Strengthening the Ombudsman Institution in Asia
Improving Accountability in Public Service Delivery through the Ombudsman

Accountability is essential for good governance, and in many Asian countries the ombudsman is the key accountability institution. Originating in the West, the concept of the ombudsman arrived relatively late in Asia. Yet more and more ombudsman offices are being established in Asia, and they play a critical role in the fight against incompetence and injustice on the part of government officials.

This report presents in-depth research on Asian ombudsmen, with a focus on best practices and emerging issues, especially in the context of the new public management, and includes recommendations to policy makers. It will be a valuable resource for scholars, ombudsmen, and anyone else interested in this vital institution.

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STRENGTHENING THE OMBUDSMAN INSTITUTION IN ASIA
Improving Accountability in Public Service Delivery through the Ombudsman

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Foreword

The Asian Development Bank (ADB) is at the forefront of efforts to improve government accountability, especially in developing member countries. Accountability is vital to good governance, and it is a central element in ADB’s development and poverty reduction agenda. In many Asian countries, the office of the ombudsman is the primary accountability institution, promoting good governance by redressing public grievances and by checking maladministration and bureaucratic injustice committed by government officials.

This report is an in-depth study of ombudsman institutions in Asia, in particular their role in building good governance; enhancing accountability; and improving public administration through grievance redress, public information services, and policy recommendations.

I would like to express my sincere thanks to many colleagues at ADB, and to the Asian Ombudsman Association, for their help in preparing this report. I hope that the report will help promote the concept of ombudsmanship in the region, and thereby contribute to greater accountability and to the more efficient delivery of basic services, especially to the poor and marginalized.

Juan Miranda
Director General
Central and West Asia Department
Asian Development Bank
Preface

The six studies in this publication represent the final component of a 2-year project of the Asian Ombudsman Association (AOA) that was funded by the Asian Development Bank (ADB). Its purpose was to strengthen the institution of the ombudsman in Asia.

The AOA was established in 1996 with the objective of enhancing the capacity of member institutions by building on their strengths and promoting relationships among them. After 10 years, however, the AOA realized that its members were deriving only limited benefits from association activities, which generally consisted of annual board meetings and biennial conferences.

At these formal gatherings, only the top levels of the AOA’s member institutions were represented, with no staffers from the second or third tiers of their organizations. As a result, these events were of little use when it came to discussing the operational aspects of ombudsmanship. The AOA thus decided to expand its activities to enhance their value for the member institutions, especially as a means of gaining fresh ideas and knowledge about important aspects of the ombudsman’s functions.

In this vein, the AOA in 2008 initiated a 2-year project with ADB that aimed to encourage the spread of practical knowledge among its member institutions. This was achieved through visits and attachments by the staffs of relatively new ombudsman offices to countries with more mature ombudsman systems, especially those with innovative and effective practices that could be adopted or adapted by the newer offices. The visits were designed according to the findings of a survey that had revealed the strengths and weaknesses of individual member institutions, as well as their capacity enhancement needs.

The skill-development component of the project was a training workshop on investigations developed by the Office of the Ombudsman of Ontario, Canada. This workshop, held in Bangkok in February 2010, was based on a training program that the Ontario ombudsman office had conducted in various countries; the program was considered to be of great value for learning new and improved investigative techniques.

The material provided for the training workshop was also designed for dissemination through an upgraded AOA website and through an e-library set up at AOA headquarters, in Islamabad.

As part of its objective of facilitating learning from the experiences and practices of ombudsman offices in Asia and around the world, the project commissioned six cross-country studies about selected areas of ombudsmanship. These studies took into account both the conceptual and practical aspects of the selected areas, with each study providing a framework through which the ombudsman’s functions could be further researched and analyzed. These studies comprise the substance of this volume.

The studies were initially presented at the AOA conference, Strengthening the Ombudsman Institution in Asia, at ADB headquarters in August 2010, which highlighted critical issues regarding ombudsmanship. While the main focus of the presentations was public service delivery, it was evident how inextricably linked all the ombudsman-related issues are, and how they are all essential when considering ways to give the ombudsman the wherewithal to operate effectively.
The frameworks outlined in the papers aim to refine our thinking about ombudsmanship by introducing different perspectives and offering further insights into the ombudsman’s role and environment. I believe that these papers constitute a significant contribution to the literature on ombudsmanship.

George V. Carmona’s paper gives us a general overview of the mandates, powers, and functions of the AOA and its members. He presents the results of the organizational assessment, as well as the capacity development activities that were implemented under the technical assistance grant that ADB provided to the AOA to strengthen the AOA and its member institutions.

Mohammad Waseem discusses the structural and operational independence of the ombudsman. He also highlights some of the best arrangements and practices for making the ombudsman more relevant and effective, and hence more independent.

Rajani Ranjan Jha views the role of the ombudsman in the light of “new public management,” which takes into account the blurring of the public–private sector divide as well as the accountability issues regarding public service delivery by the private sector. His paper also provides detailed information about a number of Asian ombudsman offices, including lessons learned from the successes of some of them.

Alex B. Brillantes gives us a framework for decentralization that encompasses the political, administrative, fiscal, and market and/or economic aspects of the various forms of decentralization: deconcentration, devolution, and debureaucratization. He also presents the results of a useful survey he carried out among the participants at the training workshop in Bangkok, providing a realistic picture of how the operational level perceives the issue of accountability in the wake of decentralization.

Carlos Lo provides a useful framework for evaluating stakeholder engagement by dividing engagement approaches into four classifications: inactive, reactive, proactive, or interactive. He also categorizes the mechanisms for engagement as one way, two way, interactive, or collaborative; the institutional arrangements as formal vs. informal and regular vs. ad hoc; and the different levels of involvement as operational, policy, or systemic.

The evaluation of the performance of ombudsman institutions has long been an area of considerable debate. André Marin and Gareth Jones provide a new approach to qualitative evaluation that includes imperatives such as setting criteria for excellence in investigations, maintaining an effectiveness checklist for measuring outcomes and improving productivity, and devising a robust approach to publicizing the ombudsman’s achievements.

Tariq Husain evaluates the office of the ombudsman based on the criteria of relevance, efficiency, and effectiveness. He puts forward a scenario of the ombudsman achieving accountability through a long route, and then recommends a shortcut: directly giving a voice to complainants and enforcing the compact between the state and the service providers through systemic investigations.

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1 The original study was coauthored with Jose O. Tiu Sonco II.

2 Editor’s note: Rajani Ranjan Jha’s paper on the Concept and Role of the Ombudsman Institution in Asia in Improving and Maintaining Public Service Delivery and Alex B. Brillantes and Jose O. Tiu Sonco II’s study on the Role of Ombudsman in Improving and Maintaining Public Service Delivery (With Special Focus on Decentralized Public Service Delivery, outsourcing, and devolving administrative powers) were merged into one chapter entitled, Ensuring Accountability inPrivatized and Decentralized Delivery of Public Services: The Role of the Asian Ombudsman, which is coauthored with George V. Carmona and appears in Chapter 4 of this report.

3 Henry Wai Hang Yee, Nicole Ning Liu, and Honying Li coauthored this paper with Lo.
All the authors also emphasize the necessity of the ombudsman’s being easily accessible to the general public, especially the poor, marginalized, and disadvantaged most in need of help. In this context, it has been noted that the ombudsman has an important role in fulfilling the commitments made by developing countries to the United Nations’ Millennium Development Goals, which emphasize justice and prosperity for the marginalized and the poor.

The 2-year regional project, with its various components for knowledge sharing and dissemination, has been an enriching experience for all the participating ombudsman institutions. It is remarkable how much mutual learning resulted from the personal interactions that took place. This could never have been possible through remote and infrequent communication. Indeed, it can be said with confidence that the project was a success on all counts, and is a milestone in the history of the AOA.

I would like to acknowledge the support of ADB in bringing the project to a meaningful conclusion, and I hope that the AOA will continue to benefit from such collaboration.

Javed Sadiq Malik
Former President
Asian Ombudsman Association
Acknowledgments

The support of the following individuals at the Asian Development Bank (ADB) led to the publication of this report. The consultants, headed by Ejaz Rahim and George V. Carmona, helped implement the technical assistance project, which includes the publication of this report. The project’s goal was to strengthen the ombudsman institution in Asia. Along with the report, the project encompassed a variety of capacity development activities, including an international conference attended by ombudsmen from all over Asia and the Pacific.

Joel Mangahas, the previous project consultant and now ADB staff member, developed the capacity needs assessment survey and administered it to member institutions. Discussions on best practices of members were largely taken from his project accomplishment report. Important inputs were provided by the other consultants, including capacity-building consultant Zubair Ahmed, knowledge-product specialist Haider Bhurgri, and website and e-learning expert Hasan Shabir.

Valuable support also came from Munir Abro, senior project officer at ADB’s Pakistan Resident Mission, and Ma. Isabel Martin, associate project analyst, both of whom helped with the publication of this report and with the project as a whole. The contributions of the writers—Alex B. Brillantes, George V. Carmona, Rajani Ranjan Jha, Gareth Jones, Tariq Hussain, Carlos Lo, André Marin, Jose O. Tiu Sonco II, and Mohammad Waseem—are greatly appreciated. Finally, Debra Kertzman, director for public management, financial sector, and trade of ADB’s Central and West Asia Department, provided the overall technical leadership during the successful realization of the project.
Abbreviations

ADB – Asian Development Bank
AOA – Asian Ombudsman Association
ARB – Assessment Review Board (Canada)
BOT – build–operate–transfer
CCO – children’s complaints office
DTCE – Devolution Trust for Community Empowerment (Pakistan)
KPI – key performance indicator (Canada)
MDG – Millennium Development Goal
MPAC – Municipal Property Assessment Corporation (Canada)
NEPRA – National Electric Power Regulatory Authority (Pakistan)
NPM – new public management
OGRA – Oil and Gas Regulatory Authority (Pakistan)
PPP – public–private partnership
PRC – People’s Republic of China
PTCL – Pakistan Telecommunication Company Limited
SECP – Securities and Exchange Commission of Pakistan
SORT – Special Ombudsman Response Team (Canada)
SYT – Sharpening Your Teeth
UK – United Kingdom
US – United States
WDR – World Development Report
Introduction

There has been only limited research on the concept, mandate, and functions of the ombudsman as a public sector accountability institution in Asia. The ombudsman first arose in the West as a key democratic institution. It arrived relatively late in Asia, and the literature on Asian ombudsmanship is still limited primarily to conference papers, annual reports of ombudsman offices, and a few journal articles.

This lack of attention has resulted in an inadequate understanding of the ombudsman’s contribution to ensuring good governance in Asia. Ironically, it contrasts with the increasing role the ombudsman has come to play in the region. More and more ombudsman offices have been established there, with the crucial tasks of enforcing accountability in public service delivery, redressing grievances, and improving governance in general.

This report closely examines ombudsmen in Asia, including their commonalities and best practices in the performance of their duties.

Strengthening the Asian Ombudsman Association and the Ombudsman Institutions of Asia presents a general overview of the legal and constitutional frameworks governing the member institutions of the Asian Ombudsman Association, including their mandates, powers, and functions. It also highlights their strengths and weaknesses.

Independence of Ombudsmen addresses the issue of independence, a crucial element in the effective functioning of the ombudsman. It focuses on the appointment of ombudsmen, compliance with ombudsman decisions, and ombudsman jurisdiction. And it discusses the best practices of ombudsman offices in Hong Kong, China; Japan; the Republic of Korea; and elsewhere across Asia. The chapter makes the case for greater advocacy, outreach, and communication with potential complainants and other stakeholders, both within and outside the government.

Ensuring Accountability in Privatized and Decentralized Delivery of Public Services: The Role of the Asian Ombudsman discusses the challenges posed by “new public management,” with its potential for diluting the concept, authority, and even the relevance of ombudsmen. Specifically, the chapter looks at how ombudsmen in the region are addressing these challenges, particularly grievance redress after public service delivery has been decentralized, outsourced, or privatized. It concludes that Asian ombudsman offices, in the course of their development, have acquired features specific to their countries, and are thus performing roles and functions not typically included in the portfolio of the classical ombudsman. This adaptability has proven useful in responding to challenges of new public management.¹

Ombudsman and Stakeholder Engagement for Improved Service Delivery examines how Asian ombudsmen have used stakeholder engagement to enhance their capacity to proactively redress administrative grievances, improve public services and management, and enhance government accountability. The chapter presents a global picture of current stakeholder engagement in terms of policy orientation, practice, achievements, and

¹ Editor’s note: Rajani Ranjan Jha’s paper on the Concept and Role of the Ombudsman Institution in Asia in Improving and Maintaining Public Service Delivery and Alex B. Brillantes and Jose O. Tiu Sonco II’s study on the Role of Ombudsman in Improving and Maintaining Public Service Delivery (With Special Focus on Decentralized Public Service Delivery, outsourcing, and devolving administrative powers) were merged into one chapter entitled, Ensuring Accountability in Privatized and Decentralized Delivery of Public Services: The Role of the Asian Ombudsman, which is coauthored with George V. Carmona and appears in Chapter 4 of this report.
possible future developments. It also presents a detailed case study of the ombudsman institution in Hong Kong, China, focusing on the institutional arrangements of stakeholder engagement and the stakeholders’ views of those arrangements.

**Measuring Ombudsman Performance: Setting Performance Standards and Indicators** provides an in-depth discussion of how ombudsman offices measure their performance. It argues against traditional performance measures, which are process oriented, generally concentrating on customer service efficiency and deadlines for the various stages of the complaint-handling process. As an alternative, it presents six performance measurement principles that have proven successful in Ontario, Canada, and have been adopted and adapted by other jurisdictions. The six principles focus on measuring the overall effectiveness of an ombudsman’s office in meeting the primary goals of supporting good governance and tackling maladministration.

**The Role of the Ombudsman in Improving Public Service Delivery in Pakistan** analyzes the mandates, relevance, efficiency, and effectiveness of Pakistan’s Wafaqi Mohtasib (Federal Ombudsman) and the three provincial ombudsman offices regarding the improvement of public service delivery.

Overall, the report provides a good summary of the mandates and functions of Asian ombudsmen; their various approaches to promoting good governance and accountability; and of their interactions with government, the public, and other stakeholders. It can serve as a reference not only for students and researchers but also for ombudsmen seeking to learn from the experiences of others.
Strengthening the Asian Ombudsman Association and the Ombudsman Institutions of Asia

George V. Carmona*

Summary

In June 2008, the Asian Development Bank (ADB) extended technical assistance to the Asian Ombudsman Association (AOA), an organization of accountability institutions in Asia that protect the public from acts of maladministration, bureaucratic inefficiency, indifference, negligence, improper service, and corruption. The technical assistance aims to strengthen the AOA by enabling it to provide capacity development in member institutions, primarily through knowledge sharing and peer-to-peer learning, thus enhancing efficiency and responsiveness within their operations. ¹ When the technical assistance was processed, the AOA was composed of 23 institutional members from 15 countries in Asia, 13 of which are ADB developing member countries. ² With the admission of 4 new members during its general assembly in November 2009, and an additional 4 new members in its meeting in August 2010, the AOA expanded its membership to 31. ³

The two-phased approach of the technical assistance consisted of preparatory work and implementation. The preparatory work comprised a survey, the development of a medium-term work plan and budget for the AOA, and the adoption of a new business model. The second phase included the implementation of capacity-building activities, enhancement of the AOA website in accordance with the business plan, and the publication of knowledge products. The business plan called for the conversion of the AOA secretariat into an online technical resource center to facilitate a systematic exchange of ideas, experiences, and best practices, and provision of well-structured capacity-building programs for member institutions focusing primarily on peer-to-peer learning. It was envisioned that, in the long run, the successful implementation of the technical assistance would improve governance and accountability mechanisms in AOA member institutions, thus helping to reduce corruption, inefficiency, and the cost of doing business.

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² Azerbaijan; the People’s Republic of China; Hong Kong, China; India; Indonesia; Iran; Japan; the Republic of Korea; the Kyrgyz Republic; Malaysia; Pakistan; the Philippines; Sri Lanka; Thailand; and Viet Nam.

³ Members admitted in the November 2009 meeting included the Banking Ombudsman of Pakistan and the ombudsmen of Uttar Pradesh (India), Uzbekistan, and the Tatarstan; members admitted in August 2010 included the ombudsmen of Georgia, Armenia, and the Indian states of Delhi and Andhra Pradesh.
This paper reports the results of the technical assistance. It is divided into two parts: an assessment of the organizational strengths and weaknesses of the AOA and its members and a report on the results of the implementation of the capacity-building activities, including the adoption by AOA members of best practice standards of ombudsmanship anchored in the principles of accessibility, accountability, independence, and effective mandate.

Part 1 consists of three sections. The first section looks at the legal and constitutional frameworks governing AOA member institutions, examining their mandates, powers, and functions. This study shows that all AOA members are entrusted with the basic mandate of addressing maladministration in government by officers and staff. However, the extent to which member institutions are granted powers by their enabling statutes differs across countries. Most have classical ombudsman roles (i.e., they have investigative powers but their findings are recommendatory in nature, and they cannot impose sanctions), while others are granted enforcement powers.

The second section identifies best practices of ombudsmanship in the region. The results of the survey show that the more advanced member institutions have developed programs and reform initiatives that enhance their accessibility, accountability, and effectiveness. Notable programs include

- the use of information and communication technology to improve access and expedite the processing of complaints;
- the use of citizen report cards to monitor the performance of government agencies in delivering public service;
- the use of an administrative counseling system to improve access;
- the use of corruption vulnerability and resistance assessments for corruption prevention and promotion of integrity in government offices;
- the use of a quality management system to strengthen internal accountability, thereby expediting the resolution of disputes;
- networking and civil society engagement for more effective delivery of basic services; and
- proactive and innovative approaches to protecting the rights of children to education, health, and defense against child labor and trafficking.

The third section examines the organizational gaps and weaknesses of AOA members. Using close-ended questionnaires, the survey revealed that AOA members need assistance in general administration and governance; leadership and management; and in specialized areas such as complaint management, investigative techniques, mediation, and arbitration. They also need to develop skills in other areas, such as public policy making, financial management, operations auditing, and human resource planning. Each of these areas was considered in relation to proficiency levels, importance given to the work, and training priorities.

The results of these assessments were used to identify capacity-building activities through a peer-to-peer learning approach. This approach puts an emphasis on knowledge sharing by drawing upon the experience of more advanced member institutions to benefit less-developed ones. Using this framework, the technical assistance put together a capacity development program consisting of study tours, secondments, a retreat, and a training seminar that matched the needs of less-developed members to the strengths of more advanced members.

The second part of this paper contains the results of the capacity-building program. Participant feedback suggests that the implementation of the technical assistance activities has been successful in many respects. The study tours, for example, enabled senior officials from member institutions to observe the operations of colleagues considered to be among the best in the region regarding the handling and processing of complaints using information technology systems, the improvement of performance through the adoption of service standards, effective service delivery through regional outreach offices, and the use of corruption-prevention tools to promote integrity in government. The secondments, which involved sending operational staff from less-developed institutions to more advanced member institutions for 2 weeks, also proved to be an effective means of knowledge sharing. Because of the absence of regional capacity-building programs, the technical assistance included a world-renowned training program on systemic investigation for the investigators among the participants.
In addition to capacity building, knowledge products on various aspects of ombudsmanship were developed for the AOA. Written by experts, these studies now form part of the collection of the AOA technical resource center. The knowledge products discuss the following important topics:

- the independence of ombudsmen;
- defining the role and concept of the ombudsman institution in Asia in improving and maintaining public service delivery, focusing on decentralized public service delivery, outsourcing, and devolving adequate powers;
- ombudsmen and stakeholder commitment to improved service delivery;
- measuring ombudsman performance (setting performance standards and indicators); and
- the role of ombudsmen in improving public service delivery in Pakistan.

The momentum that the technical assistance built as a result of the foregoing activities, as well as the findings of the studies, prompted the AOA to distill the lessons learned into best practice principles anchored in the concepts of accessibility, independence, accountability, and clarity of mandate. A conference was held in Manila in August 2010 to present and discuss the knowledge products. One highlight of this conference was the adoption by the participants of the Manila Declaration of Core Principles of Ombudsmanship.

Background

Despite differences in functions and mandates, ombudsman institutions across the globe have formed associations to promote and popularize the concept of ombudsmanship. In 1978, the International Ombudsman Institute was established to foster the exchange of information and experiences among ombudsmen throughout the world, and to encourage the professional development of members through cooperation. The International Ombudsman Institute currently has more than 150 ombudsman institutions worldwide. There are also regional and national ombudsman associations. The United States Ombudsman Association serves government ombudsman offices at the local, state, and federal levels, as well as other affiliated ombudsman offices across the United States (US), Canada, and elsewhere in the world. Founded in 1977, it is North America’s oldest ombudsman association. Another example is the Australian and New Zealand Ombudsman Association, established in 2003. It was originally an association for industry-based ombudsmen but has since expanded to include various state and Commonwealth parliamentary ombudsmen and, most recently, professional services ombudsmen. The association seeks to promote cooperation and communication among ombudsmen, formulate and promote standards of best practice to be met by ombudsmen and their offices, and to promote the appropriate use of the title of “ombudsman” in both the public and private sectors.

The AOA was established on 16 April 1996 to provide a platform for cooperation, knowledge sharing, and capacity building among ombudsman institutions in Asia. Its declared objectives include

- promoting the concepts of ombudsmanship and encouraging their development in Asia;
- developing professionalism in the discharge of the functions of the ombudsman;
- encouraging and supporting study and research regarding the institution of the ombudsman;
- sponsoring training and educational programs for ombudsman institutions in the region;
- providing scholarships, fellowships, grants, and other types of financial support to individuals for studies relating to ombudsman institutions;
- collecting, storing, and disseminating information and research data about ombudsman institutions;

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The AOA currently has 31 members from 17 countries and a board of directors consisting of 9 members. It is registered in Pakistan as a legal entity under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance of 1961, with a secretariat housed in the building of the Federal Ombudsman (Wafaqi Mohtasib) in Islamabad. The AOA’s main source of income is membership dues, which consist of an annual fee of $1,000 for full members and $150 for associate members. The Federal Ombudsman has provided administrative and logistical support to the AOA secretariat since it initiated operations.7

Membership fees, however, have been insufficient to fund AOA activities. Participation at conferences has been limited to the heads of AOA member institutions. Planned capacity-building activities at lower tiers of ombudsman institutions, particularly those responsible for core functions (e.g., investigation and processing of complaints), as well as peer-to-peer learning and other collaborative activities, have not been implemented because of funding constraints. This has posed a serious challenge, as the AOA should try to address the need of its members—particularly newly established ones—to address knowledge and capacity gaps through an exposure to lessons learned by member institutions that have gone through similar stages of development. Moreover, efforts to create opportunities for well-structured interactions need to receive priority attention.

In its December 2006 meeting, the AOA board of directors voted to upgrade the AOA secretariat to a resource center. It sought technical assistance from ADB to help establish the center and develop a sustainable implementation strategy and business plan that would make it possible for the center to provide ongoing capacity-building support to AOA members. In June 2008, ADB extended a 2-year technical assistance worth $900,000 to AOA to assist member institutions in meeting their capacity development needs.8

This paper presents the results of the technical assistance. Part 1 is the assessment portion, consisting of the following:

- A general overview of the legal frameworks, mandates, jurisdictions, powers, and functions of AOA member institutions, highlighting their similarities and differences.
- A quick survey of best practice reforms of AOA members for serving the needs of their clientele, particularly in redressing public complaints. It examines ongoing reform efforts, investigative techniques, use of technology, links with other organizations, and other important organizational characteristics that may be considered strengths of each member. Outstanding and relevant reform initiatives of non-AOA members in the region are included in the survey to enrich the discussion.
- A summary of the results of the organization assessment of the AOA conducted by the AOA secretariat in November 2008.

This survey sought to ascertain the institutional needs of AOA members; clarify their capacity constraints; pinpoint ongoing and planned reform initiatives, including those supported by other development institutions; and identify the potential role of the AOA in addressing the capacity gaps.9

The survey, library materials, internet research, and interviews were the principal sources used during this assessment. Documents available at the AOA, and on its website, including reports by subcommittees of the

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7 To jumpstart its operations, the AOA received initial funding of $10,000 from the International Ombudsman Institute, which supported its establishment.
8 ADB, Strengthening the Asian Ombudsman Association.
9 Of the 23 AOA members, 21 responded. Using the data derived from the responses, ADB consultants were able to help the AOA identify the organizational and personnel capacity gaps that prevent AOA members from performing their tasks more effectively.
AOA board of directors on capacity development, fact sheets containing basic data about AOA members, and other relevant studies were used in the research. Additional information was gathered from the website of each AOA member institution, where available. These resources were complemented by the research of relevant and related literature from the ADB and AOA libraries. Finally, reports of participants in the capacity-development activities organized under the technical assistance were perused for additional information on best practices and outstanding initiatives implemented by member organizations.

Part 2 discusses and evaluates the implementation phase of the technical assistance. It looks at the various capacity-building activities that were implemented, the knowledge products that were developed, the efforts that have been made to upgrade the AOA secretariat, and the adoption of best practice principles of Asian ombudsmanship during the AOA conference held at ADB headquarters in August 2010.

Asian Ombudsman Association Members: General Overview

Ombudsman offices are established to enforce accountability in government and to protect citizens from acts of maladministration and misfeasance. King Charles XII of Sweden is generally credited as the first ruler to establish an ombudsman office (Justitieombudsman) in 1809 to make government administrators more accountable. However, the concept did not spread until the 20th century, when it was adopted by other Scandinavian countries—Finland (1919), Denmark (1955), and Norway (1962). Its popularity increased in the 1960s, when various Commonwealth and other countries established ombudsman offices, including New Zealand (1962); the United Kingdom (1967); most Canadian provinces (starting in 1967); Tanzania (1968); Israel (1971); Australia (1977 at the federal level, 1972–1979 at the state level); France (1973); Portugal (1975); Austria (1977); Spain (1981); and the Netherlands (1981). American interest in the concept of the ombudsman (referred to as “ombuds”) gained popularity in the US in the mid-1950s when American scholars, lawyers, and politicians began exploring its application to the US. By the late 1960s, ombudsman offices in the US were constituted to investigate and respond to public’s complaints against the behavior of government agencies. The American concept of ombudsmanship has expanded since then, with prisons, universities, school systems, hospitals, cities, and corporations establishing their own ombudsman offices. Likewise, there has been a proliferation of “client” ombudsman, “including thousands of patient representatives in hospitals, over thirty-five newspaper ombudsman serving readers, public utility and public service ombudsman, and ombudsman for public agencies.”

While ombudsman institutions arrived relatively late in Asia, scholars have noted the presence of ombudsman-like officials or institutions in the ancient civilizations of Asia. Long ago, mohtasibs in Muslim countries were tasked with ensuring that officials acted correctly and morally. They toured cities, towns, and marketplaces on a

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10 The fact sheets seek to gauge the effectiveness of member institutions in performing their tasks, and they contain important information about the legal basis and framework for the establishment of each office; their respective functions and jurisdictions; powers provided them by law, rules of procedure, investigative techniques, linkages with other organizations, and the use of technology; and other relevant information. http://asianombudsman.com


daily basis and had the authority to reverse an official order that they considered unjust.\textsuperscript{15} In 15th-century Korea, during the reign of King Tejong, the Yi Dynasty had the \textit{shinmungo} (drum of justice) outside the palace; anyone who wished to report an injustice could do so by hitting the drum. One of the king’s secretaries would then come out and attend to the citizen’s grievance.\textsuperscript{16} Ancient China had an institution known as the “Censorate,” whose mandate was to monitor the government to detect any maladministration that threatened the rights of the people.\textsuperscript{17}

The growth and spread of ombudsmanship in Asia has varied because of the vast differences in culture, historical experience, economic status, and political development. Several AOA member countries, for example, did not have an ombudsman office until 2000, although most of them were established in the last 25 years (Table 1). In some countries, ombudsman offices had been established in the early 1940s (e.g., the People’s Republic of China and Viet Nam), but were later reconstituted by subsequent laws and given additional functions.

\begin{table}[h]
\centering
\begin{tabular}{|l|l|l|}
\hline
\textbf{Member Institution} & \textbf{Country} & \textbf{Year Established} \\
\hline
Administrative Evaluation Bureau & Japan & 1966 \\
Public Complaints Bureau & Malaysia & 1971 \\
Central Organization for Control and Auditing\textsuperscript{a} & Yemen & 1974 (Sana’a) 1982 (Aden) \\
Lokayukta, Uttar Pradesh & India & 1975 \\
Office of the Parliamentary Commissioner for Administration & Sri Lanka & 1982 \\
Lokayukt Organization (Madhya Pradesh) & India & 1982 \\
General Inspection Organization & Iran & 1982 \\
Office of the Wafaqi Mohtasib (Federal Ombudsman) & Pakistan & 1983 \\
Office of the Ombudsman of the Philippines & Philippines & 1987 \\
Office of The Ombudsman of Hong Kong, China\textsuperscript{b} & Hong Kong, China & 1989 \\
Provincial Ombudsman of Sindh & Pakistan & 1991 \\
Oliy Majlis of the Republic of Uzbekistan for Human Rights & Uzbekistan & 1994 \\
Office of the Ombudsman Punjab & Pakistan & 1996 \\
Anti-Corruption & Civil Rights Commission\textsuperscript{c} & Republic of Korea & 1996 \\
Ministry of Supervision\textsuperscript{d} & People’s Republic of China & 1997 \\
Ombudsman of Thailand & Thailand & 1999 \\
Commission Against Corruption\textsuperscript{e} & Macao, China & 1999 \\
Commission for Human Rights & Tatarstan & 2000 \\
Ombudsman of Indonesia & Indonesia & 2000 \\
Federal Tax Ombudsman & Pakistan & 2000 \\
Federal Insurance Ombudsman & Pakistan & 2000 \\
Commission for Human Rights & Azerbaijan & 2001 \\
Provincial Ombudsman of Balochistan & Pakistan & 2001 \\
Institute of Ombudsman & Kyrgyz Republic & 2002 \\
\hline
\end{tabular}
\caption{Establishment of the Asian Ombudsman Association—Member Institutions}
\end{table}

\textsuperscript{15} Office of the Ombudsman, City of Toronto (Toronto Ombudsman). http://www.ombudstoronto.ca/history-ombudsman


\textsuperscript{17} Toronto Ombudsman, http://www.ombudstoronto.ca/history-ombudsman
Most member countries have only one ombudsman—the national or federal ombudsman. Others have, in addition to the national ombudsman, provincial ombudsmen (in the case of Pakistan), state ombudsmen (in the case of India), or industry ombudsmen (e.g., banking, insurance, and tax ombudsmen in the case of Pakistan). In other countries or regions (e.g., Azerbaijan, the Kyrgyz Republic, Tatarstan, and Uzbekistan), ombudsmen were recently established to ensure the effective enforcement of laws and regulations concerning the protection of human rights.

**Mandate**

AOA member institutions have been entrusted with one, or all, of the following basic mandates:

- providing redress for individual complainants,
- addressing systemic issues to improve public administration, and
- enforcing accountability in government.

