actively pursued.

The Dominican Republic possesses a Human Rights Commission and is now seriously considering the appointment of an Ombudsman.

It should be noted that at one time, in addition to a Parliamentary Ombudsman, Jamaica also had an "Ombudsman – like" Contractor General and a Utilities Ombudsman (Jones, 1993). They also had a Political Ombudsman whose main function was to deal with political issues with a view to easing tension in the country especially around the time of General Elections. They now have an Ombudsman known as the Public Defender whose mandate is outlined in the Jamaica Public Defender Act. A Political Ombudsman was again recently appointed.

The Institute of Social and Economic Research, University of the West Indies Cave Hill Campus, Barbados saw the need to evaluate the performance of the Ombudsman Institution in the region and so in November 1989 organised a very successful Symposium on "The Role of the Ombudsman in the Commonwealth Caribbean." Several persons delivered excellent papers and included among them were Caribbean Ombudsmen and social scientists as well as Ombudsmen from Scandinavia and the U.K. In the main, most authors emphasised the important role played by Ombudsmen in the development of democracy and the promotion and protection of human rights.

The functions of the Ombudsman as outlined in the Constitution and/or legislation of various Caribbean countries are very similar. In Antigua and Barbuda, for example, "...

the Ombudsman is to investigate any complaint relating to any decision or recommendation made or any act done or omitted by any officer of the Government or statutory body in any case in which a member of the public claims to be aggrieved, or appears to the Ombudsman to have sustained injustice as a result of the exercise of the administrative function of that officer or body.” Since the first appointment was made in 1995, there have been well over 1000 complaints investigated, many of which have been found to be justified and appropriate recommendations have been made and implemented. Regrettably it has to be said, however, that some officials are tardy in their response to requests for information and this has had the adverse effect of increasing the time taken for the resolution of problems.

Taking everything into consideration, however, it can be said that some progress has been made in the development of the Ombudsman Institution in the region. Having said this, it is evident that there is, much left still to be accomplished and one way it was felt by which this goal could be achieved was by forming a Caribbean Ombudsman Association (CAROA).

The idea was developed at a Commonwealth regional meeting entitled “Strengthening National Ombudsman and Human Rights institutions in the Caribbean” held in Antigua in March 1998 at which there were participants from Caribbean countries with or without an Ombudsman, from the Commonwealth Secretariat in London, Canada, South Africa, Latin American Countries and from the International Ombudsman Institute.

At that meeting the following recommendations were made:-

1. That the Heads of Government recognize the existence and the meaningful role of Ombudsman and Human Rights Institutions in the furtherance of good governance and democracy and that encouragement be given to countries to establish such institutions where they do not now exist.
2. That a regional association be formed to encourage networking and collaboration among members.
3. That the Ombudsman and Human Rights Institutions be provided with the necessary financial, human, and physical resources to carry out their work.
4. That the independence and autonomy of the Ombudsman and Human Rights Institutions be maintained.
5. That the institutions remain vigilant in the face of changing situations, especially that of the privatization of public institutions, in order to ensure that the public concerns are met.
6. That the management capability of the institutions be strengthened.
7. That a workshop to continue regional collaboration be held within the next two years in Saint Lucia or Bermuda.

The meeting did take place in St. Lucia in June 2000 and the Association was duly launched. It is expected that CAROA's Constitution will be adopted at the general meeting being held here this week.

The Association has since made strategic Alliances with organizations such as the International Ombudsman Institute, the United Nations Human Rights Commission, the Danish Centre for Human Rights, the Inter-American Institute on Human Rights, the Ibero- American Ombudsman Federation (FIO), the AOMF and the Caribbean Human Rights Network. Some Members of CAROA have also participated in activities of the United States Ombudsman Association (USOA) and have had training at Public Administration International (PAI) in London. These are all contributing to the development of the Ombudsman concept and the Protection of Human Rights in the Caribbean.

More and more it is being recognized that it is necessary for the Ombudsman to become more proactive in his/her work by using his/her own initiative and not only reacting to complaints against mal-administration.

It is, of course, very important for more countries in the region to embrace the Ombudsman idea. Countries still without Ombudsmen include the Bahamas, the Commonwealth of Dominica, Grenada, St. Vincent and the Grenadines and St. Kitts and Nevis. Efforts have been made, so far without success, to bring them into the fold.