In addition, some have been given broader and/or other specific mandates to combat graft and corruption, protect human rights, and enforce regulatory compliance. Appendix 1 provides a matrix that details the enabling law(s), powers, functions, and mandates of each AOA member institution. Most AOA members have the characteristics of a classical ombudsman, i.e., “an office provided for by the constitution or by action of the legislature or parliament and headed by an independent, high-level public official who is responsible to the legislature or parliament, who receives complaints from aggrieved persons against government agencies, officials, and employees or who acts on his own motion, and who has the power to investigate, recommend corrective action, and issue reports.”

By the nature of their functions, AOA members are often referred to as poor man’s courts because they provide a fast and inexpensive mode of dispute resolution against government officials and employees.

As practiced by AOA members, however, ombudsmanship in Asia is not narrowly confined to grievance redress. Many ombudsmen have been tasked with improving public administration. A review of their enabling statutes reveals that most AOA members have the power to conduct investigations to identify and correct weaknesses in procedures, practices, or rules in public administration. Therefore, AOA members are in a good position to improve the delivery of public goods and services and to become “architects of better governance.”

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The concept of “value-added ombudsmanry,” which elevates the ombudsman from a mere complaints department to an “architect of better governance,” was explained by Professor Gilles Paquet, who pointed out that the duties of the ombudsman should go beyond the basic mandate of providing redress. According to Paquet, the “trigger may still be personal damage and complaints, but the answer can no longer be only personal reparation; it must also entail eliciting what might be a plausible and reasonable appreciation of the nature of the dysfunction, and in some promising organizational redesign and architectural repairs to the governance apparatus.” Thus, it is also important for the ombudsman to have “the capacity to detect governance flaws at the origin of these mishaps, and to help launch the process that will ensure that the governance apparatus is appropriately repaired.” In other words, the ombudsman is seen as a crucial mechanism for enhancing government effectiveness.

In this regard, it is worth noting that a number of AOA members scored relatively low in government effectiveness, a measure of good governance in the World Bank’s Worldwide Governance Indicators. The World Bank Development Research Group defines government effectiveness as the measure of the “quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to such policies.” In Table 2, a higher score means better government effectiveness, with scores distributed between

<table>
<thead>
<tr>
<th>Member Countries</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td>(0.80)</td>
<td>(0.63)</td>
<td>(0.56)</td>
<td>(0.66)</td>
<td>(0.64)</td>
</tr>
<tr>
<td>China, People’s Republic</td>
<td>(0.05)</td>
<td>(0.12)</td>
<td>0.06</td>
<td>0.19</td>
<td>0.24</td>
</tr>
<tr>
<td>Hong Kong, China</td>
<td>1.60</td>
<td>1.61</td>
<td>1.78</td>
<td>1.76</td>
<td>1.83</td>
</tr>
<tr>
<td>India</td>
<td>(0.08)</td>
<td>(0.12)</td>
<td>(0.04)</td>
<td>0.05</td>
<td>(0.03)</td>
</tr>
<tr>
<td>Indonesia</td>
<td>(0.43)</td>
<td>(0.46)</td>
<td>(0.37)</td>
<td>(0.39)</td>
<td>(0.29)</td>
</tr>
<tr>
<td>Japan</td>
<td>0.17</td>
<td>0.17</td>
<td>0.17</td>
<td>0.18</td>
<td>0.19</td>
</tr>
<tr>
<td>Korea, Republic</td>
<td>0.99</td>
<td>1.03</td>
<td>1.18</td>
<td>1.29</td>
<td>1.26</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>(0.66)</td>
<td>(0.80)</td>
<td>(0.76)</td>
<td>(0.75)</td>
<td>(0.70)</td>
</tr>
<tr>
<td>Malaysia</td>
<td>0.99</td>
<td>0.99</td>
<td>1.06</td>
<td>1.11</td>
<td>1.13</td>
</tr>
<tr>
<td>Pakistan</td>
<td>(0.58)</td>
<td>(0.55)</td>
<td>(0.53)</td>
<td>(0.60)</td>
<td>(0.73)</td>
</tr>
<tr>
<td>Philippines</td>
<td>(0.25)</td>
<td>(0.05)</td>
<td>(0.12)</td>
<td>(0.13)</td>
<td>(0.05)</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>0.02</td>
<td>(0.21)</td>
<td>(0.10)</td>
<td>(0.11)</td>
<td>(0.28)</td>
</tr>
<tr>
<td>Thailand</td>
<td>0.24</td>
<td>0.41</td>
<td>0.23</td>
<td>0.11</td>
<td>0.26</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>(0.99)</td>
<td>(1.10)</td>
<td>(0.94)</td>
<td>(0.76)</td>
<td>(0.68)</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>(0.49)</td>
<td>(0.58)</td>
<td>(0.58)</td>
<td>(0.43)</td>
<td>(0.53)</td>
</tr>
</tbody>
</table>

( ) = negative.


20 Paquet, Ombuds as Producers of Governance.

21 Paquet, Ombuds as Producers of Governance.

–2.5 and 2.5. Notably, six AOA and ADB member countries—Hong Kong, China; Japan; the Republic of Korea; Malaysia; and Thailand—scored high in government effectiveness in 2008. On the other hand, Azerbaijan, Indonesia, the Kyrgyz Republic, Pakistan, the Philippines, and Viet Nam had low scores.

Although a government’s effectiveness is generally attributable to many factors, the ombudsman office, by the nature of its functions, plays a significant role in ensuring accountability and transparency—two key elements of good governance. Accountability is imperative, as public officials should be answerable for their behavior to the entity from which they derive their authority. Transparency in government decision making and public policy implementation reduces uncertainty, and can help inhibit corruption among public officials.23

### Legal Framework

The legal basis for the creation of an ombudsman office and the mandate and powers granted to it by law affect the degree by which the ombudsman office can perform its functions effectively. While countries around the world have adopted different models of accountability institutions, an ombudsman office needs certain basic characteristics to be effective. These include independence, clarity of mandate, strong investigative powers, accessibility, credibility, and the institutional capacity to perform its tasks.

The independence of the ombudsman office from the government, especially the executive branch, is crucial to its effective performance. Inasmuch as the ombudsman office is expected to prevent or correct misconduct by the executive branch, it has to have institutional, individual, and functional independence. Institutional independence exists when ombudsmen are not appointed by any government office they are charged with investigating.

Almost all of the surveyed institutions draw their legal authority from a statute(s) passed by their countries’ legislative bodies. The only exception is the Public Complaints Bureau of Malaysia, which was established by an administrative circular in 1994. Some institutions were created pursuant to presidential decrees that have the status of laws, for example, Pakistan’s President’s Order No. 1 and Indonesia’s Presidential Decree No. 44 (2000).

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In addition to an enabling statute, five governments—those of Iran; Macao, China; the Philippines; Sri Lanka; and Thailand—have specific provisions in their constitutions mandating the establishment of an office of the ombudsman. The constitution of Sri Lanka, for example, mandates the creation of a Parliamentary Commissioner for Administration, who is also designated as the ombudsman. The same is true for Thailand, whose constitution and Organic Law on Ombudsmen provide for the establishment of an ombudsman office. The constitution of the Philippines is even more specific in creating its Office of the Ombudsman, providing its basic structure and defining its powers, functions, and duties. These constitutional provisions were further detailed in a law.

Table 4  Legal Basis for the Creation of Asian Ombudsman Association Member Institutions

<table>
<thead>
<tr>
<th>Member Institution</th>
<th>Country</th>
<th>Legal Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Supervision</td>
<td>China, People’s Republic of</td>
<td>Statutory (Law on Administrative Supervision, 1997)</td>
</tr>
<tr>
<td>Office of The Ombudsman of Hong Kong, China</td>
<td>Statutory (Ombudsman Ordinance, c. 397, 1989)</td>
<td></td>
</tr>
<tr>
<td>Lokayukt Organization in Madhya Pradesh</td>
<td>India</td>
<td>Statutory (Madhya Pro-Lokayukt and Up-Lokayukt Act 1981)</td>
</tr>
<tr>
<td>Indonesian National Ombudsman Commission</td>
<td>Indonesia</td>
<td>Presidential Issuance (Presidential Decree No. 44) and Article 7 of Law No. 37 (2008)</td>
</tr>
<tr>
<td>General Inspection Organization</td>
<td>Iran</td>
<td>Constitutional/Statutory (Article 174 of the Constitution, 1979)</td>
</tr>
<tr>
<td>Administrative Evaluation Bureau</td>
<td>Japan</td>
<td>Statutory (Act for Establishment of Ministry of Internal Affairs and Communications, 1966)</td>
</tr>
<tr>
<td>Institute of Ombudsman</td>
<td>Kyrgyz Republic</td>
<td>Statutory (Law of the Ombudsman [Akyikatchy], 2002)</td>
</tr>
<tr>
<td>Commission Against Corruption of Macao, China</td>
<td>Macao, China</td>
<td>Statutory (Article 59 of the Basic Law of the Macao Special Administrative Region, 1992)</td>
</tr>
<tr>
<td>Public Complaints Bureau</td>
<td>Malaysia</td>
<td>Administrative Issuance (Administrative Circular No. 4, 1971)</td>
</tr>
<tr>
<td>Office of the Wafaqi Mohtasib (Federal Ombudsman)</td>
<td>Pakistan (Federal)</td>
<td>Statutory (Ordinance No. XXXV of 2000)</td>
</tr>
<tr>
<td>Federal Tax Ombudsman</td>
<td>Pakistan (Federal)</td>
<td>Statutory (Ordinance No. XXXV of 2000)</td>
</tr>
<tr>
<td>Federal Insurance Ombudsman</td>
<td>Pakistan (Federal)</td>
<td>Statutory (Ordinance No. XXXIX of 2000)</td>
</tr>
<tr>
<td>Provincial Ombudsman of Balochistan</td>
<td>Pakistan (Balochistan)</td>
<td>Statutory (Balochistan Ordinance No. VI of 2001)</td>
</tr>
<tr>
<td>Provincial Ombudsman of Sindh</td>
<td>Pakistan (Sindh)</td>
<td>Statutory (Sindh Act No. 1 of 1992)</td>
</tr>
<tr>
<td>Ombudsman of Thailand</td>
<td>Thailand</td>
<td>Constitutional/Statutory (Constitution of Thailand and Organic Law on Ombudsmen, 1999)</td>
</tr>
<tr>
<td>Special Inspection Board</td>
<td>Viet Nam</td>
<td>Law on Settling Citizens’ Complaints and Denunciations (1998); Law on Preventing and Combating Corruption (2006); and Government Decree No. 55 Functions, Duties, Powers and Organizational Structure of Government Inspectorate</td>
</tr>
<tr>
<td>Central Organization for Control and Auditing (COCA)</td>
<td>Yemen</td>
<td>Statutory (COCA Act - Act No. 45 for the year 1974 and Act No. 11 for the year 1982)</td>
</tr>
</tbody>
</table>

In addition to the basic mandate of enforcing accountability, AOA members like the Republic of Korea; Macao, China; the Philippines; Viet Nam; and Yemen have entrusted their ombudsman with specific anticorruption functions. The Anti-Corruption & Civil Rights Commission of the Republic of Korea has a broad mandate to prevent and combat corruption. It has the power to formulate and implement policies to combat corruption, investigate complaints, recommend corruption-prevention measures to public organizations, coordinate with and assist nonprofit organizations in their anticorruption activities, and engage in education and promotional campaigns. It can even protect and reward corruption whistle-blowers.

The Philippines is the other member country whose ombudsman office is the principal anticorruption agency of the government. The office has broader powers than the Anti-Corruption & Civil Rights Commission of the Republic of Korea inasmuch as it also has the power to investigate, prosecute, and impose administrative sanctions against public officials found guilty of corrupt practices. It can order the examination of bank accounts of persons under investigation and preventively suspend for 6 months government officials it is investigating.

The Commission Against Corruption in Macao, China can carry out preventive actions against acts of corruption or fraud. It can also investigate any crime of corruption committed by civil servants. In the case of Yemen, the mandate of the Central Organization for Control of Auditing includes the power to investigate corruption, investigate causes, identify weaknesses in the internal control system, and propose measures to address these weaknesses.

Table 5 suggests that, among the AOA members that are the primary anticorruption agencies of their countries, the Republic of Korea is the most effective. Member institutions in Macao, China; the Philippines; Viet Nam; and Yemen all registered negative scores, which indicates that they are less successful in this area.

### Table 5  Measure of Corruption Control, 2004–2008

<table>
<thead>
<tr>
<th>Member Countries</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td>(1.11)</td>
<td>(0.97)</td>
<td>(0.94)</td>
<td>(1.01)</td>
<td>(1.00)</td>
</tr>
<tr>
<td>China, People’s Republic of</td>
<td>(0.58)</td>
<td>(0.67)</td>
<td>(0.53)</td>
<td>(0.61)</td>
<td>(0.77)</td>
</tr>
<tr>
<td>Hong Kong, China</td>
<td>1.57</td>
<td>1.70</td>
<td>1.77</td>
<td>1.62</td>
<td>1.88</td>
</tr>
<tr>
<td>India</td>
<td>(0.34)</td>
<td>(0.34)</td>
<td>(0.23)</td>
<td>(0.39)</td>
<td>(0.37)</td>
</tr>
<tr>
<td>Indonesia</td>
<td>(0.91)</td>
<td>(0.87)</td>
<td>(0.77)</td>
<td>(0.69)</td>
<td>(0.44)</td>
</tr>
<tr>
<td>Japan</td>
<td>1.16</td>
<td>1.23</td>
<td>1.34</td>
<td>1.17</td>
<td>1.25</td>
</tr>
<tr>
<td>Korea, Republic of</td>
<td>0.38</td>
<td>0.63</td>
<td>0.39</td>
<td>0.46</td>
<td>0.45</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>(0.99)</td>
<td>(1.10)</td>
<td>(1.14)</td>
<td>(1.10)</td>
<td>(1.06)</td>
</tr>
<tr>
<td>Macao, China</td>
<td>1.35</td>
<td>0.53</td>
<td>0.40</td>
<td>0.47</td>
<td>(0.03)</td>
</tr>
<tr>
<td>Malaysia</td>
<td>0.42</td>
<td>0.32</td>
<td>0.36</td>
<td>0.23</td>
<td>0.45</td>
</tr>
<tr>
<td>Pakistan</td>
<td>(1.05)</td>
<td>(0.99)</td>
<td>(0.76)</td>
<td>(0.82)</td>
<td>(0.77)</td>
</tr>
<tr>
<td>Philippines</td>
<td>(0.62)</td>
<td>(0.64)</td>
<td>(0.79)</td>
<td>(0.79)</td>
<td>(0.75)</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>(0.13)</td>
<td>(0.27)</td>
<td>(0.13)</td>
<td>(0.10)</td>
<td>(0.64)</td>
</tr>
<tr>
<td>Thailand</td>
<td>(0.21)</td>
<td>(0.13)</td>
<td>(0.24)</td>
<td>(0.41)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>(0.80)</td>
<td>(0.80)</td>
<td>(0.76)</td>
<td>(0.68)</td>
<td>(0.76)</td>
</tr>
<tr>
<td>Yemen</td>
<td>(0.96)</td>
<td>(0.78)</td>
<td>(0.74)</td>
<td>(0.66)</td>
<td>(0.73)</td>
</tr>
</tbody>
</table>

( ) = negative numbers.

* Primary anticorruption agency is not an AOA member.


24 A higher score means a better outcome in controlling corruption, with scores distributed between −2.5 and 2.5.
Some AOA members do not have an anticorruption function because other agencies within their countries perform this task. These include the Malaysian Anti-Corruption Commission; the Independent Commission Against Corruption in Hong Kong, China; the Corruption Eradication Commission in Indonesia; and the National Accountability Bureau in Pakistan. Among the AOA members that are not the primary anticorruption agencies in their countries, it is worth noting that those in Hong Kong, China; Japan; and Malaysia earned positive ratings, while the others received negative scores.

<table>
<thead>
<tr>
<th>Member Countries</th>
<th>2008 CPI Score</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong, China</td>
<td>8.1</td>
<td>12</td>
</tr>
<tr>
<td>Japan</td>
<td>7.3</td>
<td>18</td>
</tr>
<tr>
<td>Korea, Republic of</td>
<td>5.6</td>
<td>40</td>
</tr>
<tr>
<td>Malaysia</td>
<td>5.1</td>
<td>47</td>
</tr>
<tr>
<td>China, People’s Republic of</td>
<td>3.6</td>
<td>72</td>
</tr>
<tr>
<td>Thailand</td>
<td>3.5</td>
<td>80</td>
</tr>
<tr>
<td>India</td>
<td>3.4</td>
<td>85</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>3.2</td>
<td>92</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>2.7</td>
<td>121</td>
</tr>
<tr>
<td>Indonesia</td>
<td>2.6</td>
<td>126</td>
</tr>
<tr>
<td>Pakistan</td>
<td>2.5</td>
<td>134</td>
</tr>
<tr>
<td>Philippines</td>
<td>2.3</td>
<td>141</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>1.9</td>
<td>158</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>1.8</td>
<td>166</td>
</tr>
</tbody>
</table>

CPI = corruption perceptions index.

b A higher score means less perceived corruption.
c Transparency International surveyed 180 countries in 2006.


Pakistan has a decentralized ombudsman system. It has a federal ombudsman, provincial ombudsmen, and an industry ombudsman each for taxes, banking, and insurance. The jurisdiction of the Federal Ombudsman (Wafaqi Mohtasib) is limited to complaints filed against officers and staff of federal agencies. While it may receive complaints against officers and personnel of local government agencies, such complaints are subsequently referred to the ombudsman office of the province concerned. The provincial ombudsmen of Sindh, Punjab, Balochistan, and Khyber Pakhtunkhwa have powers and functions similar to those of the Federal Ombudsman, except that their jurisdiction is limited to the agencies of government within their respective provinces.

The federal tax ombudsman, on the other hand, has jurisdiction over government functionaries administering tax laws, while the Banking and Insurance Ombudsmen even deal with complaints against banks and insurance companies, whether private or government owned.
Table 7  Asian Ombudsman Association Members in Pakistan with Specific Mandates

<table>
<thead>
<tr>
<th>Office</th>
<th>Mandate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banking Mohtasib (Ombudsman)</td>
<td>To address complaints against banks by their customers and by banks against other banks.</td>
</tr>
<tr>
<td>Federal Tax Mohtasib (Ombudsman)</td>
<td>To receive and investigate complaints against maladministration or unlawful/unreasonable practices of government functionaries administering tax laws, and recommend corrective measures to the agencies concerned.</td>
</tr>
<tr>
<td>Federal Insurance Mohtasib (Ombudsman)</td>
<td>To provide diagnosis, investigation, redress, and rectification of any injustice done to a person through maladministration by insurers in the public or private sector.</td>
</tr>
</tbody>
</table>


AOA member institutions from Azerbaijan, the Kyrgyz Republic, Tatarstan, and Uzbekistan focus solely on human rights protection. In contrast, the Commission Against Corruption of Macao, China has both anticorruption functions and a mandate to protect human rights and the freedom and legitimate interests of individuals. The same is true of the Office of the Parliamentary Commissioner for Administration in Sri Lanka, which has the duty to receive complaints filed by any person whose fundamental rights have been violated by a public officer or public corporation, in addition to other functions.

Table 8  Asian Ombudsman Association Members with Human Rights Mandate

<table>
<thead>
<tr>
<th>Country</th>
<th>Office</th>
<th>Mandate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td>Commission for Human Rights</td>
<td>To receive complaints of violations of human rights and freedom, ensure that measures are taken to restore violated rights, and raise legal awareness of human rights.</td>
</tr>
<tr>
<td>Kyrgyz Republic</td>
<td>Institute of Ombudsman</td>
<td>To conduct activities aimed at preventing infringements on human rights and freedoms.</td>
</tr>
<tr>
<td>Macao, China</td>
<td>Commission Against Corruption</td>
<td>To protect human rights, freedom, and legitimate interests of individuals, as well as to uphold fairness, lawfulness, and efficiency of the public administration.</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>Parliamentary Commissioner for Administration</td>
<td>To investigate violations of or infringements on any fundamental right.</td>
</tr>
<tr>
<td>Tatarstan</td>
<td>Commission for Human Rights</td>
<td>To provide assistance to citizens in all matters concerning the protection and enforcement of human rights and freedoms.</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>Oliy Majlis of the Republic of Uzbekistan for Human Rights</td>
<td>To protect human rights and freedoms, provide information on the implementation of monitoring activities in the area of human rights, propose recommendations for legislation to enforce the standards and principles of international human rights law, and conduct awareness-raising campaigns aimed at promoting human rights and freedoms.</td>
</tr>
</tbody>
</table>


Almost all surveyed AOA members are mandated by law to conduct public awareness campaigns to enhance their effectiveness in performing their functions and serving the public. For example, one of the main duties of the Committee for Protection of Human Rights in Azerbaijan involves providing legal education to raise public awareness to prevent violations of human rights and freedoms. Several other AOA members are mandated by law to conduct education campaigns to inform the public about the services they offer as well as to combat corruption and instill integrity in the delivery of basic services. Table 8 summarizes the type of public awareness activities being carried out by AOA members.
Table 9  Asian Ombudsman Association Members with Public Awareness Functions and/or Programs

<table>
<thead>
<tr>
<th>Country</th>
<th>Member Institution</th>
<th>Public Awareness Mandate and/or Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Azerbaijan</td>
<td>Commission for Human Rights</td>
<td>Provides education to raise the legal awareness of the public to prevent violations of human rights and freedoms.</td>
</tr>
<tr>
<td>China, People’s Republic of</td>
<td>Ministry of Supervision</td>
<td>Conducts educational and training programs on honest and efficient administration of law and regulations. Runs three training centers for professional supervisors nationwide.</td>
</tr>
<tr>
<td>Hong Kong, China</td>
<td>Office of The Ombudsman</td>
<td>Has a resource center containing materials such as leaflets, performance pledges, fact sheets, videos, and publications about the ombudsman system, all of which are made available to interested parties.</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Indonesian National Ombudsman Commission</td>
<td>Conducts awareness programs to inform the public of their right to speedy delivery of public services and their right to lodge complaints with the Ombudsman Commission against misconduct in the administration of public services.</td>
</tr>
<tr>
<td>Macao, China</td>
<td>Commission Against Corruption of Macao, China</td>
<td>Carries out public awareness activities to prevent acts of corruption and administrative illegality.</td>
</tr>
<tr>
<td>Pakistan</td>
<td>Wafaqi Mohtasib</td>
<td>Publishes an Annual Report, which is available in printed form and as electronic copies (CD-ROM and posted in its website). Press releases and public notices are also issued on important actions taken to redress public grievances.</td>
</tr>
<tr>
<td>Philippines</td>
<td>Office of the Ombudsman</td>
<td>Has graft- and corruption-prevention teaching exemplars, a set of teaching guides for all elementary and secondary teachers in public schools nationwide. Conducts regular seminars, road shows, and weekly radio programs on the subject of government accountability to the public.</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>Office of the Parliamentary Commissioner for Administration</td>
<td>Has distributed pamphlets describing the functions of the ombudsman to schools throughout Sri Lanka.</td>
</tr>
</tbody>
</table>


Powers and Functions

It is essential for the ombudsman office to have adequate powers to perform its functions effectively. Such powers should be stated in the relevant law or administrative issuance. The ombudsman’s investigative powers, for example, should include the authority to obtain documents, compel the attendance and testimony of witnesses, and conduct inspections of government premises. Ideally, the ombudsman should also have the powers of search and seizure, subpoena, and citation for contempt. If needed, the ombudsman office should be able to launch its own investigations without waiting for citizens to file complaints.

The extent of the powers of the surveyed AOA ombudsman institutions is varied, but all have the basic power to investigate, recommend corrective actions, and issue reports. Such power is clearly stated in their enabling statutes or regulations. Almost all have the power to issue subpoenas, take sworn testimony, and enter premises that are under investigation. The power to investigate is the most common tool of AOA members.

Countries differ, however, as to when a complainant can approach the ombudsman office. Some ombudsmen can accept a complaint right away (e.g., the Philippines, Sri Lanka, Thailand, and the provincial and federal

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26 Reif, The Ombudsman.
ombudsman offices of Pakistan), while others only have jurisdiction to do so only after the complainant has exhausted other avenues of redress. Still others, like the federal and provincial ombudsmen of Pakistan and the Ombudsman of Indonesia, can initiate investigations on their own, without complainants.

Five AOA members have explicit authority to utilize alternative modes of dispute resolution like mediation, conciliation, and arbitration to expedite the settlement of an administrative complaint. Pakistan’s Federal Ombudsman (Wafaqi Mohtasib) and the Provincial Ombudsman Sindh, for instance, have the power to “informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without memorandum and without the necessity of docketing any complaint.”27 In Hong Kong, China, with consent from both parties, the Office of The Ombudsman can use mediation to resolve complaints that do not involve serious maladministration. The Philippines Ombudsman has recently promulgated an administrative order governing the rules of procedure for mediation, while the Ombudsman of Indonesia is authorized by law to use mediation or conciliation to dispose of administrative complaints. Similarly, the Anti-Corruption & Civil Rights Commission of the Republic of Korea can mediate grievances involving multiple parties in cases that have far-reaching social ramifications.

Some ombudsmen have wider jurisdiction and greater powers. These agencies, referred to as hybrid ombudsman, are granted prosecutorial and adjudicative functions in addition to the usual investigative powers. In the People’s Republic of China, the Ministry of Supervision functions directly under the leadership of the premier, giving it enormous clout. It is empowered by law to inspect, investigate, recommend, and, most significantly, directly impose administrative penalties. The jurisdiction of the ministry is extensive in terms of coverage of departments and officials, from the central government down to the provincial level and even lower. The same is true of the Philippines Ombudsman, which, aside from investigative powers, has preventive and punitive authority as well. Its jurisdiction is vast, encompassing persons from the highest-ranking cabinet members down to the lowest level employee. The ombudsman can prosecute persons in court and suspend them from their jobs pending investigation. It is the only authority, apart from the courts of law, that can order examinations of the bank accounts of persons under investigation. Judicial intervention has been limited by a prohibition against any court’s (except the Supreme Court) issuing injunctions to delay investigations being conducted by the ombudsman office.

The State Inspector General of Viet Nam enjoys extraordinary power to freeze bank accounts. In Sri Lanka, the Office of the Parliamentary Commissioner for Administration can award compensation to complainants who have suffered due to delays or unfair decisions. Similarly, the Anti-Corruption & Civil Rights Commission of the Republic of Korea can impose fines for negligent acts. Conversely, the ombudsmen of the federal and provincial governments of Pakistan have the power to award compensation to any federal agency if the complaint made against them is found to be false, frivolous, or vexatious.

Another crucial factor that affects an ombudsman’s effectiveness is the extent of jurisdiction granted by law or administrative issuance. For most AOA members, the jurisdiction of the ombudsman office has traditionally been limited to executive agencies and their officials and employees—excluding those from the legislative, the judiciary, and the military. The Administrative Evaluation Bureau of Japan and the Federal Ombudsman of Pakistan, for example, have no jurisdiction over the military. In contrast, the Philippines has a deputy ombudsman for the military and other law enforcement organizations.28

In Pakistan, the Federal Ombudsman has general jurisdiction over all federal agencies. Pakistani law gives the Federal Ombudsman adequate powers to investigate complaints within his area of jurisdiction and, during this process, to compel the attendance of persons and the production of documents, and to enter and search

27 Presidential Order No. 1 of 1983, Section 33 (Pakistan); see also Sindh Act No. 1 of 1992, Section 33. Records show that the Federal Ombudsman settled 9,263 of 21,368 cases (43%) through mediation in 2008.

28 In contrast, the mandate of the General Inspection Organization of Iran includes the supervision and inspection of all organizations and institutions affiliated with to the judiciary branch, military, and disciplinary forces.
any premises. He also has powers similar to those of Pakistan’s Supreme Court in matters of punishment for contempt. However, he has no further punitive powers; nor does he have the power to enforce his findings beyond making recommendations, against which agencies have the right to file a representation before the president. The Federal Ombudsman’s jurisdiction also does not extend to the offices in charge of federal taxation, insurance, and banking, which have their own ombudsmen.29

Best Practice Reforms and Innovative Measures

The survey for the technical assistance revealed that a number of AOA members have outstanding programs, which they have initiated to serve the public better and perform their functions in a more effective and efficient manner. The enumeration below is not exhaustive, but it represents the most well-known best practice reforms in Asia in the area of ombudsmanship.

Redressing Citizen Complaints: A Comprehensive Approach

The complaints redress system in Hong Kong, China, has been well documented and is a source of inspiration to many ombudsman institutions and anticorruption agencies worldwide.30 This system has demonstrated that malpractice and corruption can in fact be overcome, even in the most unfavorable circumstances and settings. Established in 1989, the Office of The Ombudsman of Hong Kong, China, has the power to investigate alleged acts of maladministration by government departments and public organizations. In the absence of complaints, the Office can initiate direct investigations in instances where it believes that someone may have been subject to unjust treatment as a result of maladministration.31

After an investigation, the Hong Kong Ombudsman may report its findings and recommendations to the head of the organization concerned, and specify in the report a reasonable time frame within which recommendations should be acted upon. Although the ombudsman’s recommendations are not legally binding, they may cause the head of the concerned agency to table the report in the legislative council within a specified period of time. The Hong Kong Ombudsman has also promulgated a set of performance pledges for dealing with inquiries, complaints, and requests from the public.

Table 10  Hong Kong Ombudsman Performance Pledges on Inquiries

<table>
<thead>
<tr>
<th>Type of Inquiry</th>
<th>Standard Response Time</th>
<th>Maximum Response Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>By telephone or in person</td>
<td>Immediate</td>
<td>For complicated inquiries, within 30 minutes</td>
</tr>
<tr>
<td>In writing</td>
<td>Within 5 working days</td>
<td>For complicated inquiries, within 6–10 working days</td>
</tr>
</tbody>
</table>


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29 The Iranian State Inspector General also has a wide-ranging jurisdiction covering, in his mandate of inspections, the execution of the plans and programs of the government, with powers to suspend delinquent employees and, under special circumstances and empowerment, the authority of temporary arrest and detention.


31 AOA. http://asianombudsman.com
The Office is also empowered to investigate complaints on noncompliance with Hong Kong, China’s code on access to information, which was promulgated in 1995. The code serves as the framework for providing government information to the public upon request. To ensure effective handling of complaints, the Hong Kong Ombudsman has established a computerized complaint management system to receive and monitor all inquiries and complaints filed. The system is capable of capturing special information for statistical analysis and of generating statistical reports for management control, long-term planning, and organizational development.

<table>
<thead>
<tr>
<th>Type of Complaints</th>
<th>Standard Response Time</th>
<th>Maximum Response Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgement</td>
<td>Within 5 working days (target: 80%)</td>
<td>6–10 working days (target 20%)</td>
</tr>
<tr>
<td>Initial assessment for cases outside jurisdiction or under restriction</td>
<td>Within 10 working days (target: 70%)</td>
<td>11–15 working days (target: 30%)</td>
</tr>
<tr>
<td>Conclusion of cases</td>
<td>Within 3 months (target: 60%)</td>
<td>3–6 months (target: 40%)</td>
</tr>
</tbody>
</table>


The office is complemented by parallel public complaints and grievance redress systems, including the Equal Opportunities Commission, the Independent Commission Against Corruption, the Independent Police Complaints Council, the Office of the Privacy Commissioner for Personal Data, the Consumer Council, and the Financial Reporting Council.

In terms of managing the fight against corruption, Hong Kong, China has the following lessons to share:\(^{32}\)

- When confronted with systematic corruption, understand that the usual law enforcement approaches are insufficient. Investigation fails when the investigatory mechanism itself is corrupted.
- Create a new, independent anticorruption agency with a carefully selected, talented staff; intrepid leadership; and powerful internal controls. Citizen oversight boards are effective mechanisms for guiding and monitoring the agency. Both steps provide credibility.
- Break the culture of cynicism and compliance by “frying big fish.” Government must demonstrate that it means business. Quick gains are essential to winning back public confidence.
- Prevention should be emphasized after demonstrating gains. Systematically analyze government functions. Move to reduce monopoly power, clarify and streamline discretion, and promote accountability. Work with government agencies, not against them. This will help fight corruption and, at the same time, enable radical changes in the delivery of public services.
- Mobilize citizens in the fight against corruption by creating many new avenues for them to provide information about corruption and for them to receive education about its dangers. At the same time that this policy reduces corruption, it enables radical improvements in citizens’ participation and support.
- Prevention, education, and enforcement are essential components of an overall strategy against corruption.
- In sum, understand that systematic corruption requires a systematic approach and radical changes. Also, fighting corruption can be a lever for a general reform of government.

**Information and Communication Technology: Expediting Complaint Processing**

Effective use of modern information and communication technology can make ombudsman offices more efficient by increasing the speed of both transaction times and data generation for analyses. In this respect,

the Anti-Corruption & Civil Rights Commission of the Republic of Korea has taken the lead. Its Online Citizen Participation Plaza (e-People) features a one-stop civil complaint service connecting citizens to the 56 offices of the central government. In the past, it took a long time to file a complaint or deliver a policy proposal, and it was difficult for a layperson to identify the appropriate government office for a particular complaint. Since the launch of the Online Plaza, complaints that have been filed are automatically transferred to the relevant government office because of the system’s intelligent complaint handling.

For example, if the system detects a case that is identical to an old case that has already been resolved, the new case is disposed of instantly. If the system receives a complaint involving multiple government agencies, it assigns the case to the most relevant government department. If the case has been raised more than once because the investigation should encompass more than one office, the Commission takes over the case and oversees a more comprehensive investigation into all the related government agencies.

The Online Citizen Participation Plaza also facilitates interaction between citizens and government policy makers. The government collects opinions from the public through the questionnaire survey function of the portal and by holding electronic hearings and real-time online debates.

The Public Complaints Bureau of Malaysia also encourages the use of electronic communications. As a result, nearly 16% of complaints are now received electronically. The system allows the public to register their complaints; check the status of each case; and interact directly with the relevant bureau officer, who can take immediate action if any of the concerned agencies do not reply or provide redress within the mandated time limit. An internal work-flow management system enables staff to assign complaints, forward findings of investigations, and make prompt decisions.

Thailand has established a toll-free number for convenience of access, and has a call center and electronic handling systems in place to assist complainants. The Federal Ombudsman of Pakistan has likewise installed an Online Complaint Management Information System, which enables it to track compliance effectively based on self-imposed standards. This system maintains data on the duration of cases, and is capable of keeping track of complaints from registration to disposal and implementation. In addition, the system can receive complaints from the public electronically, and the Federal Ombudsman’s eight regional offices can send their investigation reports electronically as well. The system then scans finalized and approved reports and sends them back to the regional offices for processing.

Citizen Report Card

The Citizen Report Card is a methodology to improve the delivery of public services. It was first applied in Bangalore’s public agencies in 1983 and has since then been introduced to several other cities and rural services, as well as to specific sectors such as education, health care, industry, and irrigation. The Citizen Report Card methodology is based on the premise that user feedback on service quality, collected from communities with the help of a sample survey, provides a reliable basis on which communities and local governments can engage in dialogue and partnerships to improve the delivery of public services. Countries that have used the Citizen Report Card include Argentina, Bangladesh, Ethiopia, Gambia, Ghana, India, Indonesia, Kenya, Nepal, Nigeria, Peru, the Philippines, Sri Lanka, Tajikistan, Uganda, and Ukraine. In India, N. Venkatachalaiah, the ombudsman for the

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33 Iran has established telephone hotlines that can be used either to register a complaint or get more information on the services provided by the General Inspection Organization. It has also launched its website for receiving complaints electronically, which enables complainants from all over the country as well as overseas to lodge their complaints and follow the process of investigation.

34 ADB, ADB Institute, and the World Bank have provided financial assistance to the Public Affairs Centre in Bangalore and to selected developing member countries for the use of the Citizen Report Card as well as for the development and dissemination of knowledge products about the Citizen Report Card. http://www.citizenreportcard.com
Government of Karnataka, finds the Citizen Report Card quite helpful in getting the material he needs to take necessary action against underperforming public agencies and civil servants.35

Citizen groups and communities in the Philippines are using Citizen Report Card to monitor the implementation and performance of public services or projects, and to evaluate their impact, often according to indicators they themselves have selected.36 In 2002, report card surveys regarding selected urban services provided by nine city governments in the National Capital Region (Metro Manila) were conducted by the Development Academy of the Philippines with ADB funding.37 The results informed local chief executives on their constituents’ levels of satisfaction regarding garbage collection, traffic management, neighborhood safety, public market management, and permit issuance and licensing. Citizens’ satisfaction ratings, or “report cards,” were published in newspapers, discussed on radio programs, and presented in workshops attended by nongovernment organizations and government agencies. In Pakistan, the Federal Ombudsman (Wafaqi Mohtasib) is strengthening the role of participatory, citizen-led oversight of the agencies responsible for protecting children’s rights through use of instruments including Citizen Report Cards.38

Citizen Report Card findings, as well as the experiences in implementing the methodology, demonstrate how well this approach enables citizens to provide feedback on public services, even when they do not belong to organized groups or do not have the technical know-how to conduct their own surveys. The benefits of the Citizen Report Card lie in its ability to provide client-based feedback on the quality of public services and to pressure the government into taking action.

**Administrative Counseling System**

In Japan, the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications attends to complaints concerning national administration. It is tasked with, among other things, using mediation to settle citizens’ complaints against national administrative organs.

One unique feature of the Administrative Evaluation Bureau is the fact that its system allows administrative counselors to receive complaints directly. Administrative counselors are knowledgeable private citizens (not civil servants) who have been selected for their integrity and deep understanding of the process of administrative diagnosis and improvement. They receive and report citizens’ complaints on government operations. They do not receive regular compensation, but can be reimbursed for the expenses they incur in performing their duties. The Ministry of Internal Affairs and Communications has commissioned about 5,000 administrative counselors, with at least one counselor for every municipality.

Under this system, the field officers of the Ministry of Internal Affairs and Communications and the administrative counselors are authorized to receive complaints, act as mediators, and try to solve problems through mediation.39 The Administrative Evaluation Bureau has 50 field offices in each prefecture, where citizens’ complaints can be received and administrative counseling be given. Citizens can also submit complaints by phone, letter, fax, and e-mail. In addition, the Ministry’s website has a feature for submitting, receiving, and analyzing complaints.

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Corruption Vulnerability and Resistance Assessments

The application of integrity development reviews within the executive branch of the Government of the Philippines gained prominence beginning in 2004, under the Integrity Development Action Plan, initiated by the Presidential Anti-Graft Commission. Starting with 36 government agencies in 2005, the number of agencies covered by this action plan has reached 80.

Building on the integrity development review initiatives, which were in line with corruption-prevention mandate of the Integrity Development Action Plan, the Office of the Ombudsman and the Department of Budget and Management intensified their efforts to conduct integrity development reviews in 16 executive government agencies.40 As a preventive measure against corruption, the integrity development review seeks to build the institutional foundations of an agency to prevent corruption before it occurs. It involves a systematic diagnosis of an agency’s corruption resistance mechanisms and its vulnerability to corruption. The review process consists of two major tools: a corruption resistance review and a corruption vulnerability assessment.

Figure 1 shows the key elements and dimensions focused on by the integrity development review.

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40 An integrity development review was conducted in 2006–2007 in the following agencies: the Bureau of Internal Revenue (August 2006), the Bureau of Customs (August 2006), the Department of Public Works and Highways (August 2006), the Land Transportation Office (August 2006), the Philippine National Police (August 2006), the Armed Forces of the Philippines—the Philippine Navy (October 2007), the Bureau of Corrections (October 2007), the Bureau of Fire Protection (October 2007), the Department of Agrarian Reform (October 2007), the Department of Environment and Natural Resources (October 2007), the Department of Health (October 2007), the National Irrigation Administration (October 2007), the Land Registration Authority (October 2007), the Light Rail Transit Authority (October 2007), the Procurement Office, and the Philippine Veterans Affairs Office (October 2007). Office of the Ombudsman, Republic of the Philippines. Integrity Development Review Final Report. http://www.ombudsman.gov.ph/index.php?flag=1&navId=OA==&%20subNavId=Mzc=&sequence=NA==&title=IDR%20Final%20Report
Quality Management Systems

Setting personnel service standards is an effective management approach for getting better outcomes from the service delivery process. Malaysia is a good example in this regard. Its Public Complaints Bureau has issued a quality statement, which is a public statement affirming the Bureau’s commitment to its total quality management system. The statement comprises an elaborate set of standard operating procedures, guidelines, and instructions for its personnel.

Malaysia has also issued a client charter, which includes (i) a public statement on service standards that the public can expect from the Public Complaints Bureau, as well as the Bureau’s responsibilities and commitments regarding complaint management; and (ii) the rights of the public if these standards are not met. For example, the client charter sets a standard of resolution of complaints in 3 months’ time, with flexibility for more complex cases. Malaysia also has a customer satisfaction index—a survey of public perception of performance—to inform the government about areas of weakness and the steps needed to remove them.

Similar programs have been initiated in elsewhere. Hong Kong, China, publishes performance pledges and sets target response times for acknowledgment and initial processing of complaints (80% within 5 days and 20% within 10 days). Client service charters are now issued by a number of ombudsman offices around the world, and have proven to be effective in maximizing the offices’ human resource potential.

Pakistan’s Office of the Wafaqi Mohtasib (Federal Ombudsman) sets very specific targets for expediting the investigations and resolutions of complaints (Table 12). The office recently reviewed its complaint management process and revised its regulations to create a simpler process, with reduced time frames for specific actions. For instance, the office seeks a disposal rate of 40 complaints every month, each of which has to be disposed of within 90 days. It has divided the investigation process into six phases, with detailed time frames for each phase to help investigators finish their tasks more efficiently.

<table>
<thead>
<tr>
<th>Investigation Stage</th>
<th>Day/s to Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dispatch of case by the registrar to the investigating officer</td>
<td>1</td>
</tr>
<tr>
<td>Dispatch of complaint by the investigating officer to the agency for a report</td>
<td>2</td>
</tr>
<tr>
<td>Receipt of complete report from the agency</td>
<td>15–30</td>
</tr>
<tr>
<td>Time taken to conduct hearings</td>
<td>30–45</td>
</tr>
<tr>
<td>Drafting of findings</td>
<td>15</td>
</tr>
<tr>
<td>Final disposition of complaint by the Federal Ombudsman</td>
<td>2</td>
</tr>
</tbody>
</table>


Networking and Civil Society Engagement

The ombudsman office is just one of the institutions charged with handling complaints against state agencies. Even ombudsman offices that are responsible for addressing corrupt practices and human rights violations, in addition to their grievance redress role, need to collaborate closely with key stakeholders (such as other accountability agencies, government entities under investigation, civil society at large, and the public). Cooperation with, and support from, official and private stakeholders is essential for successful outcomes in the ombudsman’s work.

There has been a growing recognition of the importance of networking with key stakeholders, and Asia has many good examples of such efforts. Thailand, for instance, maintains a relatively small ombudsman office, emphasizing the cultivation of a network with other government and nongovernment organizations for better public access and timely service. The Ombudsman of Thailand has identified areas and agencies generating
the bulk of the complaints received, and has developed cooperation networks, formalizing them by signing memoranda of agreements for closer coordination with focal points within these agencies. The Ombudsman has also signed agreements with active nongovernment agencies such as the Law Society and other volunteer groups, all of which act, in a sense, as extensions of the ombudsman office in matters of complaint referral. They also provide assistance in screening information to promote speedy outcomes.

Malaysia’s Public Complaints Bureau provides an interesting example of networking within its internal support system. The bureau makes its recommendations, not directly to government agencies, but through the powerful Permanent Committee on Public Complaints, which is headed by the chief secretary to the Government of Malaysia. This linkage provides the bureau with crucial support in areas where ombudsmen have no direct power under the law to enforce their recommendations. The bureau also derives support from its advisory board, which includes distinguished people with vast experience in both the public and private sectors.

The Office of the Ombudsman of the Philippines has entered into memorandums of understanding (referred to as “covenants”) with other constitutional offices (e.g., the Civil Service Commission and the Commission on Audit) to work jointly against corrupt practices through sharing of information.

Japan has a more elaborate example of a formal linkage between an ombudsman office and civil society. The extensive use of civil society organizations in dealing with daily complaints frees the Ministry of Internal Affairs and Communications to address more fundamental issues of systemic change. This system also minimizes the repetition of similar complaints, and promotes the use of networking to relieve the ombudsman office from having to deal exclusively with routine complaints. This enables the Ministry to focus on improving systems and operations of national administration.

The extent of this network in Japan can be gauged from the fact that there are now 5,000 government-commissioned counselors in the country. Every citizen can find at least one counselor in the municipality where he or she lives. Approximately 70% of complaints are received and dealt with by these administrative counselors in districts throughout Japan, while the remaining 30% are received and handled by the field offices of the Ministry. The focus on addressing fundamental issues of reforms, rather than mere complaints, is also evident in the existence of an Administrative Convenience Resolution Promotion Council, an advisory body of private sector experts from legal, academic, and media circles that gives third-party opinions based on free ideas unrestricted by existing administrative practices.

The significant role of civil society organizations in holding the state accountable and in curbing corruption has likewise gained prominence in the Philippines and Pakistan. The Philippines Ombudsman, the Presidential Anti-Graft Commission, and other anticorruption agencies in the Philippines have institutionalized mechanisms for working closely with civil society organizations. For example, the Concerned Citizens of Abra for Good Government, a nongovernment organization, monitors government projects in Abra province, in the northern Philippines. This organization’s initiatives date back to 1987, when it collected evidence disputing a public pronouncement made by the Ministry of Public Works and Highways that it had successfully completed 20 projects in Abra. When the organization’s findings were confirmed by an official government audit, the responsible government officials were penalized.

These are just some examples of how countries in Asia are improving the operations of their ombudsman offices by creating collaborative mechanisms that support their operations and enable them to look beyond the symptoms of weak systems to see the underlying diseases, with the objective of minimizing repetitive complaints. This approach has a particularly high value in developing countries where, owing to their relatively weaker administrative systems, complaint volumes can be overwhelming. Without a close collaboration with other stakeholders, ombudsmen would probably be restricted to investigations of complaints, with little opportunity to fulfill multidimensional functions such as addressing the root causes of malgovernance.
Table 13 Summary of Best Practice Reform Initiatives of Asian Ombudsman Association Members

<table>
<thead>
<tr>
<th>Strong Political Will and Comprehensive Approach to Redressing Citizen Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Hong Kong, China provides a good example of an effective complaint management system with a strong compliance regime. Prevention, education, and enforcement are essential components of the system.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use of Information and Communication Technology to Expedite Processing of Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>* In the Republic of Korea, the Online Citizen Participation Plaza (e-People), developed by the Anti-Corruption &amp; Civil Rights Commission, features a one-stop complaints service connecting citizens with all 56 offices of the central government.</td>
</tr>
<tr>
<td>* The Public Complaints Bureau of Malaysia lays increasing stress on the use of electronic media.</td>
</tr>
<tr>
<td>* Thailand has established a toll-free number promoting access and has a call center and electronic handling system in place to assist complainants.</td>
</tr>
<tr>
<td>* The Federal Ombudsman (Wafaqi Mohtasib) of Pakistan has installed an Online Complaint Management Information System for the convenience of the public.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Citizen Report Card</th>
</tr>
</thead>
<tbody>
<tr>
<td>* The Public Affairs Centre in Bangalore, India, has pioneered the Citizen Report Card for assessing service delivery.</td>
</tr>
<tr>
<td>* The Philippines is also using the Citizen Report Card as a monitoring tool.</td>
</tr>
<tr>
<td>* In Pakistan, the Federal Ombudsman has introduced the Citizen Report Card to get public assessments of the performance of the Ombudsman office.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Administrative Counseling System</th>
</tr>
</thead>
<tbody>
<tr>
<td>* In Japan, the Administrative Evaluation Bureau has established 50 field offices at the prefecture level, where citizen complaints can be received and administrative counseling given for dispute resolution.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corruption Vulnerability and Resistance Assessments</th>
</tr>
</thead>
<tbody>
<tr>
<td>* The concept of the Integrity Development Review has been introduced within the executive branch of the Government of the Philippines. Currently, 80 government agencies are covered under the Integrity Development Action Plan.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Quality Management Systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Malaysia has set personnel service standards and adopted a total quality management approach, including a quality statement, a client charter, and a customer satisfaction index.</td>
</tr>
<tr>
<td>* Hong Kong, China publishes performance pledges and has set target response times for acknowledgment and initial processing of complaints.</td>
</tr>
<tr>
<td>* Pakistan’s Federal Ombudsman has adopted specific targets for expediting the investigation and resolution of complaints, and has standardized and simplified its investigative procedures.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Networking and Civil Society Engagement</th>
</tr>
</thead>
<tbody>
<tr>
<td>* The Ombudsman of Thailand has established a network with other government and nongovernment organizations for better coordination.</td>
</tr>
<tr>
<td>* In Malaysia, the Public Complaints Bureau has adopted measures to strengthen internal accountability systems.</td>
</tr>
<tr>
<td>* The Office of the Ombudsman of the Philippines has signed covenants with other constitutional offices, such as the Civil Service Commission and the Commission on Audit, to undertake joint steps against corrupt practices through the efficient sharing of information.</td>
</tr>
<tr>
<td>* Japan offers a more elaborate example of formal linkages between an ombudsman system and civil society.</td>
</tr>
<tr>
<td>* Pakistan and the Philippines have institutionalized the role of civil society organizations in effecting system improvements.</td>
</tr>
</tbody>
</table>

Source: Author.

Capacity Gaps

“Capacity” refers to the ability of people, organizations, institutions, and society to successfully manage their affairs. Capacity development entails the improvement of knowledge, skills, work processes, tools, etc., to enable people and organizations to act effectively in their roles. It involves building the capacity of individuals, organizations, and systems to carry out their functions effectively. Capacity development is a continuous process that requires a commitment from all levels of government, civil society organizations, and the private sector. It is crucial for sustainable development and good governance. In the context of the Asian Ombudsman Association, capacity development initiatives aim to strengthen the associations and ombudsman institutions in the region, by improving their ability to handle citizen complaints effectively and efficiently. This includes training, knowledge sharing, and the adoption of best practices and technologies. Capacity gaps identified in the study include shortcomings in areas such as political will, comprehensive approaches, information and communication technology, citizen report cards, administrative counseling, corruption vulnerability assessments, quality management systems, and civil society engagement. Addressing these gaps is crucial for enhancing the effectiveness of ombudsman institutions in the region and ensuring that they are able to provide effective and impartial oversight of government actions.
systems, authority patterns, and management style. Capacity development is complex and requires long-term commitment. It takes place within people, organizations, and institutions that have varying levels of incentives to change, develop, and learn. While capacity development initiatives may come from the external environment or from internal factors, improving capacities is an internal process. Ownership of the capacity development program is key to ensuring commitment and success.

The survey reviewed institutional, organizational, and personnel aspects of AOA members. The questionnaire was divided into three parts: (i) organizational contact information; (ii) overall environment, with information about vision, structures, systems, policies, management processes, and culture; and (iii) knowledge and skills, subdivided into importance perception, current proficiency levels, and priority training needs in the areas of governance, management, and specialized areas, and required skills such as policy making, monitoring and evaluation, systems improvement, and public outreach. Responses were divided into a range between high and low. Out of the 23 institutions, 21 responded to the survey. Figures in this section apply only to 18 institutions due to the unavailability of data from the Anti-Corruption & Civil Rights Commission of the Republic of Korea, the Federal Ombudsman of Pakistan, and Japan’s Administrative Evaluation Bureau. Indices were computed by averaging the ratings given per section.

The survey sought to determine the existence of service standards designed to guide member institutions in performing their functions. Service standards are crucial in effective service delivery because they give the agencies’ clientele an idea of the type and quality of services they can expect. Almost half of the member institutions participating in the survey—10 of them—do not have service standards. Only 11 participating institutions confirmed that they have service standards. This is an area in which the AOA can help its members, especially those that would like to develop standards. As discussed in the next section, the more advanced institutions, like the Public Complaints Bureau of Malaysia and the Office of The Ombudsman of Hong Kong, China, can assist co-members in drafting their own service standards, with AOA support.

Clear job descriptions are another important element in building the capacity of an organization. A job description sets out the duties, purpose, responsibilities, scope, and working conditions of a position, along with the job title and name of the person to whom the employee reports. It typically provides specifications regarding the position, such as the required qualifications, salary range, etc. While 18 out of the 21 respondents said they have detailed job descriptions, only 10 member institutions were actively using them. Thus, of the 21 members that responded to the survey, the officers and staff of the remaining 11 members were not sufficiently guided by clear job descriptions. Again, this is one area in which the AOA can provide assistance to members that do not have, or do not use, job descriptions. The AOA could also tap other more advanced AOA members in this area, such as Hong Kong, China; Japan; and the Philippines.

While many AOA members do not have job descriptions for their staff, a majority (16 out of 21) of the respondents said they have operational guidelines and codes of conduct. Similarly, a good number of the agencies viewed their overall environment, vision, structure, and government support systems as reasonably appropriate.
Training Needs

The four areas assessed in this survey to determine the training needs of member institutions were (i) general administration and governance; (ii) leadership and management; (iii) specialized skills such as complaint management, investigative techniques, mediation and arbitration; and (iv) other skill areas such as public policy making, financial management, operations auditing, and human resource planning.

In the area of general administration and governance, the survey examined the capability of member institutions in strategic planning, promoting good governance, conducting institutional and organizational diagnosis, planning and undertaking institutional and organizational development, and enhancing organizational performance and productivity.

Results of the survey show that at least five AOA institutions need assistance in this area.49 In Punjab the AOA member had low proficiency in all five aspects, while AOA members in Sindh, Sri Lanka, Thailand, and Viet Nam had low proficiency in four aspects. Member institutions in other countries mentioned above (i.e., Indonesia, Malaysia, and the Philippines) said that they had low proficiency in some aspects of general administration and governance.

Eight AOA member institutions show a low proficiency in planning and undertaking institutional and organizational development. Six institutions stated that they have low proficiency in strategic planning, in conducting institutional and organizational diagnosis, and in enhancing organizational performance and productivity. Four institutions show a low proficiency in promoting good governance.

<table>
<thead>
<tr>
<th>Table 14  General Administration and Governance: Countries and Provinces Whose Institutions Have the Lowest Overall Proficiency Rating (Bottom 5 Rating)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proficiency Level</td>
</tr>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td>Punjab, Pakistan</td>
</tr>
<tr>
<td>Sindh, Pakistan</td>
</tr>
<tr>
<td>Sri Lanka</td>
</tr>
<tr>
<td>Thailand</td>
</tr>
<tr>
<td>Viet Nam</td>
</tr>
<tr>
<td>Other institutions with special requirements: Indonesia, Malaysia, Philippines</td>
</tr>
</tbody>
</table>


The aspects of leadership and management that were covered in the survey included the ability of the institution to manage conflict; implement performance-based management systems; develop strategy planning; manage change and risks; build and manage high-performance teams; mentor, coach, and counsel; and master critical thinking, problem solving, and decision-making skills. Of these aspects, most members indicated that they needed to develop their proficiency in managing conflict and implementing performance-based management systems. Member institutions from Indonesia, Punjab, Sindh, Sri Lanka, Thailand, and Viet Nam scored low in overall proficiency in leadership and management. They rated this area as important to their work, and expressed their need for training.

49 That is to say, they rated their proficiency levels from 1 to 3 using a 5-point scale in which 1 = low proficiency and 5 = high proficiency.
Table 15  Number of Countries, Provinces, and States Whose Institutions Have Low Proficiency in Leadership and Management

<table>
<thead>
<tr>
<th>Aspects of Leadership and Management</th>
<th>Number of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing conflict</td>
<td>9</td>
</tr>
<tr>
<td>Implementing performance-based management systems</td>
<td>8</td>
</tr>
<tr>
<td>Strategic planning</td>
<td>7</td>
</tr>
<tr>
<td>Managing change and risks</td>
<td>7</td>
</tr>
<tr>
<td>Building and managing high-performance teams</td>
<td>7</td>
</tr>
<tr>
<td>Mentoring, coaching, and counseling</td>
<td>6</td>
</tr>
<tr>
<td>Critical thinking, problem solving, and decision making</td>
<td>3</td>
</tr>
</tbody>
</table>


AOA member institutions were also asked about other skill areas for which they needed assistance in building their capacities. The various aspects surveyed under “other skill areas” are shown below. Beside each aspect is the number of institutions that have low proficiency:

- Policy monitoring and evaluation (11)
- Public policy making (10)
- Project development and administration (10)
- Human resource planning and development (9)
- Internal control systems (6)
- Working with the citizens and civil society organizations (6)
- Financial management and analysis (5)
- Systems and operations auditing (5)

Members with low proficiency in these skill areas include institutions in Indonesia, Sri Lanka, Thailand, Viet Nam, and Yemen. These institutions consider these skills to be very important to their work. Table 16 shows how these countries rate their levels of proficiency in these skill areas and the importance of these skills to their work.

The detailed results of the survey regarding the proficiency of member institutions in each area, and their training priorities, are summarized in Appendixes 2–5 of this report.

Table 16  Countries and Provinces Whose Institutions Have Low Proficiency in Other Skill Areas (Bottom 4 Rating)

<table>
<thead>
<tr>
<th>Country</th>
<th>Proficiency Level</th>
<th>Importance to Work</th>
<th>Training Priority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sri Lanka</td>
<td>2.6</td>
<td>3.5</td>
<td>No data</td>
</tr>
<tr>
<td>Punjab, Pakistan</td>
<td>2.8</td>
<td>2.5</td>
<td>3.3</td>
</tr>
<tr>
<td>Thailand</td>
<td>3.3</td>
<td>5.0</td>
<td>3.8</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>3.3</td>
<td>5.0</td>
<td>4.5</td>
</tr>
<tr>
<td>Indonesia</td>
<td>3.3</td>
<td>3.3</td>
<td>3.3</td>
</tr>
<tr>
<td>Yemen</td>
<td>3.3</td>
<td>3.3</td>
<td>3.3</td>
</tr>
</tbody>
</table>

Implementation of Capacity Development Activities and Related Technical Assistance to the Asian Ombudsman Association

Based on the assessment survey, an innovative peer-to-peer approach to capacity building was developed and implemented under the technical assistance. This approach emphasized knowledge sharing and interaction by drawing from the best practice reforms already instituted by the more advanced member institutions. A capacity development program that matches the organizational needs of some AOA members with the strengths of other members was formulated and carried out. The program consisted of study and observation tours, secondments, training seminar, retreat, and a conference. In addition, a new business model was formulated for the AOA that seeks to transform the secretariat into a technical resource center. To support this objective, the AOA website was likewise enhanced, with new features supporting the new business model.

Study Tours

Peer-to-peer learning through study and observation tours was the major capacity-enhancing activity utilized by the technical assistance to facilitate understanding of the design and implementation of successful practices, procedures, and policies. Through the four study tours, held in 2009 and 2010, participants were expected to interact with their counterparts and apply to their own institutions the lessons and insights they learned from the activity. Based on the survey and studies conducted through the project, the AOA identified topics, host institutions, and participants for each study tour. The tours were designed for the top policy-making levels of AOA membership. The participating members were grouped so that those from better- and lesser-performing institutions could gain maximally from one another—and from the host institution. Also, representatives from single- and broader-mandate institutions could gain from each other as well—all to promote the spirit of ombudsmanship through a mutual learning process.

Selection criteria for host institutions focused on those with already-implemented, innovative projects; projects for which documentation and some impact analysis are available; and projects that will empower members in operational aspects. The AOA employed the following criteria for nominating individual participants:

- They must be full-time employees of the sending institution.
- They must have strong performance records.
- They should be able to prepare reports, conduct dissemination workshops, and possess the authority and capability to lead efforts to replicate the lessons learned at the study tours.
- They must commit to staying with their institutions for at least 1 year after the conclusion of the study tour.

Preparation for the study tours involved drawing up a detailed program by each host country, to be approved by both ADB and the AOA. After a study tour, the participants and host institutions were asked to write an observation report, focusing on lessons learned that could be considered for replication by the participants’ home institutions. The response has been very good.

Based on the above conceptual and planning principles, Table 17 summarizes the four study tours that were implemented.

The report by Malaysia’s Public Complaints Bureau on the tour it hosted summarized the advantages of the study tours as a knowledge-sharing tool, stating that it is a suitable, if not the best medium, for enabling member institutions to learn from and engage each other. The benefits of the study tour are multipronged, benefitting the participants as well as the host organization. The participants were exposed to the workings and the intricacies of complaints management and grievance redress mechanisms of the Public Complaints Bureau. At the other end of the spectrum, the Bureau managed to gain and collect the knowledge and experiences of the participants in discharging
the duties and responsibilities entrusted to them.\textsuperscript{50} From these study tours, bilateral cooperation among AOA members arose, including technical assistance from the Anti-Corruption & Civil Rights Commission of the Republic of Korea to the Ombudsman of Thailand for the enhancement of the latter’s information technology system.