It is hoped that in the not too distant future at least some of these objectives will be realized. It is hoped, too, that those offices already in existence will be given the necessary financial and human resources to ensure that there is continued growth and development so that all of our people can be the beneficiaries of our work.

It is important for these offices to be successful entities and not to be there merely as window dressing, and here I must quote from an address given by Ms Anne Henry President of the Antigua and Barbuda Bar Association at the official opening of our office. She had this to say "The view had been expressed by Najmul Abedin that some so-called "Third World Countries" have adopted or retained the Ombudsman system just as a symbolic gesture or as a show piece for favourable publicity to improve human rights records and to bolster their so-called liberal or progressive image. Too often the experience of other jurisdictions is that the reports and recommendations of the Ombudsman are not put into effect and are hardly the subject of Parliamentary debate. The challenge to our Parliament is to protect the Ombudsman's office from such a fate. The Office of the Ombudsman must be properly staffed with qualified personnel.... There must be trained investigators, as many as the needs of the office require. There must be trained support staff with technologically advanced equipment..."

She then quoted Arthur Maloney Q.C a former Ombudsman of Ontario. Who said “I do not think that it is an overstatement to say that an Ombudsman’s office not properly budgeted, not properly staffed, not sufficiently independent and not properly backed by those who brought it into being, amounts to nothing more than a front and a facade. The public may well be led to believe that they have a crutch on which to lean when in fact they have nothing at all.” We will all agree that this is certainly not the desired image of an Office of the Ombudsman. We as Ombudsmen will have to do everything within our power to ensure that we do not suffer this fate.

Before I close, I would like to make some recommendations:-

- (1) As we in the region seek to strengthen the integration process by way of the CARICOM Single Market and Economy I feel that the need will eventually arise for the appointment of a Caribbean Ombudsman structured in a similar way to that of the European Ombudsman who resolves disputes at the European Union Level. I believe this is something that we can learn from them.
- (2) Ombudsman’s offices will need to play an increasingly important role in the area of the Protection of human rights especially for the vulnerable e.g children, the mentally ill, the physically challenged, women and minority groups but to do so will require to some extent amendment of legislation so as to give Ombudsmen specific jurisdiction.
- (3) Experience has shown the need for other services as would normally be provided by, for example, a Banking Ombudsman, a Police Complaints Commissioner, Anti-corruption Unit, an agency to monitor Integrity Legislation etc.

Bearing in mind the small size of most of the Caribbean countries consideration should be given to bringing these under the ambit of a centralized office of the Ombudsman. I must hasten to add, however, that in such a case there would be the need for additionally trained staff and for provision of an adequate budget.

- (4) We will need to carry out more public awareness campaigns both at the local and regional levels so that the nature of our work will be clearly understood. We will need to continue to cooperate with the various groups nationally, regionally and internationally and so learn from each other especially in this era of globalisation.

I must say that despite the quotations mentioned earlier, I am optimistic that the Ombudsman Concept in the Caribbean will grow from strength to strength. Let us do everything possible to nourish it so that it can grow into a healthy plant for the benefit of all of our peoples.

Appendix IV

**Report on the Second Regional Conference of the Caribbean
Ombudsman Association held at Port of Spain, Trinidad
6 – 10 May, 2002**

**by
Haynesworth Buckley
Investigations Officer**

The theme chosen for the Conference was “*The Role of the Ombudsman Institution in Achieving Accountability, Transparency, Good Governance and the Observance of Human Rights*”.

The period of the Conference may be placed in five stages which can be summarized as follows:-Regional Seminar for Investigators of Caribbean Ombudsman offices

1. Opening Ceremony of Conference
2. The Actual Conference Proceedings
3. Statutory Meeting of the Caribbean Ombudsman Association
4. Closing Ceremony of Conference

The opening remarks for the Regional Seminar for Investigators of Caribbean Ombudsman Offices was ably presented by Mrs. Yvette Hall the Ag. Executive Officer from the Office of the Ombudsman in Trinidad and Tobago. She welcomed the delegates and wished them an enjoyable stay and expressed the view that they would all benefit from the training which was prepared for them.