Table 17  Summary of Study Tours

<table>
<thead>
<tr>
<th>Topics</th>
<th>Host Institution</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Main Focus:</strong> Effective use of information and communication technology in handling administrative complaints; Online Citizen Participation Plaza.</td>
<td>Anti-Corruption &amp; Civil Rights Commission (Republic of Korea) 29 November–5 December 2009</td>
<td>• Federal Ombudsman (Wafaqi Mohtasib) of Pakistan</td>
</tr>
<tr>
<td><strong>Related Themes:</strong> Use of alternative modes of dispute resolution for handling complaints; awareness-based preventive strategies for combating corruption.</td>
<td></td>
<td>• Ombudsman of Thailand</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Office of The Ombudsman of Hong Kong, China</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Office of the Ombudsman of the Philippines</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Administrative Evaluation Bureau, Japan</td>
</tr>
<tr>
<td><strong>Main Focus:</strong> Innovative approaches for achieving quality management; tools and methods such as the quality statement, personal service standards, client charter, and customer satisfaction index.</td>
<td>Public Complaints Bureau (Malaysia) 6–12 December 2009</td>
<td>• Office of the Parliamentary Commissioner for Administration, Sri Lanka</td>
</tr>
<tr>
<td><strong>Related Themes:</strong> Efficiency of the Integrated Mobile Complaint Centre in facilitating rural coverage, and of the Mesra program in promoting dialogue between government departments and the community.</td>
<td></td>
<td>• Provincial Ombudsman of Balochistan, Pakistan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Federal Tax Ombudsman, Pakistan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Federal Insurance Ombudsman, Pakistan</td>
</tr>
<tr>
<td><strong>Main Focus:</strong> Regional-outreach approach toward grievance resolution through field officers and administrative counselors.</td>
<td>Administrative Evaluation Bureau (Japan) 24–30 January 2010</td>
<td>• Public Complaints Bureau, Malaysia</td>
</tr>
<tr>
<td><strong>Related Themes:</strong> State/civil society networking as a basic tool for resolving grassroots complaints.</td>
<td></td>
<td>• Ombudsman of Indonesia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Anti-Corruption &amp; Civil Rights Commission, Republic of Korea</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Government Inspectorate of Viet Nam</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• General Inspection Organization, Iran\textsuperscript{a}</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Ministry of Supervision, the People’s Republic of China</td>
</tr>
<tr>
<td><strong>Main Focus:</strong> Implementation of anticorruption strategy, as well as the Integrity Development Review approach adopted under the Integrity Development Action Plan.</td>
<td>Office of the Ombudsman (Philippines) 7–13 March 2010</td>
<td>• Office of the Ombudsman, Punjab, Pakistan</td>
</tr>
<tr>
<td><strong>Related Themes:</strong> Citizen empowerment measures, especially the Citizen Report Card; partnership with universities and research institutions for performance monitoring.</td>
<td></td>
<td>• Lokayukt Organization, Madhya Pradesh, India</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Commission for Human Rights, Azerbaijan</td>
</tr>
</tbody>
</table>

\textsuperscript{a} The General Inspection Organization paid for the expenses of its participant since Iran is not a developing member country of ADB.

Secondment

Secondment was the other mode of capacity-building activity that was organized by the AOA to help enhance the operational effectiveness of its members. It was meant for intermediate and operational staff from member institutions that had scored relatively low on overall proficiency, so that they could benefit from a well-planned stay at better-performing member institutions.

The emphasis was on giving the staff of the sending institutions the opportunity to observe the work environment of the host institutions, as well as the use of practical operational tools that have served the basic purpose of all ombudsman institutions (i.e., to diagnose, investigate, and redress injuries caused by maladministration). Host institutions were asked to draw up a detailed secondment program for a 2-week period (Table 18). As with the study tours, participants and host institutions were asked to write an observation report afterward, focusing on lessons learned that could be replicated by the visiting staff at their home institutions.

Table 18 Secondment Program

<table>
<thead>
<tr>
<th>Topics</th>
<th>Host Institution</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computerized complaint management system; customized web-based software</td>
<td>Office of The Ombudsman (Hong Kong, China)</td>
<td>• Federal Ombudsman (Wafaq Mohtasib), Pakistan</td>
</tr>
<tr>
<td>and interagency coordination techniques.</td>
<td>11–20 January 2010</td>
<td></td>
</tr>
<tr>
<td>Process simplification and standardization strategies; information</td>
<td>Federal Ombudsman (Pakistan)</td>
<td>• Commission for Human Rights, Azerbaijan</td>
</tr>
<tr>
<td>management support for better management and for the online management</td>
<td>3–13 March 2010</td>
<td>• Institute of Ombudsman, Kyrgyz Republic</td>
</tr>
<tr>
<td>information system; innovative communications strategy, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>newsletter and internet use; civil society engagement and citizen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>report card scheme; innovative pro-poor approaches being implemented</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the assistance of the United Nations Development Programme (UNDP)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effective use of information technology in the handling and processing</td>
<td>Anti-Corruption &amp; Civil Rights Commission (Republic of Korea)</td>
<td>• Ombudsman of Indonesia</td>
</tr>
<tr>
<td>of administrative complaints; operation of Online Citizen Participation</td>
<td>15–26 March 2010</td>
<td>• Ombudsman of Thailand</td>
</tr>
<tr>
<td>Plaza; successful use of alternative modes of dispute resolution,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>investigative skills, and awareness strategies.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Although secondment participants reported that they learned a lot from the program, a better structured program could have provided more benefits to the participants and their institutions. One planned secondment program was not implemented because of the inability of the participating institution (in Sri Lanka) to nominate staff to be sent, notwithstanding the willingness and preparedness of the prospective host institutions (i.e., the Philippines Ombudsman and the Public Complaints Bureau of Malaysia).

Training Program

To complement the peer-to-peer learning approach, a training seminar for ombudsman investigators was organized by the AOA in collaboration with the Ombudsman of Ontario, a world-renowned training provider.51

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51 The Ombudsman of Ontario conducted the seminar, assisted by head of its Special Operation Response Team. The training program is a popular course that is held every year in Canada, with participants coming from ombudsman offices all over the world.
The training seminar in investigative skills for AOA members was especially important, as investigation was identified by the survey respondents as a critical skill for the effective performance of their functions.

A total of 39 senior investigators representing 21 member institutions in 12 AOA member countries participated in a 4-day training course, Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs, in Bangkok, Thailand, on 8–11 February 2010. The course introduced participants to the concept of systemic investigation and covered the following topics:

- Systemic Investigations and the Special Operation Response Team;
- The Eight Principles of Excellent Investigation;
- Investigative Challenges;
- Planning an Investigation;
- Witnesses and Interviewing;
- Whistle-blowers;
- Documents, Wish Lists, and Physical Evidence;
- Assessing the Evidence;
- Report Writing; and
- The Use of Traditional and Social Media.

Knowledge-Sharing Retreat

A retreat for senior personnel of member institutions was organized by the AOA to enable them to exchange experiences, insights, and best practices in ombudsmanship. In particular, the participants presented and discussed their offices’ outstanding reform efforts to improve accessibility, accountability, independence, and effectiveness. There were 20 participants at the retreat, which was held in Kuala Lumpur, Malaysia, on 14–15 July 2010. A set of core principles of ombudsmanship in Asia was also presented for discussion and preliminary consensus. These principles were formulated in the course of the implementation of the technical assistance.

Publication of Knowledge Products on Ombudsmanship

The technical assistance likewise produced cross-cutting studies on Asian ombudsmanship and a Pakistan-specific research on the role of ombudsmen in service delivery. The research covered the following topics: defining the role and nature of ombudsman institutions in Asia; the independence of ombudsmen; the role of ombudsmen in improving and maintaining public service delivery (focusing on decentralized public service delivery, outsourcing, and devolving adequate powers); measuring ombudsman performance (setting performance indicators); the commitment of ombudsmen and stakeholders to improved service delivery; and the role of ombudsmen in improving public service delivery in Pakistan. These six studies constitute the chapters of this report.52

Conference

As a culminating activity of the technical assistance, a regional conference entitled “Strengthening the Asian Ombudsman” was held on 24–25 August 2010 at ADB headquarters, in Manila, Philippines. More than

52 The papers on the role and nature of ombudsman institutions in Asia and the role of ombudsmen in improving and maintaining public service delivery (focusing on decentralized public service delivery, outsourcing, and devolving adequate powers) were merged into one chapter.
130 individuals from 27 member and prospective member institutions participated. The findings of the studies commissioned under the technical assistance were presented in a panel discussion of ombudsmen and ADB officials. Table 19 lists the topics and authors of these studies.

Table 19  Strengthening the Asian Ombudsman: Topics and Authors

<table>
<thead>
<tr>
<th>Topic</th>
<th>Author</th>
</tr>
</thead>
</table>
| Defining the role and concept of ombudsman institutions in Asia       | Rajani Ranjan Jha  
Banaras Hindu University                                          |
| Independence of ombudsman                                           | Mohammad Waseem  
Lahore University of Management Sciences                             |
| The role of the ombudsman in improving and maintaining public service delivery, outsourcing, and devolving adequate powers | Alex Brillantes  
National College of Public Administration and Governance, University of the Philippines |
| Measuring ombudsman performance—setting performance standards and indicators | André Marin  
Ontario Ombudsman                                                        |
| Ombudsman and stakeholders’ engagement for improved service delivery  | Carlos Wing-Hung Lo  
Department of Management and Marketing, The Hong Kong Polytechnic University |
| The role of the ombudsman in improving public service delivery in Pakistan | Tariq Husain  
Enterprise & Development Consulting (Pvt.) Limited               |

* Editor’s note: Rajani Ranjan Jha’s paper on the Concept and Role of the Ombudsman Institution in Asia in Improving and Maintaining Public Service Delivery and Alex B. Brillantes and Jose O. Tiu Sonco II’s study on the Role of Ombudsman in Improving and Maintaining Public Service Delivery (With special focus on decentralized public service delivery, outsourcing, and devolving administrative powers) were merged into one chapter entitled, Ensuring Accountability in Privatized and Decentralized Delivery of Public Services: The Role of the Asian Ombudsman, which is coauthored with George V. Carmona and appears in Chapter 4 of this report.

In addition to the discussion of six knowledge products, the new business model for the AOA and the enhanced website were also presented. The highlight of the conference was the adoption by AOA members of the Manila Declaration of Core Principles of Asian Ombudsmanship (see Appendix 6).

As noted above, the technical assistance supported the enhancement of the AOA website, making it more dynamic, user-friendly and interactive. New features on the website facilitate greater interaction and easier knowledge sharing among AOA member institutions and their personnel, albeit via the internet. For example, it is now easier for AOA members to send material for uploading. Staff of member institutions have been given a platform where they can exchange ideas and experiences through a discussion portal and links to popular networking sites like Facebook and Twitter. A regularly updated section of the website is dedicated to news items concerning AOA members. To ensure that the AOA will be able to update its website continuously, two AOA staffers received information technology training on website development, troubleshooting, and maintenance.

The online resource center of the website was likewise upgraded and expanded. More material on ombudsmanship (e.g., the annual reports of AOA members, studies, research papers, links to websites of other ombudsman institutions, and fact sheets about AOA members) can now be found in the online resource center. Considering the dearth of material on ombudsmanship in Asia, research institutions, students, and ombudsman offices from other regions will welcome this compilation of studies and reports. The AOA, through its website, has provided free access to the public to all its materials in its online resource center. Nonetheless, there is still a need to update and complete the annual reports of the members and to add more studies in order for the AOA website to be truly considered an online resource center on ombudsmanship.

AOA, http://asianombudsman.com
Finally, a new business model for the AOA was developed to ensure its viability and sustainability. The model calls for the continuation of the implementation of capacity-building support to member institutions; an increase in the number of institutional members and the recruitment of individual members; the solicitation of new technical and financial assistance from development institutions; and the conversion of the AOA secretariat into an online technical resource center as a new platform for cooperation, interaction, knowledge sharing, and capacity building.

Conclusion and Recommendations

From June 2008 to August 2010, the AOA was one of the most active and visible organizations of ombudsman institutions. In 2 years, it implemented a series of capacity-building activities for its members, adopted a set of core principles on ombudsmanship, and presented at a conference at ADB headquarters six knowledge products on ombudsmanship in Asia. It also made its presence more noticeable on the internet through its enhanced website. That more than 100 international participants attended the conference, in addition to local delegates, attests to the growing popularity of the AOA among ombudsman offices and other accountability institutions.

The AOA must sustain this technical assistance–generated momentum to guarantee its long-term viability. It can do so if it continuously demonstrates to current and prospective members the capacity-building benefits of being an AOA member. Members found the peer-to-peer learning programs to be helpful. The AOA and its members have demonstrated their ability to organize and implement this type of activity. In addition to offering training on how to conduct effective investigations, the AOA may also want to offer training on basic and advanced organizational development tools. The assessment survey clearly identified this as a key capacity gap, but the AOA was not able to provide training due to a lack of time and resources. If at all, these areas were tackled minimally during the study tours and secondments, which involved limited participants.

It is true that offering these capacity-building activities would entail an enormous expenditure that may drain AOA coffers, but that should not be seen as an insurmountable obstacle. The challenge is for the AOA to find an innovative approach to capacity building that is not expensive. One idea that has been put forward for AOA’s consideration is the development of a training workbook for the investigators of member institutions. Investigations are the lifeblood of an ombudsman office, and it is only appropriate that the AOA take the lead in developing a manual for ombudsman investigators. This shared training resource for enhanced investigation skills would be extremely valuable for individual investigators and ombudsman institutions, as well as for the AOA itself. The AOA could plan to conduct such courses annually. And the AOA secretariat could perform the role of catalyst by encouraging member institutions to contribute examples from their own experiences.

The AOA can also take advantage of the good publicity that the technical assistance has generated by actively recruiting new members and soliciting new technical assistance. Asia still has a large number of accountability institutions that are potential members of the AOA. Indeed, these potential members are listed on the AOA website, and include organizations such as the Human Rights Defender of Armenia; Cambodia’s Commission for the Protection of Human Rights, Reception of Complaints, and Investigation; the Tax Ombudsman of Bangladesh; the Ombudsman of Georgia; the National Ombudsman, and the State Comptroller and Ombudsman, of Israel; the Anti-Corruption Bureau of Brunei Darussalam; the Department of Administration Reforms and Public Grievances of India; the Human Rights Commission of the Maldives; the National Human Rights Commission of Mongolia; Nepal’s Commission for the Investigation of Abuse of Authority; and the Corrupt Practices Investigation Bureau of Singapore.

In addition to attracting institutional members, the AOA board of directors may also want to actively invite individual members and non-ombudsman institutions that are interested in promoting ombudsmanship in Asia, such as academics, universities, and research institutions. Currently, the AOA has only two types of membership,
full and associate. Both types are open to accountability institutions, although the AOA bylaws and charter allow for individual members.

With a good membership program designed for individuals who are either working or have previously worked for ombudsman offices, or who are simply interested in ombudsmanship, the AOA should be able to convince these potential individual members to join the organization and contribute to the development of ombudsmanship in Asia. The same can be said of universities and research institutions, which could be effective partners of the AOA in promoting the concept of ombudsmanship in Asia.

The AOA can also continue to seek outside funding for its capacity-building activities. It can again approach ADB and other multilateral donor institutions such as the World Bank, the Asia Foundation, and the United Nations Development Programme. It can also tap bilateral organizations if the activity involves a member institution that would like to pursue bilateral technical assistance with another member. For this purpose, it is crucial that the AOA clearly define its niche and its competitive advantage as an association of accountability institutions across Asia, and emphasize that it is answering an important but unmet need.
References

Paquet, G. 2009. Ombuds as Producers of Governance. Revised version of keynote address delivered at the 4th Annual Conference of the International Ombudsman Association, a joint conference with the
Association Canadian College and University Ombudspersons and the Forum of Canadian Ombudsman.
Montreal. 15–18 April.
### Appendix 1

**Powers, Mandate, and Functions of Member Institutions**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Legal Basis</th>
<th>Jurisdiction</th>
<th>Powers and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Supervision (People’s Republic of China)</td>
<td>Statutory (Law on Administrative Supervision, 1997)</td>
<td>Supervises departments under the state council and public servants of the state working therein; other officials appointed by the state council and departments under it; governments of the provinces, autonomous regions, and municipalities directly under the central government and officials of such governments.</td>
<td>Powers to inspect, investigate, recommend, and punish.</td>
</tr>
<tr>
<td>Office of The Ombudsman of Hong Kong (Hong Kong, China)</td>
<td>Statutory (Ombudsman Ordinance, c. 397, 1989)</td>
<td>All government departments and public organizations regarding alleged acts of maladministration.</td>
<td>Extensive investigative powers, including the power to obtain information, summon complainant or other parties, gather evidence, and publish investigative reports.</td>
</tr>
<tr>
<td>Central Organization for Control and Auditing (COCA)</td>
<td>Statutory (COCA Act - Act No. 45 for the year 1974 and Act No. 11 for the year 1982)</td>
<td>Specific bodies mentioned under Article 6 of the COCA Act in the field of financial control</td>
<td>Power to audit financial matters; conduct physical inspections; check internal controls and procedures; and investigate any breach of duties, corruption, negligence, or fraud.</td>
</tr>
<tr>
<td>Provincial Ombudsman of Sindh (Sindh, Pakistan)</td>
<td>Statutory (Sindh Act No. 1 of 1992)</td>
<td>All government agencies and their officers and employees who are accused of maladministration.</td>
<td>Power to investigate complaints of maladministration or unlawful and unreasonable practices and to recommend corrective measures to the agencies concerned. Power to conduct investigations on its own initiative; summon and enforce the attendance of any person; compel production of documents; receive evidence; authorize entry and search; punish for contempt; and take measures to curb maladministration, including corrupt practices and graft.</td>
</tr>
<tr>
<td>Provincial Ombudsman of Punjab (Punjab, Pakistan)</td>
<td>Statutory (Punjab Ordinance No. IX of 1996)</td>
<td>All government agencies and their officers and employees who are accused of maladministration.</td>
<td>Power to undertake investigations into allegations of maladministration on the part of any agency or any of its officers and employees, enter and search premises, punish for contempt, and constitute inspection teams.</td>
</tr>
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## Appendix 1 continued

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<tr>
<th>Institution</th>
<th>Legal Basis</th>
<th>Jurisdiction</th>
<th>Powers and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provincial Ombudsman of Balochistan (Balochistan, Pakistan)</td>
<td>Statutory (Balochistan Ordinance No. VI of 2001)</td>
<td>All government agencies and their officers and employees who are accused of</td>
<td>Same powers as vested in a civil court, including the power to summon and enforce</td>
</tr>
<tr>
<td></td>
<td></td>
<td>maladministration.</td>
<td>the attendance of any person; compel the production of documents; receive evidence;</td>
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<td></td>
<td></td>
<td></td>
<td>commission the examination of witnesses; punish for contempt; and refer matters that</td>
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<td>are not acted upon by the concerned government official to the appropriate authority,</td>
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<td></td>
<td>for disciplinary action against such official.</td>
</tr>
<tr>
<td>Federal Ombudsman (Wafaqi Mohtasib) (Pakistan)</td>
<td>Statutory (Ordinance No. XXXV of 2000 and Ordinance No. 1 of 1983)</td>
<td>All complaints about maladministration in any federal government agency.</td>
<td>Same powers as vested in a civil court, including the power to summon and enforce</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>the attendance of any person; compel the production of documents; receive evidence;</td>
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<td></td>
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<td>commission the examination of witnesses; punish for contempt; and refer matters that</td>
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<td>are not acted upon by the concerned government official to the appropriate authority,</td>
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<tr>
<td></td>
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<td></td>
<td>for disciplinary action against such official.</td>
</tr>
<tr>
<td>Anti-Corruption &amp; Civil Rights Commission (Republic of Korea)</td>
<td>Statutory (Act on Anti-Corruption and Establishment and Operation of the Anti-</td>
<td>Mandated to prevent government agencies from infringing on the rights and</td>
<td>Power to investigate and handle complaints filed by citizens; ensure the</td>
</tr>
<tr>
<td></td>
<td>Corruption &amp; Civil Rights Commission, 1996; reorganized in 2008)</td>
<td>interests of citizens, prevent corrupt practices, and remedy wrongs committed</td>
<td>implementation of the Code of Conduct for Public Organization Employees, and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>against citizens.</td>
<td>receive and process reports of violations whereof; mediate and arbitrate on</td>
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<tr>
<td></td>
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<td></td>
<td>complaints filed by citizens; impose fines for negligence; and conduct education</td>
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<tr>
<td></td>
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<td></td>
<td>campaigns.</td>
</tr>
<tr>
<td>Administrative Evaluation Bureau (Japan)</td>
<td>Statutory (Act for Establishment of Ministry of Internal Affairs and</td>
<td>Conduct mediation proceedings to settle citizens’ complaints against public</td>
<td>Power to receive administrative complaints and mediate with government organizations</td>
</tr>
<tr>
<td></td>
<td>Communications, 1996)</td>
<td>public officials within the jurisdiction of national administrative organs,</td>
<td>to solve problems.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>incorporated administrative agencies, and public corporations.</td>
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<tr>
<th>Institution</th>
<th>Legal Basis</th>
<th>Jurisdiction</th>
<th>Powers and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of the Ombudsman (Iran)</td>
<td>Constitutional/Statutory (Article 174 of the Constitution, 1979)</td>
<td>All public organs and officers, and other bodies and offices of the public administration whose financial resources belong to the public sector, and other bodies and offices of the public administration whose financial resources are not part of the public sector, and other bodies and offices of the public administration whose financial resources are not part of the public sector.</td>
<td>Power to investigate any allegations of administrative violations of the law and other injustices and to report to the铨委會, to the public, and to the relevant public administration.</td>
</tr>
<tr>
<td>Commission Against Corruption of Macao (Macao, China)</td>
<td>Statutory (Article 59 of the Macao Special Administrative Region Basic Law, 1992)</td>
<td>All government agencies regarding acts of corruption and fraud committed by civil servants, electoral fraud in electoral registration and the election of members of the institutions in the Macao Special Administrative Region, and human rights protection.</td>
<td>Power to carry out inquiries and investigations, inspect public places and documents, examine the legality and administrative correctness of acts that involve property entitlements, refer findings of misconduct to disciplining authorities, and follow up on the actions taken by the agency concerned.</td>
</tr>
<tr>
<td>Office of the Ombudsman (the Philippines)</td>
<td>Constitutional/Statutory (1987 Constitution and Republic Act No. 3019)</td>
<td>All elected and appointed officials except impeachable officials, members of Congress, and the judiciary; also private individuals if they are being prosecuted with public officials.</td>
<td>Power to investigate any act or omission by any public official if deemed illegal, unjust, improper, or inefficient; power to enforce administrative, civil, or criminal punishment for acts committed by the government to the people; preventive, investigative, and prosecutorial powers in cases of graft and corruption.</td>
</tr>
<tr>
<td>Office of the Parliamentary Commissioner for Administration (Sri Lanka)</td>
<td>Constitutional/Statutory (Article 156 [Chapter XIX] of the Constitution, 1978)</td>
<td>All public officers and officers of public corporations, local authorities and other like institutions subject to complaints or allegations of infringement on fundamental rights and other injustices.</td>
<td>Power to investigate and report complaints or allegations of infringement of fundamental rights and other injustices by public officers and officers of public corporations, local authorities and other like institutions.</td>
</tr>
<tr>
<td>Appendix 1 continued</td>
<td></td>
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<td></td>
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</table>
### Appendix 1 continued

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<tr>
<th>Institution</th>
<th>Legal Basis</th>
<th>Jurisdiction</th>
<th>Powers and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ombudsman of Thailand (Thailand)</td>
<td>Constitutional/Statutory (Constitution of Thailand and Organic Law on Ombudsmen, 1999)</td>
<td>All civil servants, members, or employees of a government body, state agency, state enterprise, or local government accused of violating the law or exceeding the jurisdiction of his or her authority, and when his or her action or inaction causes harm, damage or injustice to an individual or to the general public.</td>
<td>Power to demand occurrence reports; secure testimony; or obtain objects, documents, or any evidence relevant to an investigation from the head or from subordinates of any agency or from any government official. Power to enter any premises about which a complaint has been made, provided that the owner or person in charge has been given prior notice.</td>
</tr>
<tr>
<td>Public Complaints Bureau (Malaysia)</td>
<td>Administrative Issuance (Administrative Circular No. 4, 1971)</td>
<td>All complaints by the public regarding any administrative action, including those made by government agencies that have been privatized or by institutions that have a monopoly; and complaints regarding the abuse of power, maladministration, and other similar acts by the government agencies.</td>
<td>No legal power. Sources of authority are administrative circulars (e.g., Circular of Chief Secretary to the Government of Malaysia) that enable the Public Complaints Bureau to obtain necessary information from any government departments and agencies in Malaysia.</td>
</tr>
<tr>
<td>Special Inspection Board (Viet Nam)</td>
<td>Statutory (Law on Settling Citizens' Complaints and Denunciations, 1998; Law on Preventing and Combating Corruption, 2006; and Government Decree No. 55, on Functions, Duties, Powers and Organizational Structure of Government Inspectorate)</td>
<td>All ministries, ministerial-level agencies, ministerial organs, people's committees of provinces, and cities under the direct management of the Central Committee.</td>
<td>Power to carry out inspections, settle complaints against government agencies, and lead the fight against corruption.</td>
</tr>
<tr>
<td>Indonesian National Ombudsman Commission (Indonesia)</td>
<td>Presidential Issuance (Presidential Decree No. 44) and Article 7 of Law No. 37 (2008)</td>
<td>All public servants administering public services.</td>
<td>Power to receive and, pursuant thereto, or on its own motion, conduct investigations on the presumption of maladministration in providing public services; power to summon concerned parties and publicize results of investigations.</td>
</tr>
</tbody>
</table>

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### Appendix 1 continued

<table>
<thead>
<tr>
<th>Institution</th>
<th>Legal Basis</th>
<th>Jurisdiction</th>
<th>Powers and Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lokayukt Organization, (Madhya Pradesh, India)</td>
<td>Statutory (Madhya Pro-Lokayukt and Up-Lokayukt Act 1981)</td>
<td>Public servants of all categories with few exceptions (e.g., the speaker and deputy speaker).</td>
<td>Powers similar to those of regular courts under the Evidence Act of 1872 and the Criminal Procedure Code of 1973 for conducting inquiries. All proceedings are deemed to be judicial in nature, and the Lokayukt and Up-Lokayukt are deemed to be courts within the meaning of the Contempt of Courts Act 1971.</td>
</tr>
<tr>
<td>Commission for Human Rights (Azerbaijan)</td>
<td>Statutory (Law on Commission for Human Rights, 2001)</td>
<td>Mandated to restore human rights and freedom enshrined in the constitution of Azerbaijan and in the international treaties to which Azerbaijan is a party.</td>
<td>Main function is to raise the legal awareness of the people on matters concerning human rights to prevent violations thereof.</td>
</tr>
<tr>
<td>Federal Tax Ombudsman (Pakistan)</td>
<td>Statutory (Ordinance No.XXXV of 2000)</td>
<td>Government functionaries administering tax laws.</td>
<td>Power to investigate complaints against maladministration or unlawful or unreasonable practices of government functionaries administering tax laws. Power to recommend corrective measures to the agencies concerned, summon and enforce the attendance of any person, compel the production of documents, receive evidence, and authorize entry and search.</td>
</tr>
<tr>
<td>Institute of Ombudsman (the Kyrgyz Republic)</td>
<td>Statutory (Law of the Ombudsman [Akyikatchy], 2002)</td>
<td>Prevent violation of human rights and freedoms.</td>
<td>Power to appeal to the courts, including the Highest Court, in cases of human rights violation; power to visit, at any time, prisons, jails, and other closed establishments.</td>
</tr>
<tr>
<td>Federal Insurance Ombudsman (Pakistan)</td>
<td>Statutory (Ordinance No.XXXIX of 2000)</td>
<td>Investigations into allegations of maladministration on the part of any insurance company.</td>
<td>Power to require an insurance company to disclose any information, subject to certain conditions; power to inspect documents in cases of corruption.</td>
</tr>
</tbody>
</table>

Source: Fact Sheets submitted by AOA members. [http://asianombudsman.com](http://asianombudsman.com)
### Appendix 2

**Summary of Results of Capacity Development Survey of AOA Members, 2008**

<table>
<thead>
<tr>
<th></th>
<th>General Administration and Governance</th>
<th>Leadership and Management</th>
<th>Specialized Areas</th>
<th>Other Skills Areas</th>
</tr>
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<td></td>
<td>Importance</td>
<td>Proficiency</td>
<td>Training</td>
<td>Importance</td>
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<td>Punjab, Pakistan</td>
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<td>1.0</td>
<td>4.4</td>
<td>3.7</td>
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<tr>
<td>Balochistan, Pakistan</td>
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<td>4.0</td>
<td>5.0</td>
<td>4.0</td>
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<td>Insurance Ombudsman,</td>
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<td>5.0</td>
<td>5.0</td>
</tr>
<tr>
<td>Pakistan</td>
<td>Federal Tax,</td>
<td>5.0</td>
<td>4.4</td>
<td>5.0</td>
</tr>
<tr>
<td>Pakistan</td>
<td>Philippines</td>
<td>4.4</td>
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<td>Sri Lanka</td>
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<tr>
<td>Indonesia</td>
<td>3.8</td>
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<td>3.5</td>
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<td>Macao, China</td>
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<tr>
<td>Malaysia</td>
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<td>3.8</td>
<td>4.8</td>
<td>4.7</td>
</tr>
<tr>
<td>Sindh, Pakistan</td>
<td>4.6</td>
<td>2.6</td>
<td>4.6</td>
<td>4.0</td>
</tr>
<tr>
<td>Japan</td>
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<td>3.6</td>
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<tr>
<td>India</td>
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<tr>
<td>Azerbaijan</td>
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<td>5.0</td>
<td>5.0</td>
<td>4.6</td>
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<tr>
<td>People’s Republic of China</td>
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<td>4.2</td>
<td>2.2</td>
<td>5.0</td>
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</table>

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## Appendix 2 continued

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<th>Country</th>
<th>General Administration and Governance</th>
<th>Leadership and Management</th>
<th>Specialized Areas</th>
<th>Other Skills Areas</th>
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<tbody>
<tr>
<td></td>
<td>Importance</td>
<td>Proficiency</td>
<td>Training</td>
<td>Importance</td>
</tr>
<tr>
<td>Hong Kong, China</td>
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<td>4.2</td>
<td>4.4</td>
<td>4.7</td>
</tr>
<tr>
<td>Thailand</td>
<td>5.0</td>
<td>3.2</td>
<td>4.2</td>
<td>5.0</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>4.6</td>
<td>3.2</td>
<td>3.8</td>
<td>4.7</td>
</tr>
<tr>
<td>Yemen</td>
<td>4.6</td>
<td>4.6</td>
<td>4.6</td>
<td>3.4</td>
</tr>
</tbody>
</table>

AOA = Asian Ombudsman Association.

Notes:
1. Of the 23 targeted institutions, 21 replied. Iran and the Kyrgyz Republic did not respond.
2. The figures above pertain to only 19 institutions. The Republic of Korea’s survey form is not on hand. The second page of the form of the Federal Ombudsman (Wafaqi Mohtasib) of Pakistan is not on hand, and the missing page includes the entire section, “Part 3. Self-Assessment of Training Needs.”
3. Japan did not answer the section on proficiency levels (Part 3, column 2).
4. The scanned copy of Sri Lanka’s form is blurred in the section on training priority (Part 3, column 3).
5. Indices were computed by averaging the ratings given per section. (In particular, the ratings given for all the questions in a specific section are added up and then divided by the number of questions in that section).

This method of calculation assumes that all knowledge and skills are of equal weight.

Appendix 3  
General Administration and Governance

<table>
<thead>
<tr>
<th>National/State/Provincial Governments with Institutions Needing Assistance</th>
<th>Proficiency Level</th>
<th>Importance to Work</th>
<th>Training Priority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Those with the lowest overall proficiency ratings (bottom 5 ratings)</td>
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<tr>
<td>Punjab, Pakistan</td>
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<td>Others with special requirements (see details below)</td>
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<td>Malaysia</td>
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<tr>
<td>Those needing assistance with strategic planning (5 institutions)</td>
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<td>Sindh, Pakistan</td>
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<tr>
<td>Promoting good governance (3)</td>
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<td>Sindh, Pakistan</td>
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<td>Sri Lanka</td>
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<td>Viet Nam</td>
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<tr>
<td>Conducting institutional/organizational diagnosis (5)</td>
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<td>Sindh, Pakistan</td>
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### National/State/Provincial Governments with Institutions Needing Assistance

<table>
<thead>
<tr>
<th>Those needing assistance with planning and undertaking institutional/organizational development (7)</th>
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<td>Sri Lanka</td>
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<table>
<thead>
<tr>
<th>Enhancing organizational performance and productivity (5)</th>
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<td>Viet Nam</td>
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</table>

Note: Countries included in this list are those that rated their proficiency level from 1 to 3. All these countries consider these skills to be important (rating of at least 3).

### Leadership and Management

#### National/State/Provincial Government with Institutions Needing Assistance

- **Those with lowest overall proficiency ratings (bottom 5 ratings)**

<table>
<thead>
<tr>
<th></th>
<th>Proficiency Level</th>
<th>Importance to Work</th>
<th>Training Priority</th>
</tr>
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<tr>
<td>Punjab, Pakistan</td>
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<td>3.3</td>
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</tbody>
</table>

- **Others with special requirements (see details below)**

  - Balochistan, Pakistan
  - Pakistan (Federal Tax)
  - Philippines
  - Hong Kong, China
  - Yemen

- **Those needing assistance with strategic planning (6 institutions)**

  - Punjab, Pakistan
  - Sindh, Pakistan
  - Sri Lanka
  - Indonesia
  - Viet Nam
  - Philippines

- **Critical thinking, problem solving, and decision making (2)**

  - Punjab, Pakistan
  - Viet Nam

- **Managing changes and risks (6)**

  - Punjab, Pakistan
  - Sindh, Pakistan
  - Sri Lanka
  - Indonesia
  - Thailand
  - Yemen

*continued on next page*
## National/State/Provincial Government with Institutions Needing Assistance

### Those needing assistance with building and managing high performance teams (6)

<table>
<thead>
<tr>
<th>Country/Region</th>
<th>Pakistan</th>
<th>Sindh, Pakistan</th>
<th>Thailand</th>
<th>Viet Nam</th>
<th>Balochistan, Pakistan</th>
<th>Sri Lanka</th>
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### Managing Conflict (8)

<table>
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### Implementing performance-based management systems (7)

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### Mentoring, coaching, and counseling (5)

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<th>Sri Lanka</th>
<th>Thailand</th>
<th>Pakistan (Federal Tax)</th>
<th>Philippines</th>
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</thead>
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*a Considered to be of low importance. This was given an importance priority rating of 2.*

*b Considered to be of low importance. This was given an importance priority rating of 1.*

Note: Institutions included in this list are those that rated their proficiency level from 1 to 3. All these institutions consider these skills important (rating of at least 3), except for Yemen.

Appendix 5
Other Skills Areas

Specialized Areas
National/State/Provincial Government with Institutions Needing Assistance
Those with the lowest overall proficiency ratings (bottom 5 ratings)

<table>
<thead>
<tr>
<th>Country</th>
<th>Proficiency Level</th>
<th>Importance to Work</th>
<th>Training Priority</th>
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<td>Indonesia</td>
<td>3.4</td>
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</table>

Others with special requirements (see details below)
Balochistan, Pakistan
Philippines
Sindh, Pakistan
Pakistan (Federal Tax)
Azerbaijan
People’s Republic of China
Hong Kong, China
Yemen

Those needing assistance with innovative methods in receiving and handling complaints (5 institutions)

Sri Lanka
Viet Nam
Sindh, Pakistan
Malaysia
Pakistan (Federal Tax)

Developing and implementing an anticorruption program (5)
Punjab, Pakistan
Thailand
Viet Nam
Sindh, Pakistan
Sri Lanka

Corruption prevention tools and methods (6)
Thailand
Indonesia
Balochistan, Pakistan
Sindh, Pakistan
Sri Lanka
Punjab, Pakistan

continued on next page
### Appendix 5 continued

#### Specialized Areas

**National/State/Provincial Government with Institutions Needing Assistance**

<table>
<thead>
<tr>
<th>Those needing assistance with corruption management (3)</th>
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<td>Viet Nam</td>
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<td>Pakistan (Federal Tax)</td>
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<table>
<thead>
<tr>
<th>Improving access to public information (4)</th>
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<tbody>
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<td>Sri Lanka</td>
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<tr>
<td>Punjab, Pakistan</td>
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<td>Indonesia</td>
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<td>Philippines</td>
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<table>
<thead>
<tr>
<th>Case build-up and management (6)</th>
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<td>Thailand</td>
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<tr>
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<table>
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<table>
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<table>
<thead>
<tr>
<th>Effective prosecution (7)</th>
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<td>Sindh, Pakistana</td>
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<td>Sri Lankab</td>
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<td>Hong Kong, Chinab</td>
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<table>
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<tr>
<th>Those needing assistance with developing performance-based indicators (8)</th>
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<td>Indonesia</td>
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<td>Viet Nam</td>
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<td>People’s Republic of China</td>
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<td>Sri Lankaa</td>
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<tr>
<td>Punjab, Pakistana</td>
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### Specialized Areas

#### National/State/Provincial Government with Institutions Needing Assistance

<table>
<thead>
<tr>
<th>Implementing a performance-based management system (8)</th>
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<tbody>
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<td>Thailand</td>
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<td>Punjab, Pakistana</td>
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<thead>
<tr>
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<table>
<thead>
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<tbody>
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<td>Pakistan (Federal Tax)</td>
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<tr>
<th>Those needing assistance with advocacy and outreach (8)</th>
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<tr>
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<td>People’s Republic of China</td>
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<tr>
<td>Pakistan (Federal Tax)</td>
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<td>Yemena</td>
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<th>Specialized Areas</th>
<th>National/State/Provincial Government with Institutions Needing Assistance</th>
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<tbody>
<tr>
<td><strong>Graft prevention (5)</strong></td>
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<td>Pakistan (Federal Tax)</td>
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<td>Sri Lanka(^b)</td>
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<td><strong>Mediation and arbitration (4)</strong></td>
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<tr>
<td>Yemen(^b)</td>
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<tr>
<td><strong>Formulation and adoption of a code of conduct (4)</strong></td>
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<tr>
<td>Yemen(^b)</td>
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</tbody>
</table>

\(^a\) Considered to be of low importance. This was given an importance priority rating of 2.

\(^b\) Considered to be of low importance. This was given an importance priority rating of 1.

Appendix 6
Core Principles of Ombudsmanship

Clarity of Mandate

• The powers and responsibilities of the Ombudsman should be clearly laid down in the constitution, law, or declared policy.
• The basic mandate of the Ombudsman is to redress grievances rising from maladministration, improve public administration, and enhance government accountability.
• For implementing its mandate and responding effectively to emerging challenges, the Ombudsman must possess adequate powers, commensurate resources, and requisite competencies.
• The Ombudsman mandate should be widely disseminated and known to the public.

Independence

• The Ombudsman should enjoy financial and operational independence.
• The Ombudsman should be able to receive complaints freely and investigate impartially without external pressure.
• The actions and decisions of the Ombudsman should inspire public trust.
• The Ombudsman should not be involved in executive decision making other than that required by the Ombudsman’s mandate.
• The appointment process of the Ombudsman should inspire public confidence.
• The Ombudsman’s security of tenure should be guaranteed.
• Prior to the expiration of his or her term, the Ombudsman may be removed from office for cause pursuant to well-defined procedures.

Accountability

• The Ombudsman should be accountable in the performance of duties and for that purpose should regularly report to stakeholders on its activities and performance.
• The annual report of the Ombudsman should be regularly formulated and widely shared with the public.
• The Ombudsman should regularly review and monitor its own performance vis-à-vis goals, objectives, and targets, and develop relevant performance indicators for this purpose. The Ombudsman should widely publicize the outcome of its review and monitoring.
• The Ombudsman should have an internal complaint and redress system to respond to complaints brought against it or its personnel by the public.

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1 Adopted by Asian Ombudsman Association (AOA) members during the AOA Regional Conference held on 24–25 August 2010 in ADB headquarters in Manila.
Accessibility

- Ombudsman’s services should be accessible to the public without any hindrance or discrimination.
- Ombudsman’s services should be freely available and conveniently accessed preferably through multiple channels of communication.
- Ombudsman’s proceedings should be citizen-friendly and its decisions and findings understandable by the common people.
- The Ombudsman should reach out proactively to vulnerable sections of the population and remote areas that are unserved or underserved.

Effectiveness

- The Ombudsman should develop and avail of the services of skilled professionals for investigation and counseling.
- The Ombudsman should promote greater citizen participation in solution finding through alternative modes of dispute resolution like mediation, conciliation, negotiation, and arbitration.
- The Ombudsman should be able to demonstrate its value to the public by working closely with civil society and the media.
- The Ombudsman should be able to network with public and private institutions and bodies in furtherance of its mandate.
- The Ombudsman should prioritize citizen satisfaction through constant public interaction as well as surveys.
- The Ombudsman should be able to pursue compliance through moral suasion and powers of public exposure.
- The Ombudsman should be able to exercise suo moto powers where required in the public interest.
- The Ombudsman should have the ability to effectively convey its recommendations and reports to the highest levels.

Asian Ombudsman Association as a Means to Promote Core Values

- The Ombudsman institutions in Asia should strengthen and benefit from the AOA as a platform for promoting the core values of ombudsmanship in Asia through regular exchange of knowledge and information, especially of best practices, and by undertaking activities and research in priority areas of common interest.
Appendix 7
Participants of the Asian Ombudsman Association (AOA) Regional Conference

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Title</th>
<th>Organization/Office</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Armen Harutyunyan</td>
<td>Human Rights Defender of the Republic of Armenia</td>
<td>Office of the Human Rights Defender of Armenia</td>
<td>Armenia</td>
</tr>
<tr>
<td>Dr. Charles Sampford</td>
<td>Professor</td>
<td>Griffith University</td>
<td>Australia</td>
</tr>
<tr>
<td>Ms. Elmira Suleymanova</td>
<td>Ombudsman</td>
<td>Commission for Human Rights</td>
<td>Azerbaijan</td>
</tr>
<tr>
<td>Ms. Naila Valiyeva</td>
<td>Senior Advisor</td>
<td>Commission for Human Rights</td>
<td>Azerbaijan</td>
</tr>
<tr>
<td>Mr. A.S. Jahir Mohammad</td>
<td>Advisor (Direct Tax)</td>
<td>Tax Ombudsman</td>
<td>Bangladesh</td>
</tr>
<tr>
<td>Mr. André Marin</td>
<td>Author/Ombudsman</td>
<td>Ontario Ombudsman</td>
<td>Canada</td>
</tr>
<tr>
<td>Mr. Pan Xuanmin</td>
<td>Deputy Director General</td>
<td>Ministry of Supervision</td>
<td>PRC</td>
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<tr>
<td>Mr. Zhou Congyuan</td>
<td>Project Officer</td>
<td>Ministry of Supervision</td>
<td>PRC</td>
</tr>
<tr>
<td>Mr. Sun Tong</td>
<td>Divisional Director</td>
<td>Ministry of Supervision</td>
<td>PRC</td>
</tr>
<tr>
<td>Ms. Xing Xu</td>
<td>Divisional Director</td>
<td>Ministry of Supervision</td>
<td>PRC</td>
</tr>
<tr>
<td>Ms. Jia Jingyun</td>
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1 Held at the ADB Headquarters in Manila on 24–26 August 2010.
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Independence of Ombudsmen

Mohammad Waseem*

Summary

This report examines strategies to strengthen Asian ombudsmen, with a specific focus on the issue of independence. Although the Asian ombudsman institution is historically rooted in the Western parliamentary and democratic tradition, it has recently proliferated in the non-Western world and in a variety of government frameworks, ranging from democratic to military to communist states. Political modernization has led to rule of law, merit-based bureaucracy, and increased citizen rights. The need to remove administrative bottlenecks has pushed the issue of accountability beyond the periodic electoral exercise of societal input in government formation, and improvement in day-to-day governance is now assisted through the intervention of the ombudsman.

The office of the ombudsman has become appealing to many societies in recent decades because of its perceived autonomy as the final arbiter of conflict, its credibility in terms of service delivery, and its adaptability in various countries, including Azerbaijan; Canada; Hong Kong, China; Japan; the Republic of Korea; Malaysia; Pakistan; Peru; Portugal; Sweden; and the United States. The mandate of Asian ombudsmen focuses on the redress of grievances relating to maladministration.

The report discusses ombudsman independence, with particular emphasis on appointment of ombudsmen, noncompliance with ombudsman verdicts, and limited ombudsman jurisdiction. The report highlights the best practices of the ombudsmen in Hong Kong, China; Japan; the Republic of Korea; and other countries across the continent. It discusses the need for advocacy, outreach, and communication with potential complainants and stakeholders both within and outside the government. It looks at new challenges emanating from new public management and their potential to dilute the concept, authority, and even relevance of the ombudsman.

Finally, the report seeks to develop certain core principles of Asian ombudsmen. Included in this is a discussion of the mode of ombudsman appointment, expansion of the ombudsman’s agenda to include human rights and bring hitherto protected centers of power to account, raising of public awareness about the duties of the ombudsman, and ensuring of financial and administrative autonomy and compliance with ombudsman decisions. The report also examines networking among various Asian ombudsmen as a means of judging individual countries’ practices that go against the collective vision.

Introduction

This report focuses formulation, evaluation, and implementation of policy to strengthen ombudsman institutions in Asian countries. It is based on an issue-related rather than a country-bound approach, and is intended to outline the lingering problems of independence and analyze serious reform efforts in this direction. The objective

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is to develop core principles for ombudsmen in Asia, using both current norms and practices as the ultimate reference points for institutional autonomy. This agenda is closely related to the aim of rationalizing and clarifying the role of the Asian Ombudsman Association (AOA), with a view to enhancing its effectiveness in any possible program reform.

Although ombudsmen have been operative in certain Western countries for 100 to 200 years, the ombudsman institution is relatively young in Asia. As a result, the institution in Asia is experiencing some growing pains, especially because several Asian countries have emerged from political instability only during the past half century. Thus, there is a need for information exchange and the formation of a regional agenda for best practices and contextual requirements. The comparison of institutions has acquired a new importance in Asia since the emergence of the AOA as a regional standard bearer. Unlike Western countries, which generally share a common heritage of democracy, Asian countries draw upon a variety of political systems, ranging from democratic to military, post-military, communist, and postcommunist states.

Research Methodology

The report is based on four distinct modes of research. First, the report focuses on the formal policy-based and data-based material produced by ombudsmen across the Asian continent, as well as conference proceedings and annual reports from ombudsmen in various countries.

Second, the report examines global and regional scholarly research that seeks to analyze and explain serious issues relating to institutional independence, employing both historical and comparative perspectives.

Third, the report draws on the findings of a survey of Asian ombudsman staff participants, conducted during a training workshop held in Bangkok, Thailand, in February 2010 (Appendix). The workshop was organized under the auspices of an Asian Development Bank–funded regional technical assistance project.

Finally, the report focuses on in-depth interviews conducted in March 2010 in Islamabad, one with the AOA president and ninth wafaqi mohtasib (federal ombudsman) of Pakistan, and the other with the regional technical assistance project team leader.

This report incorporates insights based on these four modes of research in an effort to (i) discover the factors that contribute to the independence of the ombudsman, (ii) examine constraints on the attainment of ombudsman independence, and (iii) prepare a reform agenda by clarifying the core principles of the ombudsman institution.

Report Outline

The report has four parts. The first part focuses on outlining historical and comparative research on the ombudsman institution. It deals with general definitions, the ombudsman within the context of maladministration, and variations in the levels of authority wielded by ombudsmen in different countries. It seeks to contextualize the analysis by examining various intellectual approaches to the ombudsman office, its independence within and outside a democratic framework, its agenda of administrative accountability, and its increasing popularity as a mechanism for handling complaints in diverse cultural settings.

The second part deals with the scope and potential of the ombudsman. Here, we seek to understand, analyze, and evaluate the independence that is rooted in the ombudsman office’s structure and function. In this context, we shall deal with the ombudsman’s dual role and semi-judicial character, the role of public complaints, and the journey of the agenda of accountability from legal mandate to operational skill.
The third part deals with the independence of the ombudsman office itself. It focuses on the mode of ombudsman appointment, issues of noncompliance, and the relation between ombudsman independence and ombudsman credibility, accessibility, and performance. It also examines jurisdictional and budgetary constraints, the autonomy of the office of ombudsman, and the role of the AOA.

The final part of the report deals with the agenda of reform. It focuses on best practices, issues of advocacy and outreach, citizen participation, and performance as a key to ensuring the independence of an ombudsman. The report also considers the challenges new public administrations pose to the efficacy and relevance of the ombudsman, the low profile of the institution in some countries, and the need for scholarly inquiry into independence and related issues as a means of setting an agenda for reform. Ultimately, we shall develop a set of core principles for Asian ombudsmen.

Background

There have always been groups and organizations that perform functions similar to those of an ombudsman. These include the clergyman who functions as “a case worker for distressed families;” county agents; settlement workers; adult education and recreation workers; “block clubs;” and the local press, which operates as the “tribune of the people.”1 Legislators also act as something of an ombudsman when they try to “equalize power between legislators and bureaucrats” in the context of a “role construct” for complaint handling2 (Mohapatra 1976, 296). Members of the United States Congress, for instance, often engage in such activity by investigating and attempting to solve their constituents’ problems.

Individual petitioners are at the heart of the ombudsman’s operational dynamics in the West, which conceptualizes society as a collection of individuals. This assumption is reflected in the concepts of the social contract, utilitarianism, and basic human rights. In general, however, the developing world has moved to an individualist framework of property relations only recently, and only partially. The functioning of the ombudsman institution in a non-Western context has been constrained by collective life patterns of family, village, caste, and tribe; and by a recent history of massive human rights abuses and limited political freedoms. Indeed, path dependency theorists argue that the prospects for growth of the ombudsman institution outside its birthplace are rather dim, given the absence of historical precedents.3

There can be two models for evaluation of any organization: the rational model, which seeks information to make the institution more effective, and the interpretative model, which focuses on patterns of member behavior and the institution’s activities.4 The rational model is direct and prescriptive and can be one-dimensional inasmuch as it focuses somewhat narrowly on a reform package. The interpretive model is indirect, penetrative, argumentative, and transformative over a longer span of time. We plan to take the second approach to explicate and scrutinize issues related to what we consider to be the most innovative popular institution of the past half-century.

The available literature relies heavily on data as a measure of the presumed success of the ombudsman institution, but dependence on statistical records is somewhat unrealistic because such records often are poorly

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collected and collated. There is therefore a need to go beyond quantitative methods. Similarly, the institution needs to be studied with reference to various non-complaint-handling functions that it ends up performing and that demonstrate the popular appetite for proxy participation in public life. The established criteria for evaluating an ombudsman (office) include evaluations of its visibility, independence, accessibility, jurisdiction, power of investigation, competence, and authority.

The issue of ombudsman independence has grown with the institution itself, in terms of both the concept and the reform agenda. As the ombudsman institution expanded worldwide during the postwar period, the independence of the institution emerged as a cherished norm and, increasingly, as a matter of policy. Analysts gradually focused on the nature and character of the different political and administrative systems in which the ombudsman was established, a discussion that often has been underscored by a teleological concern for establishing democracy. Indeed, the ombudsman itself has been largely conceived as an outgrowth of parliamentary democracy, first in Scandinavia and later in the West in general. For instance, 81% of the participants in the survey conducted in Bangkok during the training of Asian ombudsman staff thought that democracy was a prerequisite for independence of an ombudsman (Appendix).

Inasmuch as the ombudsman institution is typically understood to be a protector of individuals against the state, the principle of accountability moved beyond the representative character of democracy, rooted in periodic parliamentary elections, to the structure of the modern state itself. Such a state draws on the doctrine of separation of powers and its expression through formulation, implementation, and adjudication of policy.

With the emergence of merit-based bureaucracy, the executive function has been further split between the elected political government, which is conceptually temporary, and the unelected and “permanent” civil administration. Although the size and role of the legislature remains limited and its structure is essentially horizontal, with all members of the house carrying a juridically equal status, bureaucratic functions have proliferated within a strictly hierarchical framework of authority. The government draws its authority and legitimacy from the people, through a vote based on its performance in office. The civil administration, however, is relatively immune from direct public accountability. The bureaucracy operates from behind a multitude of counters, deals with the public on a regular basis, and provides relief or otherwise to applicants, petitioners, and litigants.

The modern state, first in the West and then elsewhere, emerged as an administrative system with a universal presence across a country. Although politics is the initiator, administration is the routine. Politics, as the rule of public representatives in a democratic framework, upholds cause, ideology, principle, direction, norm, and vision. Administration, as the rule of law in a bureaucratic context, grapples with reality, practice, and procedure. The two operate in a principal–agent relationship. The failure of politics leads to a crisis of legitimacy, both as the cause and effect of electoral defeat. The bureaucracy’s loss of credibility is far less lethal. Among politicians, the individual actions of party leaders and cadres can bring down the whole government. In the bureaucracy, however, the administrative structure remains intact even when individual officers face charges of corruption or are penalized.

The bureaucracy is the universe of the ombudsman, who is the voice of agency—the citizen—within the structure. It is within this context that one hears about the demand for the “debureaucratization of public policy” in the South Asian countries, where the formerly colonial administration and its subsystem autonomy remains highly centralized. Otherwise, the ombudsman will continue to operate as an outsider.

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6 Aufrecht and Hertogh, Evaluating Ombudsman Systems.
Scholars have offered various explanations for the popularity of the ombudsman institution, including the inexpensive and quick access to justice and the nonconfrontational posture of the institution.

We can outline the role of the ombudsman in a lateral as well as a longitudinal framework. The ruling setup has a stake in defusing any tension among its potential or actual voters due to maladministration. Although the judiciary has powers of sanction against the perpetrators of bad governance, the ombudsman typically, if not universally, employs noncoercive methods. It is enjoined to make bureaucracy operate in a reformist mode, avoid brutalization of the public, and safeguard its own esprit de corps.

During the second half of the 20th century, the social welfare state emerged within the context of the need to redress the perceived injustices of state institutions. At the same time, the Cold War rendered the developing world a client of the two superpowers in their fierce struggle for domination. Only gradually, especially after the 1976 Helsinki Accords and the end of the Cold War around 1990, did relative international stability enable postcolonial states and developing countries to focus on improving governance at home. Democracy, long considered the umbilical cord of the ombudsman, was no longer considered a prerequisite for operationalizing this institution in the new states. The ombudsman is even considered to be democracy neutral.8

The ombudsman typically has been contextualized within emergent nationalisms, social movements, administrative frameworks, and political visions. Ombudsman nomenclature has shown a variety of expressions: a gender-neutral form, “ombudsperson”;9 a function-oriented term, “ombudsmediator”;10 and a collective rather than individual identity, such as the Ombudsman Commission in Indonesia, the Public Complaints Bureau in Malaysia, the Resident Ombudsman in the Philippines, the Administrative Inspection System in the People’s Republic of China (PRC), the Administrative Counseling System and the Local Government Ombudsman in Japan, and the Viet Nam State Inspectorate. Among other titles for the ombudsman, the popular name in Latin American countries is Defensor del Pueblo, “the people’s defender.” In South Africa, it is the Public Protector, carrying a clear bias in favor of the citizen.11 There are local cultural and linguistic expressions, such as mohtasib in Pakistan, lokayukta in India, and akyikatchy in the Kyrgyz Republic.

Historically, Islamic and Indian civilizations have had institutions similar to the ombudsman. This testifies to a high level of acceptance, even appropriation, of the institution across territories and faiths. At least six categories of ombudsman can be outlined: general, specialty, international, and human rights ombudsmen; the in-house ombudsman that operates within administrative agencies; and the private sector ombudsman that serves the corporate sector.12 However, there is always a danger that the emergence of multiple ombudsmen at various levels for specific purposes would dilute the whole concept by reducing respect for and effectiveness of the institution, tantamount to devaluing the currency. Therefore, in at least two places, Malta and New Zealand, the chief ombudsman has been given authority to declare which institutions could be titled ombudsmen. The issue of the requisite number of ombudsmen and their positions at various levels of the administrative hierarchy demands serious consideration within the reform agenda, so that the institution maintains its triadic character and operates from outside the framework of a dyadic conflict.

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8 Personal communications with J.S. Malik.
The Ombudsman: Scope and Potential

Huntington’s four criteria for institutions includes autonomy, coherence, complexity, and adaptability.\(^\text{13}\) Autonomy points to a structural matrix that is free of administrative oversight and financial pressure. A coherent profile of an institution is essential for its proper functioning. In the case of the ombudsman, such a profile would include being an arbiter of conflict and a deliverer of social justice. Complexity is a positive rather than a negative factor; the more internally differentiated the structure of an institution, the more efficient will be its performance. Adaptability reflects sensitivity to change in time and space, and the ombudsman institution has demonstrated an ability to thrive in radically different sociopolitical systems. In this report, we shall employ Huntington’s model as a backdrop for our discussion of the ombudsman as an emergent and expanding institution. Ombudsman independence represents a key variable in this model.

Dual-Purpose Ombudsman

At the heart of our discussion lies the “dual-purpose ombudsman,” which protects individual rights and seeks to reform abusive administrations.\(^\text{14}\) The approach of the institution remains bifocal: to “redress people’s grievances [and] aim towards good governance.”\(^\text{15}\) In this context, the ombudsman transcends dispute settlement and takes a prescriptive role in the direction of legal and procedural reform. For instance, the comptroller–commissioner of Israel, carrying this dual mandate, is described as the fourth wing of the state, augmenting the executive, legislative, and judiciary branches. This may be a measure of consolidation of democracy in that country, whereby the institutional apparatus of the state exhibits a balance of power in relative terms.\(^\text{16}\)

In contrast, the flexibility and adaptability of the ombudsman within a nondemocratic political framework poses a challenge to both classical and comparative scholars, who see the ombudsman as a quintessential part of democracy. Historically, accountability has been overwhelmingly tied with representative institutions.

The literature distinguishes between vertical accountability, which is exercised by the voting public in the process of electing its rulers and follows a bottom–up approach, and horizontal accountability, whereby certain legally empowered state agencies sit in judgment of other agencies.\(^\text{17}\) The ombudsman, like other “appointed” institutions, such as the election commission, the auditor general, anticorruption departments, and courts set up for special purposes, complements the classical vertical models of accountability. The institution operates within the gap of public trust in the administration.

Under colonial rule, the administrative structure typically represented a state unto itself and dealt with people as subjects rather than as citizens. In the postcolonial framework, a mobilized public seeks a role in the state. Popular agency strikes the structure in an attempt to render it accountable, and the ombudsman defuses the conflict inasmuch as the institution represents an intervening variable. If the ombudsman is not independent, it cannot effectively intervene. Typically, the ombudsman is weak in enforcement powers but strong in its ability to

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\(^\text{17}\) Pegram, The Politics of Accountability.
thoroughly investigate the legal and administrative implications of the relevant administrative procedures. Ideally, the ombudsman has a nongovernment but not an antigovernment character.

To decipher this peculiar role, we need to understand the state as a mixture of contending forces seeking dominance. The state provides a legal and nonviolent arena for political struggle among these forces. What is described as the political construction of the ombudsman reflects the “variation of diffusion effects” of this institution, inasmuch as it adapts itself to different administrative systems. This supralegal understanding of the ombudsman, combined with its constitutionally sanctioned roles, reveals a specific profile of the institution, especially in low-intensity democracies. Here, the concept of the “hourglass society,” in which the structures of legal power are effectively disengaged from the activist groups in the society, is relevant. As in an hourglass, the narrow link between the upper half of the system (the state) and lower half of the system (society) has an inhibiting influence on discourse about accountability. Given the political status quo, the ombudsman is the point person for bringing the accountability issue into the heart of the debate about governance.

In that sense, the ombudsman enters into a dialogue with the citizenry at large and deradicalizes the discourse, thus serving what is essentially a political function. It operates at the performance end of the political process, which directly relates to administration, and not at the entrance level by way of government formation through elections. In other words, the state’s provision of ombudsman independence is a structural requirement for safeguarding the political order.

The ombudsman typically stays away from electoral conflicts. Its role as a mediator during the 2000 elections in Peru, which ultimately brought about the fall of President Fujimori, was one of the exceptional cases in this regard. Another case was the ombudsman’s complaint to the constitutional court about the election commission’s conduct of elections in Thailand in 2006.

The Ombudsman and the Judiciary

The independence of the ombudsman is closely linked with its triadic role in relation to dyadic conflicts in society, akin to the role of the judiciary. For example, the ombudsman for Punjab, Pakistan, has powers of sanction for contempt, similar to those of the high court, as well as other powers, such as the power to summon any person, demand documents, receive evidence on affidavit, and examine witnesses. Court-related complaints in Azerbaijan often focus on the delay or failure to deliver copies of judgments to litigants. A lack of legal education and awareness is a hindrance to restoring citizens’ rights, and failure to provide prompt information about the venue and time of court hearings hampers the litigant public’s preparation of a proper defense.

The quasi-judicial role of the ombudsman is interesting insofar as both individuals and organizations have recourse to higher courts for judicial review of the ombudsman’s decisions, ostensibly for the satisfaction of the complainants,

21 Ombudsman of Thailand, Thai Ombudsman at a Glance.
as is the case in Hong Kong, China.\textsuperscript{24} India and Pakistan prefer judges over administrators for the ombudsman office, but judges tend to carry over an adversarial approach from their experience in courts. Judges are neither proactive nor investigation-oriented, compared to civil servants.\textsuperscript{25}

In the Bangkok survey (Appendix), only 12% of respondents believed that access to justice defines the ombudsman institution, compared to 32% who listed public accountability and 32% who listed redress of grievances. Correspondingly, only 16% felt that the ombudsman’s function is similar to that of the courts, whereas 31% believed the ombudsman to be more like an administrative tribunal and 34% believed it serves the legislature as a pumping station for interest articulation. However, the survey also found that 38% were in favor of judges occupying the position of the ombudsman; only 22% favored bureaucrats, 22% favored technocrats, and 6% favored politicians for the position.

As in Pakistan, the Indian ombudsman is conceived along judicial lines, carrying the powers of a civil court. In the Kyrgyz Republic, the institution goes beyond parallelism to represent an avenue of relief from the judicial circuit. It has been claimed that 80% of people did not trust the courts and have turned to the ombudsman after court proceedings approached a dead end or came under extreme pressure.\textsuperscript{26} In the Republic of Korea, the ombudsman may not change the verdict of a court or any other public authority, given that every state functionary is held accountable for his judgment on administrative cases.\textsuperscript{27} Sometimes the judiciary itself safeguards the ombudsman’s investigatory and prosecuting power, as in the supreme court’s verdict in the Philippines.\textsuperscript{28}

Known as the “poor man’s court of justice,” the ombudsman institution is obliged to prevent inordinate delays and neglect in administrative procedures and to recommend legal provisions for economic, environmental, and fundamental rights. At the same time, the ombudsman is understood to be a safeguard against administrative corruption, which leads to a case for the institution’s supervisory powers. When it comes to inspection, an ombudsman institution would understand its role in terms of functional independence and a mandate to “sensitize the political powers” to the dissatisfaction of the public at large.\textsuperscript{29}

Skeptics would look askance at the view that the ombudsman can succeed only if the institution is rooted in the historic experience of its community. After all, the institution is enjoying a measure of success in various Asian countries where it does not have historic roots. Similarly, its accessibility to the common citizen differentiates it from the court system, which is costly in terms of money, time, and energy. Over time, the idea has spread both vertically, from the national to the regional and local levels, and horizontally, across the world in both the public and private sectors.