Dr. Hayden Thomas, the Ombudsman of Antigua and Barbuda and President of the Caribbean Ombudsman Association (CAROA) also welcomed the delegates and gave the theme of the conference. He thanked the Ombudsman of Trinidad and Tobago Mr. Justice George Edoe and staff for making all the arrangements for the Seminar and Conference, making special mention of Dr. Victor Ayeni of the Commonwealth Secretariat and Professor Roy Gregory from the University of Reading who were the main lecturers for the Seminar.

Dr. Victor Ayeni was introduced and he expressed the nature of the Commonwealth Secretariat’s involvement and his pleasure to be a part of the conference. He declared the Seminar open.

Professor Roy Gregory Director of Governance and Ombudsman Studies at the University of Reading was introduced and he outlined the programme of Training and presented the first lecture dealing with Strategies for Effective Complaint Resolution. Although the time was somewhat limited, he was able to deal with such sub-topics as:-

- essentials of complaint handling
- difficult/aggressive complainants

- helping aggrieved persons to complain
- rejecting complaints
- ‘problems’, ‘complaints’, and ‘disputes’ the repertoire of responses and the ‘triage’ approach.

The other topic discussed was:-

Options for redress for detriment arising out of mal-administration.

The sub-topics dealt with were –

- Appraising the quality of administrative actions, standards, norms and criteria.
- Developing a redress policy and the provision of appropriate remedies.
- Securing compliance with recommendations dealing with difficult departments and agencies.
- Own initiative investigations and systemic recommendations.

Professor Gregory was assisted by Dr. Victor Ayeni and their presentations provoked active discussions and participation by delegates.

The delegates were later divided into three working groups and were each given an assignment on Mal-administration. The groups’ presentations at the final session reflected very much how well they had benefited from the training.

The Official Opening Ceremony was well attended and was favoured with the presence of Her Excellency Dr. Linda Baboolal, Acting President of Trinidad and Tobago. The proceedings were chaired by Justice George Edoe, Ombudsman of Trinidad and Tobago. The ceremony began with the singing of the National Anthem after which the chairman extended greetings and welcome on behalf of his office and the Government of Trinidad and Tobago. Some other appropriate remarks about the staging of the conference were also expressed.

Dr. Hayden Thomas, president of CAROA also extended greetings and introduced the participants to the audience. He thanked Mr. Justice Edoe and his staff for the work and preparation they made for the conference. He also thanked the Government of Trinidad and Tobago for their assistance in staging the conference and the Commonwealth Secretariat for their significant financial contribution.

The feature address was delivered by Dr. Bhoë Tewarie, Principal of the St. Augustine Campus, University of the West Indies. The topic he chose was “**Striving to be an Example to the World**”. His approach to the topic he said, was to provoke discussion rather than stick to bland platitudes and therefore hoped that his point of view would be accepted in the spirit in which it was offered. He thought the Conference had taken up a formidable challenge in choosing the theme – “The Role of the Ombudsman Institution in Achieving Accountability, Transparency, Good Governance and the Observance of

Human Rights". He referred to the seven (7) deadly social sins as quoted by Mohandas Karam Chand Gandhi which are –

- politics without principles
- wealth without work
- enjoyment without conscience
- knowledge without character
- business without morality
- science without humanity and
- religion without sacrifice

He wondered where was the culture, the institutional infrastructure, the committed leadership, the shared vision, the popular resolve to achieve the task the Ombudsmen set themselves. He said he did not come to dampen our spirits but he did come to make the point that all our constitutions in the region need drastic over-haul. Within the framework of a new constitutional order, any institution which is charged with carrying out the role and responsibility of investigating a complaint against those who administer government, should have strength and teeth; and considered recommendations to remedy injustice should be enforceable. The role of the Ombudsman as an institution can be considered within this framework since it is meant to be a watchdog and a check on power and authority.

He ended by saying that in practical terms our aspirations for the people need to be captured in the constitutional framework we strive for, what we stand for and what we aspire to. What we strive for we must work together to capture in the constitutions we make.

The official opening of the conference was declared by Her Excellency Dr. Linda Baboolal, Acting President of Trinidad and Tobago and the vote of thanks was adequately performed by Ms. Lawrence Laurent Honorary Secretary of CAROA.