The public ombudsman deals with various fields of information: law enforcement, human rights, universities, the military (covering medical examinations for conscription), taxation, health care, and environmental rights. Local


\textsuperscript{25} Personal communications with J.S. Malik.


ombudsmen can serve as whistle-blowers and thus exert moral pressure. At higher levels, the ombudsman’s role moves to conflict resolution, which requires an increasing amount of independence.

**Complaints and Complainants**

The cases filed in the office of the ombudsman point to areas in which the ombudsman institution has generally and typically engaged itself, and in which its independence has been put to the test in one way or another. These cases include global issues with implications for the planet—such as the environmental hazards of deforestation, acid rain, destructive flooding, and desertification in various regions—beyond the limited territorial jurisdiction of the office. On the other hand, sometimes the complaint of a male schoolteacher being called “nursery mother” simply because a typical schoolteacher is female is considered a legitimate area of ombudsman consideration.

The sheer variety and scope of issues coming to the ombudsman raises a question about the institution’s capacity to exercise a high level of independence, given the multiple centers of authority that it faces. In Azerbaijan alone, complaints related to conditions in prisons, boardinghouses, refugee settlements, and orphanages; minimum wages for laborers; deforestation; the exorbitant prices of medicines and their effect on the health of the most vulnerable; bad logistics at educational facilities; expulsion of students from universities for violating discipline; and violation of the rights of servicemen during military service. In Thailand, during the first decade of the 21st century, complaints before the ombudsman related predominantly to police, land issues, and the behavior of the local bureaucracy—especially concerning corruption, public utilities, and education.

Mohapatra outlines four categories of public complaints:

- “beat-the-system” requests to curry favor, such as for a job or admission to a prestigious educational institution;
- requests to accelerate the administrative process for a license, permit, or scholarship;
- pork-barrel requests with community-based goals, such as building a road, providing electricity, or providing flood relief; and
- helpless individual requests from people wronged by government officials in terms of an appointment in remote areas, police brutality, or the denial of educational opportunities.

Whereas the first category of requests is typically addressed to legislators, other requests are regularly addressed to the ombudsman. However, this can affect the service delivery of the institution, as cumbersome procedures may force the ombudsman to focus on relatively more workable and pragmatic deliverables, even at the cost of justice. In other words, quantity can undermine quality.

In Hong Kong, China, the rulings of the ombudsman are not binding, unlike court decisions. On the other hand, the relatively efficient and productive handling of different categories of issues demonstrates the possibility of institutional independence from a large number of government departments, including correctional services (jails), fire services, food and environmental hygiene, legal aid, and a host of others. In Punjab, Pakistan, a large number of complaints were related to the quota system for government jobs, compensation for state-acquired

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32 Ombudsman of Thailand, Thai Ombudsman at a Glance.

33 M.K. Mohapatra, The Ombudsmancic Role of Legislators.

land, access to information, delays in procedures for retirement, noncompletion of works, and failure to maintain proper service records for government employees, among others. The Japanese ombudsman’s claim that it brings 95% of complaints to a satisfactory conclusion remains very impressive.

Accountability: From Legal Mandate to Operational Skill

Overall, Asian ombudsmen have been mandated to secure “task-related independence,” exemptions from liability and audits, and “professionalism in relation to the investigative functions.” If an ombudsman is appointed by the government to protect individuals from the same government, then the ombudsman will face the challenge of remaining independent. As the operational host of the ombudsman, the government considers the institution to be parallel and complementary to the executive, legislative, and judiciary branches, despite the ombudsman’s self-perception as an agent of change. This points to the gradualist, reformist, and overall progressive nature of the institution.

To judge the validity and relevance of the ombudsman’s independence as projected and analyzed in the literature, we need to focus on the institution’s functions. The ombudsman is essentially and typically complaint-driven. A complaint is a citizen’s gift to the government. It is a vital instrument in making accountability a part of the system.

Typically, the ombudsman is not the first option for a citizen, because of the ombudsman’s perceived lack of clout. Instead, the first option would be the district administration, as in India, or parliamentarians who operate as mediators between the seekers and deliverers of service, as in South Asian countries in general. Operating beyond the typical first step (adjudication through courts), the ombudsman institution symbolizes facilitation of redress of grievances, direct and informal accessibility, and a serious knock at the doors of the Leviathan. The function of judging the lawfulness of the executive’s actions presumes continuity in the legal–institutional framework of authority.

The ombudsman’s tasks include ensuring compliance with the law, warning against anti-public laws, balancing the power of state institutions, righting administrative wrongs, proposing administrative reforms, and, most essentially, arguing for redress of public grievances. However, the route from complaint to redress operates through a deliverer, which must have the power to deliver.

One finds deliberations about the “personal power” of the ombudsman to transform the relationship between the state and society as a “guardian, mentor, diplomat, servant, and protector.” The ideal can contrast with a grim

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reality when relations between an ombudsman and a government are hostile to the extent of a breakdown in communications between the two sides, as happened in Australia. Elsewhere, some ombudsmen have confessed at the end of their careers that the government undermined their independent functioning. Such “deathbed statements” point to a possible gap of trust between the government and the ombudsman.

In other words, independence must be complemented with an ombudsman’s skill, imagination, and ability to maneuver acceptance and cooperation from the state authority within an organic relationship. It is interesting and intriguing to find that the legislation for this institution in Thailand is called the Organic Act on Ombudsman B.E. 2552 (2009).42

The ombudsman demonstrates a variety of powers and responsibilities in Asian countries. Sometimes one finds a vertical movement upward in terms of strengthening the institution. For example, in the Republic of Korea, the relevant legal instrument was revised and reformulated in 1994 by a task force of experts to upgrade the ombudsman from an agent working under the prime minister to a representative enjoying ministerial status and the power to submit reports directly to the president. The ombudsman’s office also can fine an official who is found to be obstructing or avoiding investigation, and can request an audit wherever it discovers gaps in performance.43

Independence of the Ombudsman

The issue of institutional independence does not arise when discussing parliamentary sovereignty. Internally, it draws on the ultimate sovereign—the citizen. Externally, it derives its power from the sovereign state. On the other hand, the autonomy of unelected institutions is derivative, to be incessantly and recurrently safeguarded by the state. That is where the present inquiry becomes relevant.

Ombudsman independence generally has been understood in two ways: structurally, by way of the selection, appointment, and statutory provisions for autonomy of the institution; and operationally, in the context of power and the ability to carry out investigations, elicit requisite responses from government departments and agencies, and seek compliance with its verdicts. Structurally, the position of the ombudsman must not be subordinated to the administrative bodies that it is supposed to investigate.44 Thus, appointment of the ombudsman assumes a strategic importance.

Mode of Appointment

There are a variety of requirements for ombudsman appointments. In India and in the Pakistani provinces of Punjab, Balochistan, and Khyber Pakhtunkhwa,45 the ombudsman must have the qualifications of a judge because his position combines investigative and judicial functions.46 In India, where the institution lacks investigative machinery of its own and depends on such state agencies as the Anticorruption Bureau, the ombudsman has stressed the need for such investigative ability. In Pakistan and other Asian countries, the

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42 Ombudsman of Thailand, Thai Ombudsman at a Glance.
44 Oosting, Independent Ombudsman in a Democracy.
45 No qualification is required for the appointment of the wafaqi mohtasib (federal ombudsman) and of the provincial ombudsman of Sindh.
ombudsman is typically appointed by the government. In New Zealand, however, the ombudsman is appointed not by the government but through a unanimous resolution of Parliament. This removes the ombudsman from the dynamics of day-to-day politics, partisan activity, and any chance of patronage.47

The ombudsman must monitor—and not be monitored—like a state agency; and it should not be subordinated to hierarchy. The ombudsman’s independence is generally defined in terms of appointment according to the constituting statutes, endowed with powers of investigation and recommendation.48 However, if appointment by the legislature provides the ombudsman with a strong footing in the system, it also can make it vulnerable to interparty deals on the floor of parliament.49 Likewise, appointment by the chief executive can be arbitrary and less democratic, but it can also provide greater strength to the ombudsman, at least in terms of job security.

Collective appointment of the ombudsman, usually by parliament, is considered a prerequisite for real empowerment of the institution. In Israel, the independence of the ombudsman has been ensured through the appointment by secret ballot in the Knesset. In the majority of Asian countries, however, the ombudsman is appointed by executive order, usually by the president on the advice of the prime minister or by the governor on the advice of the chief minister of the province, as in India and Pakistan. The process of selection, nomination, and appointment can turn out to be counterproductive because of perceived political interference, as happened in El Salvador. Such cases of appointments by nomination without parliamentary oversight pose a challenge to Asian ombudsmen.

The issue of independence has been approached from a different perspective as well. In defense of the Japanese system of administrative counselors, it has been argued that appointment of the ombudsman by Parliament is not necessary to guarantee the ombudsman’s independence.50 In Pakistan, the institution of the ombudsman was actually created by the military government of Zia-ul-Haq in 1983, obviously with no parliament involved in the process. A somewhat similar coercive power is represented by the lokayukta of India, which has an independent special police force to investigate certain offenses.51

The mode of ombudsman appointment continues to be the measure of the institution’s independence. In Sweden, the government-appointed ombudsmen are considered to be less independent than the parliamentary ombudsman, who is acknowledged to be fully independent.52 There seems to be a case for institutionalizing the appointment of the ombudsman beyond nomination and selection by the chief executive.

Noncompliance and Ineffectiveness

Because of the ombudsman’s supervisory and noncoercive nature, noncompliance with the office’s orders is not unknown, and noncompliance continues to challenge the independence of the ombudsman. The cases of noncompliance in the Republic of Korea related to differences in legal understanding between the administration


48 Jacoby, Development of “Ombudsmediator.”


52 Lundin, Legality and Participation.
Independence of Ombudsmen

and the ombudsman (around 60%), differences from other committee decisions (around 9%), and even
noncompliance in cases relating to the perceived public interest (around 5%). In Azerbaijan, the ombudsman
noted that some officials gave formal but untruthful responses to queries, others were unprofessional in
terms of superficial and delayed communications, and some did not respond to the office at all, thus violating
their constitutional obligation. It was regretted that none of these officials were “punished for slandering the
ombudsman.” Thus, the challenge to the ombudsman’s authority remains a problem even when all the relevant
statutes and constitutional provisions guarantee ombudsman independence.

The implementation gap also remains a problem. In fact, in various places, the institution is beginning to include
an implementation wing. The lag between theory and practice continues to confront policy makers, the Asian
Ombudsman Association (AOA), and analysts alike. This institution must become what it is billed to be, as in Pakistan:
“an impartial arbiter between the citizens and government functionaries,” acting “independently of the executive.”
In pursuit of independence and impartiality, the Indian ombudsman is barred from being a member of Parliament or a
member of a state assembly, from holding an office of trust or profit, and from being affiliated with a political party.

Uggla suggested a useful typology for Latin America in the case of what he described as “illiberal democracies,”
“democratic despotisms,” and “hybrid regimes.” Here, the ombudsman’s operational difficulties often render
it ineffective. In this formulation, there are two possibilities for an active ombudsman institution. It can be
powerful in terms of influence over the political and administrative apparatuses but not independent insofar as
the ombudsman serves as an instrument of aggrandizement of the government or to further the career goals
of ambitious opposition politicians. Alternatively, the ombudsman can be independent in terms of institutional
autonomy, but not influential in terms of securing compliance with its decisions. In this case, the institution
becomes a dead-end; petitions and complaints go in but nothing comes out by way of redress of grievances or
legal and institutional reforms.

This is a real challenge for Asian ombudsmen. Formal institutional autonomy, defined both in structural terms as a
supervisory mechanism and in operational terms as a means of access to government departments and agencies,
does not guarantee effectiveness in terms of redress of individuals’ grievances or longer-term systemic changes. If
the real challenge to the independence of this institution comes from the government, as is maintained by 53% of
respondents in the Bangkok survey (Appendix), then what is needed is action at the level of the creator of the
ombudsman itself. The existing literature on Asian ombudsmen focuses on the legal provisions for independence,
the number of issues and cases brought before the institution, and reform measures, but little research analyzes the
change or lack of change in public life after the introduction of the institution.

Independence as Input and Output

The perceived independence of the ombudsman contributes to its real independence. The perception operates as
a process variable, whereas actual independence emerges as a structural attribute. Together, the two bring into
operation a vast array of institutional characteristics. It is instructive to look at one attempt to delineate the issue

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Seoul. 25–28 March.
57 Uggla, Ombudsman in Latin America, p. 426.
of independence, made 4 decades ago, which listed basic characteristics of the institution. As long ago as 1969, the American Bar Association defined 12 requirements for ombudsman independence: (i) the ability to criticize government officials, (ii) no control from above, (iii) appointment by the legislature, (iv) a lengthy term in office (5 or more years), (v) a high salary, (vi) the authority to employ staff, (vii) investigative powers, (viii) access to public records, (ix) the authority to probe into government inquiries, (x) discretion to pick and choose complaints, (xi) authority to elicit from public employees prior response to criticism, and (xii) immunity from civil liability as a result of official action. For the purpose of the present discussion, this list can serve as the benchmark against which the provisions and practices of Asian ombudsmen can be evaluated.

The argument for independence also needs to be linked with other universally recognized features of the ombudsman, such as flexibility, accessibility, and credibility. Although these are cherished institutional goals in universal terms, they actually represent the requisite characteristics of the social and political systems operative in the West. These goals are opportunity-driven (flexibility), need-based (accessibility), and trust-oriented (credibility) within the conceptual framework of dynamic social capital, and these characteristics contribute enormously to independence. For example, half the battle for independence is won if the institution provides the opportunity for redress of a wide range of citizen grievances, makes the procedure down-to-earth, and impresses the public with its seriousness of purpose and its ability to deliver. In other words, the three features of flexibility, accessibility, and credibility feed into the ombudsman’s independence.

The opportunity framework is a two-way street, comprising institutional potential and quality of citizenship. According to Rahim, credibility is at least as relevant as independence. The question to be addressed is whether the issue of independence is merely a Western concept or a systemic requirement for the purpose it must serve in Asian countries.

Externally, the institution needs to cultivate a structural separation from the government machinery that it seeks to investigate. This can involve geographic proximity, in the sense of not sharing or being situated in the vicinity of official quarters, and the lack of a financial and administrative reliance on the state. “The comptroller cannot at the same time be the comptrollee.” The less separate the ombudsman is, the less independent it will be. This continues to be a concern in countries such as Malaysia, where the ombudsman enjoys proximity to the government.

Asian ombudsmen typically have approached the question of independence from a legal and procedural perspective. In the Bangkok survey (Appendix), 75% of respondents located the legitimacy of the ombudsman in the constitution, with only 9% locating it in the public and 9% locating it in international best practices. Similarly, 44% favored legislation as the way to ensure the independence of the institution, 32% favored public oversight, and 9% favored both. Conversely, when asked why the ombudsman is ineffective in certain cases, survey respondents pointed to structural issues such as lack of legal authority (41%), service delivery procedure (32%), and both of these (22%).

A typical discussion of the ombudsman in, for instance, in India centers on questions about the size of the staff, security of tenure, immunity of office, size of the organization, and the nature of the ombudsman’s summoning power. Although these issues are significant in their own right, they tend to be idealized and pressed into

60 Personal communications with E. Rahim.
62 Jacoby, Development of “Ombudsmediator.”
service for policy formulation, thus pushing the institution toward a perfection of formal provisions relating to staff composition at the cost of substantive aspects of the ombudsman’s performance independent of the state machinery. In discussing the question of implementation of the ombudsman’s recommendations, an Indian study concludes, “After prescribing the specific action and submitting, the Lokpal Lokayukta should cease.” This leaves the question of the fate of the individual complainant and the system at large both unclear and unanswered.

The notion of independence is not merely statute-bound. An institution’s independence can be judged through its input variables of credibility and accessibility (according to 33% of Bangkok survey respondents), through its output variables such as performance related to public accountability (according to 34% of respondents), or through both (according to 28% of respondents). The credibility of the ombudsman institution is closely related to its ability to demonstrate independence from the decision-making organs of the state, so that people do not fear a backlash in the case of a complaint, as happened to some complainants at the hands of officials they had petitioned against in Azerbaijan.

Independence engenders public confidence, inasmuch as the ombudsman institution is credited with being the society’s response to administrative abuse. The ombudsman of Hong Kong, China, proudly maintained that she was not only institutionally independent but also politically independent. The peculiar status of a British colony being returned to the PRC in 1997 provided the impetus for the development and consolidation of the institution as the last resort for redress of grievances, because going to London would no longer be an option.

**Jurisdictional Constraints**

In the final analysis, ombudsman independence is a political issue. After all, the ombudsman is created by a government, whether military or democratic, parliamentary or presidential, colonial or postcolonial. If the institution becomes too assertive and independent for the liking of political authorities, then legislators and financiers can curb its power and potential. No government wishes to have a supervisor above its own authority that can override its legislative, executive, and judiciary functions or dictate its national and international interests and commitments. Therefore, the institution is generally created with various caveats, jurisdictional limitations, and reservations about its potential to assume the role of a parallel government.

The institution’s dependence on the state bureaucracy curbs its independence and virtually disallows litigation against the state. In India, for example, allegations of corruption against administrative officials represent less than 3% of all complaints; the majority of complaints are grievances about maladministration. This is largely because the institution depends on the state’s investigative agencies and thus falls short of the ideal standards for redress of grievances. Because the ombudsman cannot alter administrative decisions or even ask for their alteration, it is sometimes collectively known as a “sleeping lion.”

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64 Pal, Model Lokayukta Bill, p. 66.
68 Giddings, *Future of the Ombudsman*.
Likewise, the Korean ombudsman has no jurisdiction in matters of personal privacy and prosecutorial jurisdiction, among other areas. In Azerbaijan, the institution cannot check the activities of judges, though it can consider complaints arising out of procrastination in the courts, loss of documents, and delayed implementation of court orders.\textsuperscript{70}

The example of the Indian ombudsman’s lack of independence is instructive. The ombudsman’s recommendation for prosecution requires sanction by what would be essentially a junior office. Members of government also are exempt from the jurisdiction of the ombudsman. Not surprisingly, it has been argued that the Indian lokayukta should be as independent and as powerful as the ombudsman of Sweden, with its \textit{suo moto} jurisdiction, or of Finland, where the institution comprises a judicial delegate appointed by Parliament and a chancellor of justice appointed by the president.\textsuperscript{71}

It is both an intriguing and meaningful to ask how governments could create an institution that is independent of their control. The answer lies in carefully defining the jurisdiction of the ombudsman so that it deals with petitions at the grassroots level and does not disturb the power structure or ideological character of the state. In Maharashtra, India, for instance, these jurisdictional limitations apply to all investigations relating to state security, service matters, court actions, and various public institutions, such as the Public Service Commission, the chief election commissioner, and the accountant general.\textsuperscript{72}

Similarly, the ombudsman should not be a competitor of the courts or an adversary of the administration.\textsuperscript{73} In Thailand, for example, the institution is not allowed to investigate courts in the process of lawsuit judgment. It also has no power of sanction, but can only report noncompliance to authorities. It cannot intervene in declared official policies and will not handle complaints concerning personnel management or disciplinary action.\textsuperscript{74} Similarly, 51.6% of all the complaints were refused by the Azerbaijan ombudsman’s office because, among other reasons, they were outside the ombudsman’s competence, there was a time lag, or the cases were currently under consideration by the courts.\textsuperscript{75} Likewise, the ombudsman in Israel cannot entertain a case in which the court has already given a verdict.\textsuperscript{76}

The ombudsman in Pakistan shares with the supreme court the power to punish for contempt those who scandalize the institution, try to influence the outcome of a case, or impede the process in any other way. Conversely, no court or any other authority may question the validity of the ombudsman’s order in a case being investigated by it.\textsuperscript{77} However, the Ombudsman Act of 1997 debarred the institution from investigating cases presently under consideration or cases concerning foreign affairs and the defense forces.\textsuperscript{78} The Korean ombudsman would not consider “highly advanced political decisions or classified information on the government”; matters relating to parliament, the courts, the election commission, or local councils; matters handled through

\begin{thebibliography}{99}
\bibitem{70} Azerbaijan Ombudsman, \textit{Annual Report of the Commissioner for Human Rights}.
\bibitem{71} Pal, Model Lokayukta Bill.
\bibitem{72} Jayaraman, Twenty-Five Years of Experience.
\bibitem{73} Pimentel, Ombudsman as a Safeguard for Citizens.
\bibitem{74} Ombudsman of Thailand, \textit{Thai Ombudsman at a Glance}.
\bibitem{75} Azerbaijan Ombudsman, \textit{Annual Report of the Commissioner for Human Rights}.
\bibitem{76} Ben-Porat, Experience of Ombudsman in Israel.
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\bibitem{78} Ombudsman Punjab, \textit{Annual Report 2008}.
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informal mediation; or even matters pertaining to the “personal administration of civil servants or staff.”

In India, it is considered “essential that suitable safeguards are also built in to save the reputation and image of public functionaries from being tarnished by false, frivolous, vexatious, and politically motivated complaints.” The lokayukta in India is debarred from making any inquiry into a formal and public inquiry in progress and for 12 months after the matter comes to the notice of the complainant, or from investigating “any administrative action involving the exercise of a discretion.”

One often encounters concern about expansion of the institution’s jurisdiction after it comes into operation, or even prior to it. The ombudsman of Hong Kong, China, recommended jurisdictional review to place additional subjects under its purview and to relax certain restrictions on its powers of investigation. The issue of jurisdiction in India delayed by nearly 3 decades the establishment of the institution. The Administrative Reforms Commission, led by Morarji Desai, had proposed setting up the institution in 1968, but the issue of bringing the prime minister’s office under its purview led to a lengthy postponement of the initiative. The Lok Pal bill finally was passed in 1996, only after it was agreed to bring the ministers, prime minister, and members of Parliament under the purview of the ombudsman.

In some countries, such as Thailand, the ombudsman can propose new legislation to the constitutional court if the current law is considered unconstitutional. In Macao, China, the institution is obliged to pursue the goal of simplified bureaucracy and transparency, ultimately acting as a strong disincentive against corruption by containing and eradicating deviations on the part of public authorities and instances of personal gain at the cost of public good. Any reform agenda should, therefore, include the issue of an expansion of the ombudsman’s jurisdiction to ensure its independence.

Budgetary Constraints

A paucity of funds is a real challenge to the ombudsman’s independence. In Hong Kong, China; Pakistan; Sri Lanka; and other countries, a lack of resources has been a big constraint on the independence of the ombudsman. For example, in Hong Kong, China, the institution was given 2 new staff members rather than the 10 requested. Even internal changes in the appropriation of funds were disallowed when, in 1998, the institution made a plea that its funding requests be treated separately from those of other departments.

Maneuvering within the budget is often outside the purview of the ombudsman, as in Pakistan, because the government streamlines the itemized expenditure schedule. There is a general demand for approval of a lump sum—the one-line budget—that would allow internal changes in budgeting priorities. In the Bangkok survey (Appendix), 53% of the ombudsman staff indicated that the ombudsman’s structural dependence on the government hampers independence, and 65% supported the devolution of financial administration, thereby giving the ombudsman

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79 Lee, Ombudsman and Civic Participation.
80 Pal, Model Lokayukta Bill, p. 67.
81 Pal, Model Lokayukta Bill, p. 90.
82 Hong Kong Ombudsman, Annual Report of The Ombudsman.
84 Ombudsman of Thailand, Thai Ombudsman at a Glance.
85 Cooray, Ombudsman in Asia.
86 Personal communications with J.S. Malik.
control over budgetary allocations. The requirement of sufficient funds for the office is considered a benchmark of its independence, and this remains a major concern for ombudsmen. Formally, the laws covering the ombudsman always ensure autonomy in personnel management and budgeting; nonetheless, the reality is different.

Gottehrer and Hostina created a profile of the classical ombudsman that provides a general measure by which to judge and evaluate an ombudsman’s credentials and autonomy. The classical ombudsman is characterized by its lawful creation, its independence through impartiality, its absence of functional control by anyone from outside the body, an appropriate budget so that operations are not crippled by a lack of funds, and its autonomy in appointment and removal of staff. In Pakistan, in contrast, a paucity of funds and lack of control over staff management grossly hinders the service delivery potential of the institution.

**Office as a Measure of Autonomy**

The internal functioning of the ombudsman institution, combined with a proper level of structural differentiation as a measure of the specialization of roles, can contribute immensely to institutional autonomy. The Office of The Ombudsman in Hong Kong, China, thrives on its strategic planning, during which its staff revisits its mission, vision, and values in the context of its performance targets and its pledges in response to citizens’ aspirations. The office takes pride in its guaranteed independence and it focuses on staff participation in the decision-making process. In Oosting’s view, the annual report plays an important role in the rendering of accounts in the court of public opinion. Indeed, this accommodation and internalization of outside criticism strengthens the institution.

Japan remains the epitome of a coordinated and networked mechanism of ombudsman functions, based on three closely related bodies: the Administrative Evaluation Bureau, the Ministry of Internal Affairs and Communication, and the Administrative Grievance Resolution Promotion Council. The Administrative Evaluation Bureau receives complaints and connects with concerned organizations; the Ministry of Internal Affairs and Communications has more than 5,000 administrative counselors commissioned to handle grievances; and the Administrative Grievance Resolution Promotion Council serves as an advisory body, providing expert opinion with a view to ensuring appropriate redress of grievances. Whereas Japan presents a case of cooperation among institutions, Thailand has an elaborate machinery within the ombudsman institution, comprising an intricate network of bureaus for general administration, investigation, finance, personnel management, constitutional compliance, research, information technology, monitoring, and ethical standards. The Republic of Korea has introduced outsourcing, appointing experts from the private sector, including licensed labor administrators and legal clerks. In Hong Kong, China, the ombudsman has shown more flexibility than the courts and similar agencies, essentially because the courts’ statutory rules are more restrictive in, for example, such areas as human rights.

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89 Gottherer and Hostina, Classic Ombudsman Model.
92 Ombudsman of Thailand, Thai Ombudsman at a Glance.
Beyond serving as a mere arbiter, conciliator, mediator, or investigator, the ombudsman represents a unique resource for the resolution of conflicts between the state and the citizens.\textsuperscript{95} The process of dealing with complaints exposes procedural loopholes and gaps in the chain of authority, which later helps inform part of the reform agenda. At home, networking between the ombudsman and official departments and agencies has enriched the whole system of complaint handling in several Asian countries.

The globalization of information and communications presents increased opportunities to learn from more established ombudsmen in other countries. The exchange of delegations is now a regular part of the ombudsman institution. For example, in 2008 delegations visited Malaysia from Brunei Darussalam; Cambodia; and Macao, China. The Asian Development Bank-funded regional technical assistance supported study tours and other knowledge-sharing activities for the member institutions of the AOA.

\textbf{Role of the Asian Ombudsman Association}

No institution or reform can succeed without stakeholders who feel obliged to push the agenda. Externally, the Asian Ombudsman Association has emerged as a regional stakeholder with a commitment to making the ombudsman institution a fact of political and administrative life in Asia. One way to accomplish this is to encourage members of the organization to participate in its deliberations. The involvement of member institutions in AOA elections plays an integrative role and helps to cultivate a sense of collective public responsibility in this most populous continent of the world. International cooperation has emerged in the form of conferences such as the Azerbaijan meetings on sustainable development of legal clinics, conducted jointly with the American Bar Association, and on the application of European human rights standards by national human rights bodies, conducted in cooperation with the Council of Europe’s Directorate General of Human Rights and Legal Affairs. Azerbaijan’s ombudsman has expanded its cooperation with the United Nations and its agencies.

The emerging AOA system promises to place regional cooperation on a stronger footing. It is interesting to look at the workings of this association relative to governance and economic growth success stories such as Hong Kong, China; the Republic of Korea; Malaysia; and the PRC. Weak networking among Asian ombudsmen would mean less replicability and a failure to learn from best practices. Nonetheless, even as leaders meet in conferences, the staff remain uncommunicative.\textsuperscript{96}

The AOA promises to be a platform for exchange of operational experiences in three important ways: it offers periodicity, inasmuch as conferences and visits are regular transnational events; it encourages exchange between the network and individuals, enabling ombudsmen across the region to interact both individually and collectively; and it encourages globalization, because it has crossed the borders of most countries within and beyond Asia and has engaged with the International Ombudsman Institute and various United Nations agencies.

Regionalism, transnationalism, and globalism can be considered positive developments for the creation of independent domestic ombudsmen. The two levels interact with each other, given that one level is essentially deliberative in the supranational framework and the other is oriented toward concrete service delivery at home. One can surmise that the relationship between horizontal interaction on the one hand and the potential growth of ombudsmen within national settings on the other can be progressive, even if it is indirect and spasmodic. The annual reports, conference papers, and issues-based memoranda of Asian ombudsmen encourage and operationalize discourse about both the protection of citizens and the protection of the protector (i.e., the ombudsman).

\textsuperscript{95} Jacoby, Development of “Ombudsmediator.”

\textsuperscript{96} Personal communications with J.S. Malik.
Issues and Agenda for Reform

Recommendations for procedural or substantive changes in administrative processes would carry weight if they were backed by legal power, but such power is typically absent in the case of ombudsmen, whose recommendations are nonbinding. Nonetheless, the ombudsman of New Zealand has claimed that its recommendations are accepted in that country, at least virtually if not actually.97 In the Republic of Korea, in 2004, the ombudsman organized two meetings of the Council of Systematic Administration Improvements to address the issue of noncompliance with recommendations.98 And the ombudsman of Hong Kong, China, has jurisdiction over the administration of policy;99 its agenda for reform includes delineating salient issue areas, adopting best practices, and empowering citizens in general.

Learning through Best Practices

Among the four characteristics of institutions outlined by Huntington—autonomy, coherence, complexity, and adaptability100—it is adaptability that has really made the ombudsman a global presence. Various reform efforts have made the institution adaptive to change, providing for internal differentiation and coherent goals, and thus incrementally empowering the institution. One result of the best practices of ombudsmen around the globe is the frequent acceptance of their recommendations and the positive results of their interventions. The Netherlands stands tall in this regard. In the Republic of Korea, the composition of the institution clearly favors its seven civilian members, who include professionals and civil society representatives, over its three government members. This innovation brings the institution closer to the public.

Given the rapid social and technological changes in modern societies, issues are becoming more complex and investigations must therefore become more sophisticated. Preventing the recurrence of grievances must become an additional concern of ombudsmen. Recent procedural innovations include toll-free telephone call systems and the use of the internet to lodge and handle complaints. In Pakistan, the service charter concept was introduced to specify service standards in terms of time between filing a case and receiving feedback. Pakistan is also the first Asian country to introduce children’s services as part of the institution.