The actual Conference proceedings was comprised of several Plenary Sessions the opening of which was undertaken by Dr. Hayden Thomas the President of CAROA. The presentations dealt with such topics as:-

- Ombudsmanship experience in the Commonwealth and other parts of the developing world: problems, concerns and suggestions.
Speaker: Dr. Najmul Abedin, Associate Professor at Peay State University, U.S.A.
- The Institution of Ombudsman, an Effective Accountability Mechanism.
Speaker: Justice George Edoe, Ombudsman of Trinidad and Tobago.
- Promoting Good Governance – The Role of the Ombudsman.
Speaker: Professor Roy Gregory of the University of Reading.

- The Development and Future of the Ombudsman Concept in the Caribbean.
Speaker: Dr. Hayden Thomas, Ombudsman of Antigua and Barbuda.
- Need and prospect of establishing an Ombudsman Office in Dominica and Bermuda.
Speakers: Mr. Julian Johnson, Cabinet secretary of Dominica and Mr. Warren Jones Cabinet Secretary of Bermuda respectively.
- The Ombudsman Review – The Tool of Management
Speaker: Ms. Lawrence Laurent, Secretary/Treasurer of CAROA.
- Institutionalising the Ombudsman Public Relations Function
Speaker: Dr. Victor Ayeni, Commonwealth Secretariat.
- The Relationship between Poverty, Good Governance and Democracy in the Caribbean.
Speaker: Mr. Howard Hamilton, QC Public Defender of Jamaica
- The Role of the Ombudsman in the Development of Public Protection Legislation.
Speaker: The Honourable Justice Vincent Meerabux of Bermuda.
- Recent Developments of the Institution of Ombudsman in the Dominican Republic.
Speaker: Ms. Irma Capriles
- Networking Regionally and Internationally.

Panel Discussion

Speakers: Dr. Relinda Louisy, Interamerican Commission on Human Rights, OAS
 Mr. Clare Lewis, Ombudsman of Ontario, Canada and Secretary of IOI
 Dr. Victor Ayeni, Commonwealth Secretariat
 Jose Thompson – IIDH
 Stephani Kline – Albrandt, U.N. Human Rights Commission
 Brian Burdekin, Special Adviser U.N. Human Rights Commission

The Moderator who was Mr. Brian Burdekin was introduced by Dr. Hayden Thomas and then took over the proceedings. He said that events are moving rapidly for the work involved in the various Ombudsman Institutions in the region and that through the networking we should accomplish much.

Ms. Louisy said that the Ombudsman is considered an important representative in the role of ensuring citizens are protected from maladministration and human rights breaches. The mandate of the ombudsman should determine the guideline under which he operates

and invariably the Ombudsman has a mandate to investigate maladministration and human rights abuses. Networking, she said, at the community and other levels should be considered as an effective method and strategy for accessing funds.

Mr. Clare Lewis said that in Canada there is a clear delineation between Human Rights and Ombudsman Organisations. The merging of the two institutions in Nova Scotia was attempted but was resisted causing a reversal to the original situation. Canada has played a role in the international forum and assistance and advice have been given to other international institutions. His organization as a member of I.O.I. has been involved in assisting a pilot scheme for training in Southern Africa which was considered a success.

Dr. Victor Ayeni urged networking collaboration in CAROA with priorities identified. Clear objectives should be identified and pursued so that other agencies may be attracted by the mutual benefits which can be achieved. Looking at the position of key operators and their modus operandi, and keeping abreast with things happening should be encouraged for effective collaboration. All this is important in good governance. By being persistent, strong regional bodies can be effective and there is a lot to be gained by preventing proliferation. His office, he said, try to foster good relationship with CAROA and other international bodies and in particular Africa. A well-functioning secretariat is essential for CAROA and should be put in place quickly. It is an immediate priority. Extending the establishment of similar institutions in the region strengthens the organization. CAROA, he said, should keep in touch and abreast with the activities of international institutions.

Ms Lizbeth Anderson said that two publications came out of the conference in Copenhagen which was organized by the Danish Institute on Human Rights. A fund has been established by the said organization to assist Ombudsman institutions in the Caribbean and Latin America. Feedback as to how funds should be accessed was needed.

Mr. José Thompson said that the Inter-American Institute on Human Rights is interested in the progress of CAROA and would like to develop a relationship which would be beneficial to both Institutions. He gave a breakdown of his organization's structure and explained the Ombudsman and Human Rights programme. The project phases, he said, involves (1) Diagnostic and seminar and (2) system implementation.