In the Republic of Korea, the Online Citizen Participation Plaza service handles complaints, and its Ubiquitous Ombudsman system focuses on citizen feedback. Other significant steps forward include the country’s integrated government call center, its system of enabling Koreans abroad to lodge complaints, its formation of a subcommittee for military and police personnel, and its provision of counseling services for new minority groups such as foreign workers. Its e-Government Roadmap project, online public participation portal, and policy making with civil participation clubs have modernized both the concept and the practice of the ombudsman.101

Along parallel lines, PRC’s system of electronic control and supervision of administrative examination and approval was launched in Shenzhen in 2005 with the help of the United Nations Development Programme. Featuring a core software system, a video monitoring system, and an intranet for administrative licensing, the new initiative has improved supervision, accountability, and openness.102

97 Elwood, Ombudsman as Conflict Mediator.
99 Cooray, Ombudsman in Asia.
100 Huntington, Political Order in Changing Societies.
The timely handling of complaints is becoming a significant issue. The capacity of the ombudsman to impose a compliance deadline for its orders is an indication of its potential independence. There is a dire need to institutionalize the requirement and process of handling complaints in a timely fashion and, in that respect, to learn from the best practices of other ombudsmen.

Advocacy and Outreach

The public may perceive a gap between the concepts of advocacy and outreach and actual ombudsman achievements, with dire consequences for the ombudsman’s profile as the final arbiter of disputes. The institution must identify “agencies and communities as partners and not just as clients.” Communication and engagement with stakeholders in the society creates policy dialogue with the government at home and donors abroad and maintains momentum. Institutional independence will be a lost cause if information about the institution’s relevance, usefulness, credibility, and authority to deliver is not widely disseminated. Ignorance restricts the institution’s ability to move from a closed to an open system, from a reactive to a proactive forum, and from a relatively unknown to a known and respected institution.

Ombudsmen should maintain effective alliances with human rights bodies, legal institutions, nongovernment organizations, donors, and media. Moreover, networking with other AOA members would clarify issues for policy planners in their own countries. For example, the communications strategy of the Pakistan ombudsman distinguishes between primary and secondary targets of information. Primary targets include the public, government agencies, and civil society, whereas secondary targets include the media, parliamentarians, and donors. In most cases, however, the institution’s literature comprises legally mandated reports based on facts and figures, which carry little explanatory potential and fail to motivate. A customer relations management exercise is in order. Both print and electronic media have a role in keeping the institution in the public eye, focusing on its ability to receive complaints and deliver resolutions.

The perceived independence of the ombudsman impresses people and further strengthens the institution. Thus, there is a need to explore opportunities such as an ombudsman community radio, a volunteer corps, direct sessions with the public (known as “open courts” in common parlance), and quarterly meetings with government departments. Gender parity among ombudsmen in South Asia remains problematic, though women appellants already hear 10% of all petitions in Pakistan, and a future woman ombudsman in that country cannot be ruled out.

Individual members of the public find the ombudsman institution progressive because it opens the doors of state agencies and makes the administrative machinery move. Its publicity through members of parliament, the media, and civil society generally leads to reform. The ombudsman’s activities must be covered by television and radio, newspapers, press conferences, leaflets, annual reports, and bulletins. The Republic of Korea’s Ombudsman Award, for instance, serves the purpose of spreading the ombudsman’s message and maintaining its public profile. Malaysia’s Public Complaints Bureau used the press to advertise its services to those who were frustrated by unreasonable delays, unfair decisions, maladministration, and abuse of power, among other issues. Advocacy and outreach programs attract more complaints and ultimately make the ombudsman more relevant and more powerful.

104 Moriani, Improving Service Delivery.  
105 Personal communications with J.S. Malik.  
Citizen Input

Ombudsman independence is not only a matter of service delivery, but also a measure of input by the litigant public. Civic participation in the form of filing applications and making policy recommendations can overcome some ombudsman limitations. In the current climate of “elite democracy,” public representatives cannot represent citizens; therefore, citizens must represent themselves directly through the ombudsman. In doing so, citizens can mitigate the ombudsman’s vulnerability, as is the case in the Republic of Korea.¹⁰⁷

To work with citizens seeking solutions to their problems, the ombudsman must establish a connection with the public, research public opinion, take up public relations in earnest, and bring out periodic publications. The visibility of an institution is an important factor in cultivating its credentials with a view toward rendering service to the larger public. In Thailand, for instance, 3,000 village health volunteers and 7,000 village radio broadcasting stations were asked to disseminate information about the opportunities for complaint management.¹⁰⁸ Promotional media campaigns and active street-level educational efforts promise higher visibility for the ombudsman and increased awareness among local residents. The creation of a complainant guardian scheme and the Ombudsman Award in the Republic of Korea testify to the fact that the citizen is the linchpin of the institution.¹⁰⁹ Citizens must be aware both of their rights and of the opportunities available to have their demands met.

Citizen participation obviously depends on the level of petitioner education and requires a stable political and institutional environment. Japan stands at the top of the scale of citizen participation inasmuch as its counseling system has permeated deep into the society through publications and public relations. The interaction between the citizen and the ombudsman is represented by a symbol showing two people: one filing a complaint and the other receiving it.¹¹⁰ However, it has been noted that open-government and freedom-of-information remits can become a double-edged sword. Whenever necessary, it can “mobilize shame” through a free media, but it also opens up the office of the ombudsman itself to scrutiny, thereby allowing for the exposure of its own inefficiencies, delays, and prevarications.¹¹¹

Performance as Key to Independence

The ombudsman in established democracies has evolved over a long period of time and has focused on the improvement of administration. However, in transitional societies undergoing the process of democratization—such as in Spain and Portugal a quarter of a century ago and in Hong Kong, China, at the time of transfer to the PRC in the 1990s—the ombudsman develops a specific human rights dimension.¹¹² Its perceived independence underpins not only its impartiality but also its role as an advocate and a neutral arbiter between a powerless citizen and a powerful state.¹¹³

¹⁰⁷ Lee, Ombudsman and Civic Participation.
¹⁰⁸ Ombudsman of Thailand, *Thai Ombudsman at a Glance*.
¹¹⁰ Lundin, Legality and Participation.
¹¹¹ Giddings, Future of the Ombudsman.
¹¹³ Giddings, Future of the Ombudsman.
A number of landmark cases have helped convince the public that the ombudsman means business, that it is independent of the state, and that citizens can trust the institution to safeguard their interests. Some of these cases have involved high-profile issues such as the Channel Tunnel rail link in the United Kingdom, the right of family reunification among Sri Lankan refugees in Denmark, and the evasion of ministerial responsibility to parliament in the *Sarafina II* case in South Africa.\(^\text{114}\) However, in Pakistan and several other places, the ombudsman is not known for any prominent or hard-hitting verdicts, particularly in policy-related matters.\(^\text{115}\)

Ideally, an independent ombudsman plays an indirect role in the political system, maintaining a dynamic balance of power among and between different organs of the state and different sectors and individuals in society. This ensures both horizontal accountability in terms of the investigation process that operates between the ombudsman and parallel government agencies and vertical accountability in the context of citizens’ complaints against the administration. This can be understood as an extension of the principle of checks and balances elaborately analyzed and sanctified in democratic theory from the 18th century onward. The difference is that the instruments of the ombudsman comprise investigation, mediation, and recommendation as an appeals body, whereas the state exercises sanction.

This is where the title “ombudsmediator” comes in.\(^\text{116}\) It is true that politicians and bureaucrats sometimes consider the ombudsman institution to be a hostile entity, as is the case in India and no doubt elsewhere. However, defenders of the ombudsman argue that the institution is a “shock absorber because it helps to divert, dilute, and mitigate the anger and extreme frustration” that could otherwise lead to violence.\(^\text{117}\) In this context, one often hears a cynical view that the institution is an instrument to deradicalize politics and preserve the status quo, defusing threats to the system so that the social and political order remains intact. But this can also be seen as a significant reason for the popularity of this institution in Asian countries and in the world at large: It addresses issues relating to governance, not government. Its ultimate reference point is the laws that exist within the local political system, rather than conventions, principles, or laws operating at the regional and global levels. It is considered an agent of change in the context of administration rather than politics, policy implementation rather than policy formulation, and mollification rather than mobilization of people. This is how the institution’s potential and autonomy needs to be understood.

### The Challenge of New Public Management

The ombudsman faces an emergent challenge to its concept and power in the form of indirect devaluation by what is called “new public management” and entrepreneurial bureaucracy. The new management calls for catalytic, community-owned, competitive, mission-driven, results-oriented, customer-driven, enterprising, anticipatory, decentralized, and market-oriented government.\(^\text{118}\) It is feared that the technique of outsourcing and contracting, subsumed in privatization, would lead to a general watering down of the government as well as of public institutions such as the ombudsman. Weakening the supervisory role of the ombudsman could harm the rights of consumers at the bottom layer of society and make them more vulnerable to market dynamics.

This problem of entrepreneurial administration will challenge the ingenuity of the ombudsman in Asian countries. On one hand, there are legal approaches to the institution, ranging from the Swedish prosecutorial

\(^{114}\) Brynard, South African Public Protector; Giddings, Future of the Ombudsman.

\(^{115}\) Personal communications with J.S. Malik.

\(^{116}\) Jacoby, Development of “Ombudsmediator,” p. 46.

\(^{117}\) Prasad, Model Lokayukta Bill.

model to the Danish administrative remedy model, with the ombudsman operating as a quasi-judicial official. On the other hand, the British antipathy toward legalism leads to suspicion of “juridification,” akin to going to courts for administrative disputes, and has thus resulted in initiatives such as the citizens’ charter. Both approaches are under pressure from the entrepreneurial revolution brewing in the field of public administration.

With the legal–institutional context for the operations of the ombudsman changing under the new public management, the ombudsman faces the problem of safeguarding its presumed independence. The old procedural bureaucracy is becoming a corporate bureaucracy, and the public service ethos is changing into a contractual relationship and assuming a customer orientation. The overblown administrative structure is subject to downsizing and “delayering.” Overall, privatization amounts to a shrinking space for public organizations and a contraction of the ombudsman’s universe, which was formerly based on public accountability.

The ombudsman and staff in Australia, Canada, the Netherlands, and the United Kingdom have noted that new public management would produce a loss of jurisdiction, independence, investigative potential, budgetary allocations, and social relevance. However, the ultimate loser in this scenario would be the common citizen, unless the public develops new agencies of protection and advocacy based on locality, profession, institution, or community. The ombudsman may be obliged to expand its mandate to include the protection of consumers against the corporate sector.

**Ombudsman: The Issue of Profile**

Asian ombudsmen have typically, if not universally, maintained a low profile. Nevertheless, the institution has elicited not only a lot of praise from various quarters but also criticism of sorts. One must take into account the apprehensions of commentators who take a macro-level view of the ombudsman in relation to the political and ideological underpinnings of its operations. Their assessments can serve as input for reform agendas, if not directly in the form of proposals, then indirectly when ombudsmen take their critical views into account.

Establishment of the institution in transitional societies has been understood largely in terms of its role as an independent mediator between the outgoing dictatorial and the emergent progressive forces. In this context, it is argued that the office must not become an excuse for the absence of political freedoms and civil liberties in a nondemocratic or semi-democratic political framework. In other words, the institution should not become an instrument for filling a gap of legitimacy that is due to the lack of a mass mandate. Its potential to publicize issues and thus put pressure on concerned authorities remains limited, however, mere symbolism is no match for performance.

Ironically, better governance leads to better ombudsmen, as has been seen in Hong Kong, China; Japan; and the Republic of Korea. This runs counter to the conventional belief that better ombudsmen lead to better governance. Not surprisingly, 88% of respondents in the Bangkok survey (Appendix) maintained that the autonomy of the institution draws on an efficient administrative system.

The low power potential of the institution in South Asian countries is legendary. The ombudsman has no visible effect on public life in South Asia, especially among the most vulnerable segment of the population. Governments consider this office complementary to their administrative structures and treat it accordingly.

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119 Giddings, Future of the Ombudsman.


121 Giddings, Sladecek, and Bueso, Ombudsman and Human Rights.

122 Personal communications with E. Rahim.
Officers in line to succeed ombudsmen fear marginalization in a dead-end career path. In other words, the low profile of the office undermines both the capability and the authenticity of the institution, and therefore should be a major concern of any agenda to maintain ombudsman independence.

**Scholarly Research**

The ombudsman must develop a scholarly eye for self-evaluation and reinvention of the institution, in accordance with the dictum that knowledge is power. The paucity of academic research about Asian ombudsmen should be seen as a serious matter. The available literature largely comprises formal and official reportage of events and cases, expressions of noble intent, descriptions of current reform efforts, promises of faster and more meaningful service delivery, and agendas for the future. The fear is that the whole exercise can be reduced to an institution-speaks-for-itself model at the cost of any objective analysis.

What is lacking is reflective, evaluative, critical, and conceptually laden analysis of the ombudsman’s relations with parallel administrative institutions, on the one hand, and citizenry on the other. In particular, the various roles and contexts that define the ombudsman must become a part of the vision of this institution. One can point to the ombudsman for the European Union as an example of a structural innovation that has transcended national boundaries and the age-old concept of a community bound by language and culture. With the exception of Denmark and Spain, the members of the European Union initially were reluctant to create an ombudsman, fearing that it would be a potential source of competition for their executive and judiciary branches. The Maastricht Treaty finally created the institution, but gave it no significant role, although the European Parliament could expand its functions in the future.123

The innovative institution of the ombudsman within and outside Asia must be subjected to vigorous academic research—both qualitative, through conceptual and comparative studies, and quantitative, using opinion surveys, focus group discussions, and in-depth interviews. The current exercise of assessing the capacity development needs of Asian ombudsmen is a welcome move in this direction.

**Conclusion**

The observations in this report focused on several conceptual, analytical, and critical views about the structural and functional independence of Asian ombudsmen. This office both shares and complements the mandate of the three branches of the state: legislative, executive, and judiciary. It represents the most popular contemporary innovation in the field of administrative accountability. The conceptualization and operationalization of citizen rights is currently moving from the political and ideological domain to the administrative and procedural domain. Indeed, this trend can be defined as a transition from ends to means as the focus of thinking about both the state and society.

This report has highlighted various acts of omission and commission regarding institutional autonomy. The fact that the ombudsman cannot issue a binding order is interpreted by some as a strength and not a weakness, inasmuch as the ombudsman can use its moral authority to get things done through government agencies without posing any threat to those agencies. Indeed, binding recommendations can initiate a process of appeal and subject the institution to litigation that is counterproductive to the cause of independence.124

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124 Gottehrer and Hostina, Classic Ombudsman Model.
On the question of the perceived outcomes of government interference in the ombudsman’s work, 25% of the Bangkok survey respondents pointed to the independent posture of the institution, 19% to confrontations in the form of noncompliance with the ombudsman’s decision or of the ombudsman’s public snub of the concerned administrators, and 9% to the ombudsman’s acquiescence (Appendix). In other words, the general impression regarding the institution’s autonomy is neither unequivocal nor promising. However, 81% of the survey respondents believed that the future holds good prospects for the institution’s independence.

Timely response remains a leading concern of the citizen users of the ombudsman’s services, and the ombudsman is criticized for being a toothless tiger with no power of sanction. Although the constitutional basis of the ombudsman is the primary source of its strength (and, in some cases, the source of its weakness), the constitutionality of the public administration itself is a prerequisite for the ombudsman’s structural and operational security and effectiveness. This is where the political context plays an almost deterministic role in lending strength to the ombudsman institution. Obviously, the office lacks its own power base and depends entirely on the state’s administrative and financial support. Without financial autonomy, the institution remains a balloon with its strings controlled by others.

Similarly, ombudsman staff must be well versed in the legal and judicial system. The more skilled the institution is in the instrument of service delivery (i.e., law), the more independent the institution will be in terms of its potential to steer the legal process. After all, one of the basic functions of the ombudsman is to investigate and resolve issues. In that sense, an inquisitorial rather than an adversarial ombudsman remains the ideal. In the absence of information, there can be no investigation. Information is a lever of the institution’s empowerment.

The grim reminder on the top of a file that the contents are “for official use only” hampers an investigation like nothing else. Opening up the system depends on opening up the file. The training of investigative officers must work to remove the deeply ingrained reluctance to share information with individuals and institutions from outside the government.

This report points to the following core principles for the reform of the Asian ombudsman institution:

- institutionalization of the mode of ombudsman appointment,
- expansion of ombudsman jurisdiction,
- communication with the public and other stakeholders,
- protection of human rights,
- public relations management to increase citizen participation,
- provision of financial and administrative security for the ombudsman,
- networking with government agencies to ensure compliance with decisions,
- enabling access to information by lowering the threshold of confidentiality,
- ombudsman input into administrative reform and public policy,
- institutional networking across Asia and the West,
- promotion of scholarly research and methodological rigor,
- protection of citizens under the new public management, and
- building the ombudsman’s profile through credibility and effectiveness.

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127 Personal communications with J.S. Malik.

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Appendix
Survey Questionnaire
Independence of Ombudsman

Background

This survey aimed to improve understanding of the issue of ombudsman independence in Asia and to prepare a profile of ombudsman offices in a comparative framework. As part of a study commissioned by the Asian Development Bank (ADB) on strengthening the Asian Ombudsman Association, this survey focuses on generating reform in the concept and practice of ombudsman independence. The idea is to understand the structural as well as operational dynamics of the requirements of independence of this office in order to maximize its service delivery.

The methodology of the questionnaire below focused on the following objectives: to (i) prepare a comparative profile of Asian ombudsmen in terms of independence; (ii) analyze the influence of political systems and administrative structures on the work of ombudsmen; (iii) develop indicators of ombudsman independence in terms of financial and administrative decision making, and (iv) understand the challenges to ombudsmen from various quarters.

Respondent’s Profile

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<tr>
<th>Name</th>
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<td>Age</td>
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<td>Country</td>
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<td>Organization</td>
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<td>Designation/position</td>
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<td>E-mail</td>
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Filling this form should take no more than 25 minutes. Questions can be answered by:

- by putting a name of a country or an institution,
- by writing either yes or no,
- by ticking the relevant box,
- by giving one’s view.

1. Where do you think is the Ombudsman understood to be most independent among the Asian countries?

2. Do you think that independence of Ombudsman depends on the kind of political system in a country (democracy, dictatorship)?
3. Do you think that Ombudsman is more independent in countries where:
   - The administrative system is efficient and strong
   - The administrative system is weak and inefficient?

4. What is, in your opinion, the real challenge to Ombudsman’s independence?
   - Government pressure
   - Public pressure

5. Does the public look at the role of Ombudsman predominantly in terms of:
   - Access to justice
   - Accountability of the government
   - Redress of specific grievances?

6. To which of the following is Ombudsman’s office close in theory and practice?
   - Courts (dispensation of justice)
   - Administrative tribunals (holding bureaucracy accountable)
   - Complaint-handling mechanism

7. Is independence of Ombudsman more important than efficiency and nonpartisanship?
   - Yes/No

8. What is the best catchment area for an independent Ombudsman?
   - Bureaucracy
   - Technocrats
   - Judiciary
   - Politicians

9. What is the prime source of legitimacy for Ombudsman?
   - Constitution
   - Public
   - International best practices

10. Can independence of Ombudsman be best ensured through:
    - Legislation
    - Public support
    - Cooperation among Ombudsmen across Asia?

11. What can render Ombudsman ineffective?
    - Procedural aspects (non-delivery of services)
    - Structural aspects (lack of sufficient legal authority to deliver)

12. How to judge the quantum and quality of independence of Asian Ombudsman through:
    - Credibility and accessibility (input)
    - Public accountability (output)
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>13. Should Ombudsman control matters relating to the organization?</td>
<td></td>
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<td>14. Do structural matters, such as Ombudsman being on the payroll of</td>
<td></td>
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<tr>
<td>the government and dependent on it for recruitment of staff and</td>
<td></td>
</tr>
<tr>
<td>financial support, reflect negatively on independence of Ombudsman?</td>
<td></td>
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<tr>
<td>15. How do the ideological framework of Communism (China), secularism</td>
<td></td>
</tr>
<tr>
<td>(India) Asian values (Malaysia) and religion (Pakistan) impact the</td>
<td></td>
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<tr>
<td>functioning of Ombudsman?</td>
<td></td>
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<tr>
<td>16. If you know of any case of interference in the work of Ombudsman,</td>
<td></td>
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<tr>
<td>did it lead to:</td>
<td></td>
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<tr>
<td>• Confrontation</td>
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<tr>
<td>• Acquiescence</td>
<td></td>
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<tr>
<td>• Independence?</td>
<td></td>
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<tr>
<td>17. Are you in favor of parliamentary and corporate Ombudsmen in</td>
<td></td>
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<tr>
<td>addition to Ombudsman proper?</td>
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<tr>
<td>18. Does the jurisdictional autonomy of Ombudsman in any way</td>
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<tr>
<td>infringe upon the space of other institutions such as parliament or</td>
<td></td>
</tr>
<tr>
<td>judiciary?</td>
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</tr>
<tr>
<td>19. Should there be a union of Asian Ombudsmen? Yes / No</td>
<td></td>
</tr>
<tr>
<td>20. In which direction is the institution of Ombudsman moving in a</td>
<td></td>
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<tr>
<td>longer-term perspective:</td>
<td></td>
</tr>
<tr>
<td>• Getting more independent</td>
<td></td>
</tr>
<tr>
<td>• Going down in prestige and autonomy?</td>
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Ensuring Accountability in Privatized and Decentralized Delivery of Public Services: The Role of the Asian Ombudsman

George V. Carmona, Alex B. Brillantes, Rajani Ranjan Jha, and Jose O. Tiu Sonco II

Summary

Over the past several decades, many countries in Asia and around the world have embraced “new public management” (NPM), an innovative approach to improving public service delivery. NPM redefines the role of government, especially when it comes to service provision, by emphasizing such policies as decentralization and the involvement of the private sector, both key strategies for Asian countries in their pursuit of economic development, good governance, and democratization.

As more public services are decentralized or turned over to the private sector, there have been concerns about the implications of NPM for accountability and the right of the public to obtain redress. This chapter explores the role of the ombudsman when service delivery has been decentralized or privatized. It compares country practices, describes the challenges faced by ombudsman institutions in selected Asian countries, offers lessons and insights, suggests possible areas for wider replication, and advances strategies for strengthening the role of the ombudsman within the context of NPM.

This chapter also shows that ombudsman offices in Asia have, in the course of their development, acquired features specific to their countries while retaining the essence of ombudsmanship. These features include roles and functions that are not typically part of the classical ombudsman’s portfolio, and it is this adaptability that will prove useful in responding to the challenges posed by NPM.
Introduction

Countries around the world have embraced new public management (NPM) as a framework within which government can be modernized and the public sector reengineered. A major tenet of NPM is the reduction of the public sector’s direct responsibility for service delivery. This involves a redefinition of the government’s role as a facilitator; the greater involvement of the private sector through such means as government downsizing, outsourcing, and partnership; and the fragmentation and decentralization of public services.

This shifting of responsibility from the public to the private sector is expected to make public services more efficient in their use of resources. The citizen will thus benefit both as a customer, with the promise of better public services, and as a taxpayer, with better value for money paid. When it comes to the participation of private capital and management in public service delivery, there is a wide range of options, including the transfer of ownership from the public sector to private companies, the conversion of public enterprises into private entities, the involvement of private entities in the operation of public enterprises, or some form of public–private partnership (PPP). As of 2003, it was reported that $3.24 trillion in assets worldwide had been transferred from the public sector to the private in the prior 20 years, most of which involved public services.

Similarly, decentralization is seen to enhance allocative and productive efficiency in the delivery of public services through the transfer of functions, powers, and responsibilities to lower-level institutions or local authorities. Allocative efficiency is achieved through a better matching of resources to local preferences, while productive efficiency results from the increased accountability of local governments, involvement of fewer levels of bureaucracy, and better knowledge of local costs.

In their classic and authoritative work, *Decentralization and Development: Policy Implementation in Developing Countries*, G. Shabbir Cheema and Dennis Rondinelli list as many as 14 reasons behind the adoption of decentralized planning and administration in developing countries. These include the arguments that decentralization overcomes the (i) limitations of centrally controlled national planning; (ii) cuts through red tape; (iii) increases the sensitivity and knowledge of central government officials to local problems; (iv) allows the...
“penetration” of national government policies into remote areas; (v) allows greater representation for various political, ethnic, and religious groups; (vi) develops greater administrative capability among local governments; (vii) increases the efficiency of the central government by relieving top management officials of routine tasks; (viii) provides a coordination structure for national agencies operating at the local level; institutionalizes the participation of citizens; (ix) creates alternative means of decision making; leads to flexible and innovative administration; (x) allows leaders to situate services and facilities in local communities; (xi) increases political stability and national unity by accommodating diversity; (xii) and reduces the diseconomies of scale inherent in the overconcentration of decision making in the national capital.8

But the outcomes of decentralization, privatization, and the various forms of PPP (such as outsourcing) have not always been positive. Decentralization has failed to deliver all its promised benefits, and has so far been unable to fix the problems it was expected to resolve. While it has been widely embraced as a strategy for improving the quality of services provided by central governments, “in too many cases no significant improvements have been realized and service delivery has actually declined.” In some cases, “decentralization appears to have generated new sets of problems, sometimes opening new arenas of conflict between the national government and subnational officials.”9 In addition, because local government officials are susceptible to “capture” by special interest groups—and often slacken their efforts to improve public services when there is no risk of losing their jobs—accountability, efficiency, and equity in service delivery may even take a turn for the worse under decentralization.10

Various studies have shown that, while privatization has led to the improvement of managerial accountability, political accountability was greatly diminished.11 Studies have shown that many people are not happy with privatization. Graeme A. Hodge and Ken Coghill point out that “[t]he common thread throughout was the consistent reductions observed in political accountability and judicial/quasi-judicial accountability, along with a simultaneous rise in market-based and managerial accountabilities, particularly through contract law.”12 They mentioned several earlier studies that demonstrate their point. One was a survey of 828 water customers in the United Kingdom in 1994 by Peter Saunders and Colin Harris, which found that only 28% of respondents believe that the privatization of water supply had improved accountability, with 39% disagreeing, and 34% having no opinion.13 The other studies, including those by David Heald and Lydia Thomson, which both conclude that voluntary disclosures of performance, costs, and financial information declined following privatization in the United Kingdom;14 and one on New Zealand by Michael Taggart, which was especially scathing about the effects of privatization on accountability.15 Taggart claimed that the legal process of privatization created an “accountability

11 Refers to the constraints placed on the behavior of public officials by organizations and constituencies with the power to apply sanctions on them. See the World Bank Anticorruption web page: http://go.worldbank.org/QYRWVXVXH40
vacuum” by stripping away most of the public sector’s broader accountability mechanisms, including ombudsman review, freedom of information, scrutiny by the auditor-general, and ministerial responsibility.

Similar problems have also been reported with PPPs. In a study of water privatization and restructuring in Asia and the Pacific, for example, David Hall and others documented some failed PPP projects and recommended a review of PPPs, including the build–operate–transfer (BOT) model:

A number of water supply BOT projects have been abandoned or are causing serious problems in Vietnam, [the People’s Republic of China, Malaysia and elsewhere, due to unaffordable levels of prices being built into take-or-pay contracts. Similar problems have been observed elsewhere in the world. There should be a serious re-appraisal of the economics of existing water supply BOTs, and a moratorium on further developments, while the lessons of this experience are explored. Otherwise long-term economic liabilities may be accumulated which damage the ability of water utilities to function.16

Given the tendency to reduce or streamline the role of the public sector in service delivery, there is a clear need to strengthen state accountability mechanisms to protect the public from private sector abuses or administrative neglect that may arise as a result of decentralization, privatization, and PPPs. This is particularly a problem in Asia, where most people do not have the resources to invoke the intervention of the courts to redress their complaints, especially those regarding public services.

Although it is only one of several formal accountability institutions in democratic states, the ombudsman is in a unique position to help ordinary citizens lodge complaints about public services. Ombudsman offices are accessible. Often referred to as the poor man’s court, they provide the public with a fast, cheap, and simple means of redressing grievances. There have been concerns, however, about the diminution of the ombudsman’s role as a result of decentralization, as noted by Philip Giddings, a former Commonwealth Ombudsman in Australia:

Probably the greatest change that will impinge on the activities of the Ombudsman in the future flows from the contraction of performance of government functions by central agencies in favor of contracting out of functions to the private sector. The right of the citizen to complain about adverse decisions or inappropriate action is lost unless the private organization is brought within the aegis of the Ombudsman.17

This paper examines how decentralization and private sector involvement in public service delivery can affect accountability and the role of the ombudsman. It poses the following questions: What are the implications on the role of the ombudsman—and on the right of the citizens to seek redress of their grievances—when public services are decentralized, privatized, or delivered under a PPP arrangement? How do Asian ombudsmen process complaints about public services that are delivered by the private sector? When the private sector takes over the delivery of a public service, does the ombudsman maintain the power to enforce accountability measures if some public funds or resources are used (e.g., as in subsidized housing and education)? Does the ombudsman office have—or should it have—a role in grievance redress concerning public services that have been decentralized, privatized, or handled by a PPP?

In addressing these questions, we used the following research methods: (i) a literature review, including academic papers, country and regional assessment reports, annual or other regular reports of member institutions, conference

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papers of the Asian Ombudsman Association (AOA) conferences, country fact sheets of AOA member institutions, and websites of the AOA and of AOA member countries; (ii) the administration of a survey questionnaire to the participants in the AOA workshop conducted by the Asian Development Bank (ADB) in Bangkok, in February 2010; and (iii) the administration of a survey questionnaire to the officials and staff of the ombudsman institutions in the Philippines and Thailand. We also made extensive use of the ADB Public–Private Partnership Handbook when examining the various ways in which the private sector can be engaged to provide public services.

Where appropriate, we apply a comparative perspective and discuss how ombudsmanship and NPM can work in a complementary manner to improve public service delivery. We also discuss how ombudsmen in Asia and in other parts of the world are handling the challenges posed by decentralization, privatization, and PPPs. Finally, we offer recommendations to help Asian ombudsmen respond effectively to these challenges.

Reforms in Public Service Delivery

Public services are a “set of services provided for large numbers of citizens in which there are potentially significant market failures (broadly interpreted to include equity as well as efficiency) that justify government involvement, whether in production, finance or regulation.”

Where the government chooses to provide public services directly, rely on nongovernment or private sector agents (e.g., for toll roads, electricity, contracted functions), or to devolve the task to local administrative units, is merely a question of the government’s mode of engagement. Among the core areas for which there is a consensus in favor of government responsibility are: law and order; infrastructure (i.e., major irrigation works, transport services, water resources, road construction and maintenance); education; health (promotive, preventive, and curative); tax collection; sanitation; and social safety nets.

In the last 25 years, Asian countries have used various strategies to improve the delivery of public services, among them decentralization and private sector participation (i.e., PPPs and privatization).

Decentralization

Depending on one’s paradigms and perspectives, decentralization can have different meanings and dimensions. It is a management approach that can deliver public services more efficiently. It can also alleviate the problem of top-heavy management, speed up decision-making processes, discontinue unnecessary procedures, and minimize delay. Decentralization involves “load shedding,” wherein central authorities transfer functions and responsibilities to subnational institutions because of their inability to continue funding such functions. It thus broadens the reach of national government, enabling its policies to penetrate even into remote rural areas.