Dr. Albert Fiadjoe said that CAROA should use the U.W.I. as a networking partner and suggested that at the end of the conference a resolution should be made addressing the involvement of the U.W.I as a collaborator.

The Promotion and Protection of Human Rights in the Caribbean The Paris Principles

Human Rights Issues – The need for an Institution Response.

Speakers: Miss Noreen John – Commonwealth Secretariat
Mr. Francis Gabbidon – Ombudsman, Sierra Leone

During the discussion on this subject the point was made that Human Rights come from the inherent dignity of the person which requires respect and not from the law which is just a safeguard for its enhancement.

There was full participation throughout the plenary sessions and the points raised were deep and wide. Hand-outs were made available by most of the speakers on the various topics.

The statutory meeting of CAROA was slated as its second general meeting. The Vice president Mr. Justice George Edoe gave the opening remarks and introduced the president Dr. Hayden Thomas who presented and read his report.

The minutes of the last meeting which were circulated received adoption after some lengthy discussion. So too was the draft Constitution on which there was some lengthy debate before adoption.

The Secretary/Treasurer Ms. Lawrence Laurent presented her financial report. This was accepted after discussion.

Ms. Lizbeth Anderson the representative from the Danish Centre of Human Rights explained a document she circulated stating that it was a Draft Document but was intended to give assistance for the strengthening and creation of Ombudsman offices in the Caribbean and other areas. A management Board is to be set up by her Department to deal with the funds.

Mr. Johnson solicited support for the establishing of an Ombudsman's Office in Dominica and was promised assistance after legislation is made for such an office in his country.

Mr. Fiadjoe mentioned the idea of an association with U.W.I for training in certain areas. He suggested the possibility of a project for the harmonization of Ombudsman laws in the region. He also said that the third edition of a book which will be published will feature details of the Ombudsman Conference.

Dr. Ayeni asked the Danish representative about the importance of the fund to be set up and what the Danish Centre for Human Rights expects to benefit from the assistance offered. She gave some explanation but Mr. Brian Burdekin said the channeling of such resources is meant to strengthen Caribbean Institutions.

Mr. Johnson was asked to conduct the election of officers for CAROA. Dr. Hayden Thomas was nominated by Justice Edoe to be president and was elected unopposed. Mr. Howard Hamilton of Jamaica was nominated to be Vice President by Mr. Lionel Castillo of Belize and was elected unopposed. Ms. Lawrence Laurent was nominated to be Secretary by Mr. Selwyn Vincent of St. Lucia and was elected unopposed. The other elected officers were: Justice Shaikh Yacoob Mohamed, Mr. Selwyn Vincent, Sir Frank Blackman of Barbados as adviser, Mr. Carl Ince of Barbados, Mr. Justice Vincent

Meerabux of Bermuda and Ms. Relinda Louisy from the Organization of American States (OAS).

Dr. Thomas thanked the delegates for electing him as president for a second term and pledged his commitment. The other elected members did likewise. On behalf of CAROA Dr. Thomas thanked Justice George Edoe for the service rendered to CAROA as he was due to retire shortly as Ombudsman of Trinidad & Tobago.

The subscription of members was discussed and it was decided and agreed that \$100.00US. Should be paid by Ombudsmen and officers of CAROA. It was agreed that the Council will determine the subscription fee of other members.

Dr. Thomas solicited from the members the venue for the next meeting of CAROA and Jamaica was offered as the next venue by Mr. Howard Hamilton and it was accepted.

Dr. Ayeni and Sir Frank Blackman complimented the Secretary/Treasurer Ms. Laurent for the hard work she put in for the arrangement of the Conference which she acknowledged.

The President Dr. Thomas brought the meeting to a close with the idea that the Executive would meet later to consider the drafting of a communiqué for publication. That meeting was convened and the communiqué drafted.

The closing ceremony for the Conference was chaired by Dr. Hayden Thomas. He thanked Mr. Justice Edoe, his Staff and the Government of Trinidad and Tobago for the support and assistance provided in making the Conference the success it was. He also thanked the delegates and other participants for their support and active participation. Remarks were also made by Mr. Justice Edoe and Mr. Brian Burdekin and the feature address was presented by Senator the Honourable Mrs. Glendora Morean, Attorney General. The vote of thanks was given by Mr. Carl Ince the Ombudsman of Barbados, bringing the Conference to a close.

Haynesworth Buckley
Investigations Officer

Appendix V

IOI BOARD OF DIRECTORS – EXECUTIVE

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Appendix VI

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Appendix VII

Report on Technical Seminar “Towards an Integrated Information and Communications System: Ombudsnet”

By
Gloria Samuel
Assistant Investigations Officer

The above seminar was held at the Courtroom of the Inter-American Court of the Inter-American Institute of Human Rights (ICHR) in Costa Rica from April 2-4, 2002. It was conducted under the auspices of the Inter-American Institute of Human Rights (IIHR) and the Canadian International Development Agency (CIDA).

The seminar comprised 9 participants from Antigua and Barbuda, Belize, Guyana, Haiti, Jamaica, St. Lucia and Trinidad and Tobago.

There were welcome addresses by Robert Cuellar, Executive Director of IIHR, Manuel Ventura, General Secretary of ICHR, David Morris of CIDA and Lorena Gonzales, Programme Officer of the IIHR.

The first presenter was José Manuel Echandi, Ombudsman of Costa Rica. He spoke on the theme “The Ombudsman Institution as a Guarantee of the Democratic System and its Information Requirements to carry out its Functions”. Mr. Echandi stressed the importance of involving the Caribbean countries in the integration movement. He went on to give a brief background on the establishment of the Ombudsman’s office in Costa Rica. The office was established in 1993 and presently has a staff of 110. He highlighted critical cases being investigated in Costa Rica which were mainly in the areas of health, employment, exploitation of workers and abuse of officers by public officials. It was observed that cases/problems were similar in Latin America and the Caribbean. This re-emphasized the need for Ombudsnet whose aim is to provide information on how these cases should be solved and how offices can be strengthened to provide results.

Mr. José Thompson, Public Institutions Director presented the project “Ombudsnet”.

- (1) What it is all about
- (2) Its Objectives:
 - General
 - Specific
- (3) What it is expected to provide.

Ombudsnet is an integrated information and communication system for the Ombudsman Offices in Latin America and the Caribbean that will allow them to access information relevant to their work in a systematic manner.

Its Objectives –

General: To strengthen the capacities of Ombudsman Offices in Latin America and the Caribbean to effectively protect and promote human rights and democracy development.

Specific: To establish an electronic information and communication system on legislation, decisions and doctrine pertaining to Ombudsman and human rights as well as to provide on-line communication services.

To train Ombudsman Offices' staff in the use of the technology required for use of electronic information systems.

To facilitate exchange of experiences among Ombudsman Offices in the region.

Ombudsnet is expected to provide the following services:-

1. All national and international legislations pertaining to human rights and Ombudsman
2. A complete directory with data on each Ombudsman Office in the region, whether national, provincial, state or municipal
3. A timetable of activities pertaining to Ombudsman
4. Discussion *fora* where current issues can be debated and experiences shared
5. A directory of other electronic resources
6. A bi-monthly newsletter to report on the main activities carried out by the Ombudsman offices at a national, state and regional level
7. A network for exchange of information and experience
8. An early warning service for cases requiring urgent action
9. An assistance service area, where Ombudsman offices can put forth their queries and the IIHR can respond to them with support from the documentation center and the library.

This session in particular proved to be very informative and useful as it gave a direct insight into the working of Ombudsnet and the benefits to be derived.

We visited the library of the Inter-American Court of Human Rights (ICHR) and the headquarters of the Inter-American Institute of Human Rights (IIHR). While there, we were presented with virtual communities already developed by the IIHR namely:

1. Teaching tools for Human Rights Education
2. Integrated Ibero-American Information System
3. Diversity.

These are projects implemented by the IIHR and would be similar to the Ombudsnet project when it comes on stream. We were given an insight into the workings of each of the communities but the information was in Spanish and proved to be restrictive. Participants were advised to visit the following websites which would prove very useful to the research work of the Ombudsman:

www.hrea.org
www.hr-education
www.iidh.ed.er

We were also advised to send to the IIHR information from our various islands on laws etc. with regards to the setting up and operation of our various offices.

The first Ombudsman of Guatemala Jorge Mario Garcia Laguardia, made a presentation on “Reflections on the Ombudsman in Latin America – Problems and Challenges”.

His focus was mainly on the criteria for being an Ombudsman. The salient points in his address were:

1. The criteria needed to be an Ombudsman:-
 - a. one with high moral and ethical values
 - b. one who is sensitive to human relations
 - c. one who is non-political
 - d. one who is able to shape the rule of law
 - e. one who has the citizens at heart.
2. Ombudsman should avoid politicizing the post as this could inevitably lead to a weakened institution and perhaps lose prestige.
3. El Salvador’s Ombudsman had to be expelled because he did not do his job well – he was too political and not interested in the people he was supposed to serve. The office remained without an Ombudsman for a number of months but the post was recently filled due to pressure by sister countries.
4. The Ombudsman should seek and be able to get assistance from the media, non-governmental organizations, professional organizations etc. if/when the need arises.
5. There must be development of good governance for the people – Government must be one of law and not law of persons in power – this should be facilitated by the Office of the Ombudsman.
6. There should be non-jurisdictional control hence the need for the Ombudsman to develop necessary procedures and rules.

7. There must be follow-up on recommendations made in the resolution of cases and if necessary establish procedures for repatriation of citizens.

Then there was the presentation and validation of the results of the diagnostic survey by Ana Teresa Chacon from a Data Processing Company.

This exercise proved to be very informative. What was gained from this session was that as far as computer technology is concerned the Caribbean islands were not far apart from each other, but there was a vast difference with what was obtained in the Caribbean versus the Latin American countries. The same could be said with regards to man-power in the various offices. Whereas the Caribbean islands had an average staff compliment of 9 the Latin American countries soared to figures like 110 in the case of Costa Rica and 200 in other countries.

Participants were given the assurance that the various offices would be informed of the basic technological requirements necessary for the successful working of Ombudsnet.

The next session was a lecture given by Lucrecia Marlina of the Inter-American Court of Human Rights Library on the topic "Information as an Indispensable tool for Developing the Mandate of the Ombudsman Institutions". She spoke on the following areas:-

1. What is information
2. What is a document
3. Information processing
4. Information systems
5. Human Rights information system
6. Communication theory
7. The information society, the internet and ICT's (international communication technology)
8. Sources of information on Human Rights.

This was followed by a working session where participants were put into three working groups to discuss what the various islands could contribute to the ombudsnet in terms of products and services. All islands said they would make available to the project their annual reports, special reports on cases and laws governing the functions of their various countries.

The last presenter Marisol Molestina, Director of Information of the IIDH gave a lecture on the importance of technologies available to access information on the internet. She stressed on the growing importance of the internet and the mechanisms used to search for information as well as using this medium to seek solidarity when needed. The recent case of the Nicaraguan woman who was sentenced to death because of adultery and later freed because of numerous e-mail messages sent to the President, was sited as an example of the use of the internet to gain solidarity on issues.

She spoke on the following topics:-

- ITC's (International Technologies for Communication)
- Professional Profile of information managers
- What is the internet
- Internet Services
- What is www
- URL
- What is a browser
- Specialized databases
- Searching the www.

Participants were introduced to the Boolean Searching Method on the internet. This followed a practical session in which we were requested to complete a worksheet and search the world wide web. Unfortunately this was not completed by all because of the unavailability of computers and not enough time. This exercise should have provided hands-on experience using the information highway. (handout given)

This session was followed by a field trip – a visit to the office of the Ombudsman which was housed some distance away (the other side of the city). The building which is five (5) months old is very big and modern. Participants were invited to lunch with the Ombudsman at his office following which we were given an extensive tour of the building. We were presented with a CD of the 2001 report.

We then returned to the office of ICHR for the final segment of the programme which was in the form of group sessions where we discussed the “Mandate of the Ombudsman and Information Requirements”. There was a facilitator for each group who overlooked the summing up of the activities and functions of the various officers in relation to their expectations and contributions to Ombudsnet.

There was a small closing ceremony at the end of the seminar where each participant was presented with a certificate and a CD on the seminar.

On a whole the seminar was of a high standard and proved very educational. The experience and knowledge gained would be beneficial to my office in this age of rapid technological development.

I would like to thank the Inter-American Institute of Human Rights and the Government of Antigua and Barbuda for making the trip possible.

Thanks again to one and all.

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Office of the Ombudsman
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