18 Grout, Private Delivery of Public Services; Giddings, Ombudsman: Accountability and Contracts, p. 96.
21 Kahkonen and Lanyi, Decentralization and Governance, p. 1.
Viewed from this perspective, decentralization results in democratization by broadening the base of participation and by providing a voice to marginalized and non-mainstream sectors of society, such as cultural and ethnic minorities. It helps to put democracy into practice by enabling citizens to access the structures and processes of governance, especially at the local level. By building the capacity of subnational institutions to respond to local needs, decentralization makes local authorities less dependent on central institutions. It facilitates more innovations and flexibility at the local level by allowing local governments to design and implement programs customized to the unique needs of their localities. It also encourages creativity, providing opportunities to depart from standard and formula-based “one-size-fits-all” approaches to the challenges of development.23

As a key component of the NPM philosophy, decentralization is considered to be the best approach for (i) enabling governments to provide high-quality services that citizens will value; (ii) increasing managerial autonomy, particularly by reducing central administrative controls; (iii) demanding, measuring, and rewarding both organizational and individual performance; (iv) enabling managers to acquire the human and technological resources needed for meeting performance targets; (v) generating a receptiveness to competition and an open-mindedness when deciding which public services should be provided by the public and which by the private sector;24 (vi) empowering citizens through their enhanced participation in decision making, planning, and management; (vii) improving economic and managerial efficiency or effectiveness; and (viii) creating better governance.25

From the viewpoint of NPM, decentralization is not limited to its political component (i.e., from central to subnational government authorities). It can also mean the “transfer of planning, decision-making, or administrative authority from the central government to its field organizations, local administrative units, semi-autonomous and para-statal organizations, local governments or non-governmental organizations.”26 In this regard, privatization can be considered a form of decentralization, as it involves the transfer of functions and responsibilities from the public to the private sector.27 For the purposes of this paper, however, these two concepts are treated separately.

Decentralization from central to local government can be manifested in various forms. The four most important—and best known—are fiscal decentralization, political decentralization, administrative decentralization, and market decentralization. According to various studies, when decentralization is implemented with the proper policy and capacity mix at the national and subnational levels, it has the potential to contribute to good governance, and therefore to the efficient delivery of public services. To produce the intended results, decentralization must also be complemented by appropriate accountability mechanisms. For many Asian countries, the ombudsman is not the only institution that ensures accountability concerning public services, but it is an important one. This is the case, however, only when the ombudsman has the necessary capacity to perform this role effectively.

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26 Cheema and Rondinelli, Decentralization and Development.

Private Sector Participation

The role of the private sector in public service delivery can take a variety of forms, including outright privatization (partial or full divestiture) and variations of PPPs, such as contracted services, concession agreements, and partnerships with privately funded mechanisms. The growth of the private sector’s role in public service delivery can happen in a number of ways, for instance, when a government

- allows private companies to perform functions that it had previously monopolized;
- contracts out the provision or management of public services or facilities to private companies;
- finances public sector programs through the capital market, with adequate measures to protect itself from risk, and allows private organizations to participate;
- transfers responsibility for providing public services to the private sector through the divestiture of state-owned enterprises (i.e., privatization); and
- deregulates by reducing or eliminating restrictions imposed on private firms providing specific services.

Public–Private Partnerships

The term “public–private partnership” (PPP) refers to an arrangement in which a private company or organization complements “the role for government in ensuring that social obligations are met and successful sector reforms and public investments achieved.” It proceeds from the acknowledgment that the public and private sectors each have certain advantages when it comes to performing specific tasks:

The government’s contribution to a PPP may take the form of capital for investment (available through tax revenue), a transfer of assets, or other commitments or in-kind contributions that support the partnership. The government also provides social responsibility, environmental awareness, local knowledge, and an ability to mobilize political support. The private sector’s role in the partnership is to make use of its expertise in commerce, management, operations, and innovation to run the business efficiently. The private partner may also contribute investment capital depending on the form of contract.

It is also a contractual arrangement between a public and a private entity that defines their risks and obligations, as well as the skills and assets each will contribute to the provision of a service or facility to the general public. Aside from defining the responsibilities of the parties, PPPs have two other key characteristics: (i) risk sharing between the public and private sector partners, and (ii) financial rewards to the private partner commensurate with the achievement of prespecified outputs.

PPPs are considered to be the next generation of the earlier “private sector participation” (PSP) model, which involved contracts that transferred obligations to the private sector without any suggestion of a partnership. The slowdown in public–private contracting in infrastructure sectors during the 1990s was attributed to a public backlash against the overly ambitious PSPs, which many believed were favoring the private over the public sector when providing

29 Hodge and Coghill, Accountability in the Privatized State, pp. 675–702.
33 ADB, Public–Private Partnership, p. 11.
infrastructure services in developing countries, often to the detriment of those countries’ social agendas.\textsuperscript{34} PPPs, on the other hand, have operated successfully in many sectors, including power generation and distribution, water and sanitation, refuse disposal, pipelines, hospitals, school buildings and teaching facilities, stadiums, air traffic control, prisons, railways, roads, billing and other information technology systems, and housing.

The basic PPP contract types are service contracts, management contracts, affermage or lease contracts, build-operate-transfer (BOT) and similar arrangements, concessions, and joint ventures.\textsuperscript{35} The schemes that have the most direct bearing on public service delivery are discussed below. These include service contracts and management contracts (both of them forms of outsourcing), lease contracts, concessions, and BOT and similar arrangements. A description of each scheme is given in the succeeding paragraphs and in Table 1.

### Table 1 Decentralization and the Role of the Ombudsman in Exacting Accountability

<table>
<thead>
<tr>
<th>Forms</th>
<th>Definition</th>
<th>Operationalization</th>
<th>Accountability Issues</th>
</tr>
</thead>
</table>
| Fiscal decentralization | Decentralizes fiscal resources and revenue-generating powers | • Self-financing  
• Expansion of local revenues  
• Local expenditure  
• Intergovernment fiscal transfers  
• Authorization of municipal borrowing | • Corruption  
• Poor spending allocations  
• Poor utilization of fiscal transfers from the central government  
• “Pork barrel”  
• Use of finances for purposes other than those specified in technical and financial documents |
| Political decentralization | Transfers political power and authority to subnational levels | • Local elections  
• Representation  
• Local decision making | • Abuse of decision-making powers  
• Interference in public transactions, such as the bidding process |
| Administrative decentralization | Transfers decision-making authority, resources, and responsibilities for the delivery of some public services from the central government to lower levels of government or to field offices of central government line agencies | • Deconcentration  
• Delegation  
• Devolution | • Abuse of authority  
• Poor public service delivery of devolved functions such as health, education, social services, and agriculture |
| Market decentralization | Allows functions that had been primarily or exclusively the responsibility of government to be carried out by businesses, community groups, cooperatives, private voluntary associations, and other nongovernment organizations | • Deregulation  
• Debureaucratization | • Collusion  
• Conspiracy  
• Noncompliance or substandard services  
• Citizen complaints |

Sources: Brillantes 2004; World Bank Institute 2004; authors’ findings.


\textsuperscript{35} ADB, Public–Private Partnership, p. 27.
Service Contracts (Outsourcing)

In service contracting, or “contracting out,” the government enters into a contract with private entities to take over responsibilities that the government previously fulfilled, such as garbage pick up, billing and collection, and janitorial services.36 Contracting certain activities to external service providers, often businesses, allows governments to focus on performing their core functions and services.37 Under a service contract, the government remains the primary provider of the public service, while the private partner is responsible for performing specific tasks at an agreed cost according to preset performance standards.38 It is argued that the public can benefit from this arrangement because it reduces service delivery costs, improves service quality, and boosts the morale of public employees.39

Management Contracts (Outsourcing)

A management contract is broader than a service contract. It covers most or all of the operations of a public institution such as a utility, hospital, or port authority.40 Because the daily management of the public institution is assigned to the private sector, it is the latter that interacts with service customers or users. In Cambodia, for example, the management of primary health care facilities in 12 districts was contracted out to nongovernment organizations for a period of 4 years. Under this setup, the contractor is responsible for full line management, and must realize performance targets pertaining to immunization, antenatal care, family planning, and services to the poor. The contractor must also provide certain services free of charge, for instance, emergency obstetrical care, minor surgery, and inpatient treatment of serious illnesses.41

Lease Contracts

Under a lease contract, the government grants a private firm an interest in some or all of the assets (usually all) of a facility, with the requirement that it operates and maintains the facility pursuant to a lease agreement.42 The private firm is responsible for the delivery of a service at its own expense and risk, and undertakes all the obligations relating to quality and service standards. The private firm can then charge an agreed-upon amount for providing the service. This mode of PPP is generally used for airport terminals and seaport container terminals.43

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38 ADB, Public–Private Partnership, p. 29.

39 Seader, United States’ Experience with Outsourcing, p. 6.

40 ADB, Public–Private Partnership, p. 31.

41 ADB, Public–Private Partnership, p. 32.

42 Seader, United States’ Experience with Outsourcing, p. 7.

43 ADB, Public–Private Partnership, p. 34.
Concessions

Under a concession agreement, the private company is responsible for the full delivery of services in a specified area—including the operation, maintenance, management, construction, and rehabilitation of a facility for an extended period of time. The government’s responsibilities during the concession period are limited to setting performance standards and ensuring that the concessionaire meets them. Thus, the government’s role shifts from that of a service provider to that of a regulator of prices and quality of service. As with a management contract, it is the concessionaire that interacts with the public. Concession contracts are most common in telecommunications (e.g., People’s Republic of China [PRC], the Cook Islands, Guinea-Bissau, Hungary, Indonesia, Madagascar, Mexico); electricity (the PRC, Cote d’Ivoire, Guinea-Bissau, Hungary, Mexico); natural gas transport and distribution (Argentina); railways (Argentina, Brazil, Burkina Faso, Chile, Cote d’Ivoire, Mexico) and water distribution (Argentina; Brazil; Chile; the PRC; Columbia; Cote d’Ivoire; Guinea; Hungary; Indonesia; Macao, China; Malaysia; Mexico; the Philippines; and Senegal).

Build–Operate–Transfer and Similar Arrangements

These are forms of a “specialized concession in which a private firm or consortium finances and develops a new infrastructure project or a major component according to performance standards set by the government.” The build–operate–transfer (BOT) arrangement is one example. This and similar arrangements are different from a concession in that the latter generally involves the operation of and extensions to existing systems, whereas BOT-type arrangements involve large “greenfield” investments and require substantial outside financing for debt and equity. Under BOT-type arrangements, the private sector provides the capital required to build a new facility and then owns the facility for a period set by contract—sufficient for the recovery of the investment costs through user charges. At the end of the contract, the government acquires ownership and can opt to assume operating responsibility, contract the operation to the developer, or award a contract to a new partner. Included in this category, along BOTs, are design–bid–build, design–build, design–build–finance–operate (DBFO), and build–own–operate (BOO), among others.

Continuum of Public–Private Partnerships

Not all PPPs, especially those with BOT-type arrangements, result in a full public divestment of responsibility. In some types of PPP, ownership of a facility remains with the government, while in others it is partially or completely transferred to the private sector, as can be seen in the continuum in Figure 1.

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44 ADB, Public–Private Partnership, p. 34.
45 ADB, Public–Private Partnership, p. 36.
46 ADB, Public–Private Partnership, p. 34.
47 ADB, Public–Private Partnership, p. 35.
50 ADB, Public–Private Partnership, p. 38.
51 Seader, United States’ Experience with Outsourcing, p. 4.
Ensuring Accountability in Privatized and Decentralized Delivery of Public Services

Figure 1  Continuum of Public–Private Service Delivery, including Public–Private Partnerships

<table>
<thead>
<tr>
<th>Existing Services and Facilities</th>
<th>Public Private</th>
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<tr>
<td>Full government ownership</td>
<td>Service contract</td>
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<tr>
<th>New Projects</th>
<th>Public Private</th>
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* Partial and full divestitures, found at the “private” end of the continuum, are forms of privatization, not of public–private partnerships.


Outsourcing

PPPs have become the preferred models for governments seeking to increase efficiency in public service delivery. This is especially true of outsourcing. Australia, New Zealand, the United Kingdom, and the United States were the early front-runners in public sector outsourcing. Among the government activities that they contracted out were building and equipment maintenance, cleaning, catering, prison management, information technology, telecommunications, waste management, mail services, printing, training, legal services, security, library services, property management, policy advice, payroll and accounting services, economic forecasting, determining or administering welfare entitlements, auditing, recruitment, revenue collection, health care, home and community care, and transport.52

In a review of outsourcing practices in Australia, Honor Figgis and Gareth Griffith cite the following as the major advantages of contracting out: “cost savings; increased accountability of service providers through contract specifications and performance measurement; better work and management practices; access to greater skills, knowledge or technology; better use of capital and equipment; better service quality; greater flexibility in services; local industry development; and fewer industrial relations issues”53 (italics added). Hence, according to Elaine Thompson, in her study of representative democracy in Australia, “…accountability can be assured by ensuring the private sector delivers the services the government has contracted to it in a client-sensitive way, and through creating legally enforceable contracts ensuring compliance by service providers. This process is said to be efficient because competition between service providers will ensure that ‘clients’ or ‘end-users’ have a choice of price and product.”54

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52 Figgis and Griffith, Outsourcing in the Public Sector; Seader, United States’ Experience with Outsourcing, p 3.
53 Figgis and Griffith, Outsourcing in the Public Sector, Executive Summary.
Outsourcing, however, also has its disadvantages, especially vis-à-vis government procedures. More specifically, the following are considered to be the disadvantages of outsourcing: “reduced accountability of government for contracted services; loss of privacy and confidentiality of personal information; collusive tendering and other tendering problems; loss of control by the government over contracted services; reductions in quality of services; the costs of outsourcing; savings to government resulting from losses to other groups rather than from increases in efficiency; and the effects on levels of employment and on the wages and conditions of employees of contractors”\(^55\) (italics added).

There are several ways in which outsourcing can reduce transparency and accountability:

- The line of accountability becomes extended and less certain, making it difficult for affected parties to determine who is responsible for the delivery of a service.
- In cases where it is difficult to allocate precise responsibility, the introduction of an additional participant provides greater scope for shifting the blame, making it difficult to seek redress.
- Governments may refuse to make public the details of contracts on the basis that they are “commercial in confidence,” thereby preventing the public from assessing the terms on which services are contracted out and the costs involved.
- Where services are contracted to the private sector, individuals may not have access to the administrative law mechanisms and remedies that safeguard the interests of persons affected by government actions (such as an ombudsman, freedom of information, or the right to privacy).\(^56\)

With the disadvantages of outsourcing in mind, Figgis and Griffith address the question of what happens when a person receiving a service suffers loss as a result of a contractor’s actions: “Contract law usually prevents the person taking action directly against the contractor, because only a party to the contract (that is, the government agency or the contractor) can take legal action to obtain a remedy for breach of the contract. If the relationship between the contractor and the government agency is not clearly defined, then the agency, the contractor and their respective insurance companies can all deny liability for a problem.”\(^57\)

In the same vein, the Commonwealth Ombudsman (Australia) noted that “…the rules associated with contracting out are muddy, contradictory, or not yet written, and when it comes to issues of accountability and redress there is a new twilight zone. It is this blurring between public accountability and commercial remedies (through, for example, contracts and/or common law) that needs to be carefully considered in the contracting context because current redress mechanisms cannot cover all the situations and questions being raised.”\(^58\)

Outsourcing can thus be a double-edged sword when it comes to promoting accountability within the context of new public management. The central challenge it poses for the ombudsman and other institutions is: where does the government end and the private sector begin? Or should “government” end at all, considering that outsourcing—and even privatization—arrangements all start within the framework of government?

\(^{55}\) Figgis and Griffith, Outsourcing in the Public Sector, Executive Summary.


\(^{57}\) Figgis and Griffith, Outsourcing in the Public Sector, p. 23.

Privatization

Privatization involves the sale of shares or ownership in a company or the sale of operating assets or services owned by the public sector. When services are privatized, the government’s role is limited to regulation within the scope of the regulator’s powers.\textsuperscript{59} As a development strategy, privatization has paved the way to an increasingly diversified role for the private sector in the public service delivery. It is based on the assumption that the introduction of market forces or their equivalent in government operations could enhance the efficiency of those operations, including the delivery of public services. In her article on privatization in Nigeria, Brooke Chambers lists the following benefits of privatization:

…reduce Government bureaucracy, reduce state monopolies and ensure level playing fields, reduce bad management, correct defective capital and financial structures, increase competitiveness, increase the quality of goods and services, reduce corruption and control by Government, increase staff quality and supervision, improve market analysis, free up Government funds for more pressing problems, create employment, re-invigorate the local economy, expand local businesses, attract direct foreign investments, expand capital markets, redistribute wealth, improve technological transfer, enhance trade control regulations, etc.\textsuperscript{60}

One of the more striking advantages of privatization is the extent to which it can make the behavior and performance of companies more transparent. The reason given is that privatization facilitates the emergence of distinct enterprises with clearly defined lines of responsibility, in contrast to public sector enterprises, which are often submerged in the depths of government ministries, making accountability almost impossible to establish.\textsuperscript{61} Reports from sub-Saharan Africa, for instance, indicate that privatization has improved efficiency in the allocation of country resources and enhanced the accountability of the public sector through performance-based contracts.\textsuperscript{62}

Privatization has been adopted throughout the world for large utilities such as telecommunications, energy, and, to a lesser extent, water and transport. A comprehensive international survey of relevant studies concluded that privatization has worked in the sense that “divested firms always become more efficient, more profitable, and financially healthier, and increase their capital investment spending.”\textsuperscript{63}

On the other hand, there are also problems with privatization, including the following:

- private companies focus too much on profit-making, to the detriment of essential public services;
- private firms generally fail to invest in infrastructure;
- privatization leads to a reduction in the public workforce and in experienced personnel;
- private companies are primarily interested in short-term benefits;
- state monopolies are replaced by private monopolies;
- private firms have difficulty delivering high-quality public services such as water, public health, and transport at affordable costs;
- privatization usually leads to the creation of wealth for the rich while making the poor poorer;

\textsuperscript{59} Grout, \textit{Private Delivery of Public Services}, p. 6.
\textsuperscript{60} Chambers, Critical Appraisal of Privatization in Nigeria, http://www.hg.org/article.asp?id=5491
• privatization reduces public accountability;
• privatization is subject to abuse by regulators and private enterprises (i.e., regulatory capture),\(^{64}\) and
• it can result in private corruption replacing state corruption.\(^{65}\)

**Implications of Decentralization, Privatization, and Public–Private Partnerships on the Role of Ombudsman**

The major criticism against delivery of public services by the private sector is that, unlike the public sector, whose stated objective is to serve the interest of the public, the priority and mandate of private corporations are to ensure profitable and growing businesses.\(^{66}\) Private companies answer to their shareholders, not to the taxpayers, and they are usually outside the ambit of formal accountability mechanisms of the state, including the ombudsman.

The most obvious question arising from this discussion is how to ensure that private sector providers of public services remain accountable. Past experience has shown that service delivery can be made effective if accountability is strengthened. It is true that people can make the private service provider accountable by refusing to patronize it or by filing cases in court when the service has caused dissatisfaction or injury. But what about those situations in which people do not have the possibility or the resources to pursue such courses of action? This is why accountability should not be effected solely through the market, but also through state accountability mechanisms, in particular the office of the ombudsman.

A related question is how to bring the private sector provider of public services within the ombudsman’s mandate, directly or indirectly. With many of the ombudsman offices created or organized before the advent of decentralization, privatization, and PPPs, one can readily assume that their jurisdiction would be limited to public sector providers of public services. In fact, ensuring accountability in public service delivery was not traditionally part of the ombudsman’s direct mandate at all. Yet, with its power to investigate specific instances of bureaucratic injustice, provide redress, recommend corrective measures, and make erring public officials accountable, the ombudsman has come to assume a crucial role in the government’s provision of basic services.

The ombudsman institution stems from a phase of administrative development when the state was thought of as a provider of public services affecting many areas of a citizen’s life. It is closely associated with democratic development, good governance, and public administration, and is viewed as a simple means for citizens to address grievances they may have with government bureaucracy, ranging from simple clerical errors to oppression, including:

...injustice, failure to carry out legislative intent, unreasonable delay, administrative error, abuse of discretion, lack of courtesy, clerical error, oppression, oversight, negligence, inadequate investigation, unfair policy, partiality, failure to communicate, rudeness, maladministration, unfairness, unreasonableness, arbitrariness, arrogance, inefficiency, violation of law or regulation, abuse of

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\(^{64}\) “Regulatory capture” happens when a regulatory agency, formed to act in the public’s interest, eventually acts in ways that benefit the industry it is supposed to be regulating, rather than the public (Investopedia. s.v. “Regulatory Capture.” http://www.investopedia.com/terms/r/regulatory-capture.asp)


\(^{66}\) Canadian Union of Public Employees. 2010. Ten Reasons to Say NO to Privatization. February. Burnaby, British Columbia. http://www.cupe.bc.ca/sites/default/files/ten-reasons-no-privatization1.pdf. Note, however, that European companies have a duty to citizen stakeholders. There is a social obligation of private companies in Europe that distinguishes them from US companies (e.g., the German model).
authority, discrimination, errors, mistakes, carelessness, disagreement with discretionary decisions, improper motivation, irrelevant consideration, inadequate or obscure explanation, and all the other acts that are frequently inflicted upon the governed by those who govern, intentionally or unintentionally.67

Over the years, Asian ombudsmen have assumed or been given roles and mandates that were not typically included in their traditional portfolios. In her review of the growth and evolution of the Asian ombudsmen, Alice Tai, the former ombudsman of Hong Kong, China, observed that, while the region has embraced the concept of ombudsman as an accountability institution, it has not done so slavishly. Of the institutions she reviewed, she identified the ombudsmen of Hong Kong, China; Pakistan; and Thailand as the only ones that adhere closely to the classical ombudsman model, which originated in Sweden. According to Tai, most Asian governments have developed their own models according to their own requirements:

Beyond sharing a common purpose of redressing public complaints, Asian ombudsman offices are not at all homogeneous in terms of remit and organizational structure. A country’s institutions reflect the state of its political, social, cultural and economic development. Hence, there cannot be a blueprint that fits all. Each country or jurisdiction must select those features that best serve its community.68

In some jurisdictions—among them Hong Kong, China; Indonesia; Japan; the Republic of Korea; Pakistan; the Philippines; and Thailand—the office of the ombudsman performs the role of mediator or conciliator to expedite the resolution of individual grievances. In the Philippines and India, the ombudsman office is granted authority to prosecute erring government officials and to impose administrative sanctions. Other ombudsman offices have taken on the role of advocate for the rights of important sectors of society or on issues of public interest, as Pakistan’s Federal Ombudsman has done on children’s rights. Ombudsmen in Azerbaijan, the Kyrgyz Republic, Tatarstan, and Uzbekistan, on the other hand, focus solely on human rights protection, while those in the PRC; the Republic of Korea; Macao, China; the Philippines; Viet Nam; and Yemen have varying mandates, including combating corruption.69

Asian countries also differ in their methods of ensuring accountability in the wake of new public management. There appears to be no common thread—even among the members of the Asian Ombudsman Association (AOA)—in their policies, practices, and procedures for handling complaints against private sector providers of public services. This diversity actually reflects the public’s assertiveness in demanding a more accountable bureaucracy, and the result of fast-changing social, political, and economic conditions in the region. It also reflects the growing recognition of the ombudsman’s role in service delivery, as well as the willingness of authorities to respond to the public’s demand for better governance.

On the Capacity and Jurisdiction of Asian Ombudsmen

Based on the literature and the relevant laws and regulations of various countries, decentralization of service delivery from the central to local governments does not diminish the ombudsman’s mandate. Local public officials who assume the responsibility of delivering devolved services are within the jurisdiction of the ombudsman office. Our review of the laws and regulations that created the various ombudsman offices in Asia


69 See the Asian Ombudsman Association (AOA) website: http://asianombudsman.com
has shown that ombudsman jurisdiction over local and central government officials concerning administrative malfeasance is comprehensive, except for well-defined exceptions, such as when specific officials are identified as being outside their jurisdiction. In fact, decentralization may actually open up new areas of intervention by the ombudsman, as shown in Table 2.

Table 2  Possible Role of the Ombudsman When Public Service Provision is Given to the Private Sector

<table>
<thead>
<tr>
<th>Types of Private Sector Participation</th>
<th>Duration</th>
<th>Features</th>
<th>Entry Points for the Ombudsman</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Service contract</td>
<td>1–3 years</td>
<td>• Hires a private company or other private entity to carry out one or more specified tasks or services for a period</td>
<td>• Advise the government during contract negotiations and drafting to ensure that the public interest is protected through grievance redress mechanisms</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Multiple contracts for a variety of support services, such as meter reading, billing, etc.</td>
<td>• Ensure that the bidding process is conducted by the public sector in a transparent and accountable manner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Useful as part of strategy for improving the efficiency of a public agency</td>
<td>• Ensure that the responsible government agency enforces the laws, including contractual provisions that define performance standards intended to protect the public from any form of malfeasance or misfeasance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Promotes local private sector development</td>
<td>• Ensure that competition among private service providers does not prejudice the welfare of the public</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Hold the public sector agency that outsourced the service accountable for abuses, neglect, and other wrongs committed by the contractor</td>
</tr>
<tr>
<td>2. Management contract</td>
<td>2–5 years</td>
<td>• Expands the services to be contracted out to include some or all of the management and operation of a public service (i.e., utility, hospital, port authority, etc.)</td>
<td>• Same as above</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Interim solution during preparation for more intense private participation</td>
<td></td>
</tr>
<tr>
<td>3. Lease contract</td>
<td>10–15 years</td>
<td>• Responsibility for management and operation is passed to the private partner, which guarantees quality and service standards</td>
<td>• Advise the government during contract drafting to ensure that the public interest is protected through grievance redress mechanisms</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Private firm charges an agreed-upon amount for providing the service</td>
<td>• Ensure that the bidding process is conducted by the public sector in a transparent and accountable manner</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Hold the public sector agency that entered into the lease contract accountable whenever it fails to protect the welfare of the public, either through bureaucratic neglect or collusion with the private firm</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Prevent regulatory capture</td>
</tr>
</tbody>
</table>

Continued on next page
The continuation of the ombudsman’s jurisdiction after decentralization was confirmed by the responses to the survey questionnaire administered by the authors to the participants of the AOA workshop conducted by the Asian Development Bank (ADB) in Bangkok, in February 2010. Most of the respondents felt that their policy frameworks for enforcing accountability remained largely in place vis-à-vis decentralized powers and services. Respondents agreed that under decentralization the ombudsman’s powers, mandates, and jurisdictions over the delivery of public services have been maintained. According to the respondents, their powers are broad enough to prevent significant constraints, dilution, or weakening by decentralization. In fact, they claimed that they had aggressively and successfully pursued cases of abuse at the local government level even after decentralization.

70 However, as suggested earlier, their responses have to be considered in light of how “mature” or established their organizations are.

<table>
<thead>
<tr>
<th>Types of Private Sector Participation</th>
<th>Duration</th>
<th>Features</th>
<th>Entry Points for the Ombudsman</th>
</tr>
</thead>
</table>
| 4. Concession                         | 25–30 years | • Responsibility for all operations, also for the financing and execution, of a specific service or facility  
• Improves operational and commercial efficiency  
• Mobilizes investment finance  
• Development | • Ensure that the bidding process is conducted in a transparent and accountable manner  
• Hold the regulator accountable for any form of maladministration that compromises the safety and welfare of the public (e.g., failure of the regulator of a water service concessionaire to enforce contractual provisions on water safety)  
• Help enhance the capacity of the regulator to provide redress to consumers, when such function is included in its mandate  
• Prevent regulatory capture |
| 5. Build–operate–transfer (BOT) and similar arrangements | Various | • Private firm develops and finances a new infrastructure project according to performance standards set by the government  
• Private firm operates a government asset for a period set by a contract so that it can recover investment costs through user charges  
• In some instances, the government, through a regulator, sets tariffs or user fees | • Advise the government during contract negotiations and drafting to ensure that the public interest is protected through grievance redress mechanisms  
• Hold the regulator accountable for any form of maladministration that compromises the safety and welfare of the public (e.g., the failure of a regulator to compel a BOT operator to install safety measures in toll roads, despite complaints from public, thus resulting in road accidents)  
• Prevent regulatory capture |
| 6. Privatization | Not applicable | • Ownership and operation is transferred to the private sector | • Engage and capacitate stakeholders to ensure that private sector providers of public services continue to protect public interest  
• Help enhance the capacity of a privatized utility to provide redress to consumers  
• Prevent regulatory capture |

Respondents said that their offices were capable of addressing complaints about decentralized services. About 75% of the key respondents said that the organizational structures of their ombudsman organizations were properly designed. More than 50% said that they were responsive to complaints about decentralized services, and most responded positively to questions regarding the competencies (i.e., knowledge, skills, and attitudes) of ombudsman officers and field investigators. Respondents also felt that their field investigators were motivated to pursue erring local government officials.

The respondents’ concerns regarding decentralization lay more with practical issues arising from the additional responsibilities involved. Several respondents said that they may not have enough personnel to address cases at both the national and subnational government levels, while nearly half said that the rules and procedures for decentralized cases were not clear to investigators. Moreover, they noted that the coordination and links between ombudsman institutions and other accountability and oversight agencies were weak and needed to be strengthened.

While the ombudsman’s jurisdiction in the context of decentralization is generally clear, the same is not true with respect to privatization and PPPs. Of the relevant laws that we reviewed, only those of Japan and Malaysia explicitly state that the jurisdiction of accountability institutions extend to the private sector. In other jurisdictions, the mandate of the ombudsman vis-à-vis the private sector is not very clear or consistent. Many of the ombudsman offices in Asia were created before their countries started to privatize or outsource public services, or their governments never considered the implications for accountability. Thus, most of the enabling laws that we examined do not explicitly describe the ombudsman’s jurisdiction over private entities with respect to privatized services or to the various forms of PPP.

On the question of ombudsman jurisdiction over private sector providers of public services, the survey responses were mixed. Although all the respondents agreed that their respective offices had a broad policy framework for decentralization, not all thought that they had jurisdiction over the private sector. Most believed that, since their enabling laws limited their jurisdiction to public officials, the private sector was outside their mandate.

Those who answered otherwise argued that because their laws did not prohibit them from looking into complaints against the private providers, they should be able to do so. However, they hesitated when asked whether they were actively pursuing cases regarding public services that had been outsourced or relegated to some other form of PPP. About 60% of the respondents thought that their organizational structures were unsuited for such cases. This is consistent with their previous claims that they deal with the concerned government agencies and public officials, but not directly with private entities.

It also appears from the responses that, while ombudsman institutions have broad mandates, explicit powers and appropriate organizational structures are lacking when it comes to handling private sector providers of public services. Thus, the majority of respondents (about 76%) felt that the role of the ombudsman should be further clarified in the context of new public management.

Responses of Asian Ombudsmen

Asian governments and their ombudsmen have addressed the challenges of new public management in different ways. In most countries, the ombudsman’s jurisdiction covers maladministration by elected and appointed officials at the national and subnational levels of government, as well as in state enterprises or government-owned and controlled corporations. As mentioned above, there are only two jurisdictions in which the ombudsman’s mandate over the private sector is clearly specified via laws or administrative issuance: Japan and Malaysia.

One of the main functions of Japan’s Administrative Evaluation Bureau is mediating “citizen’s complaints regarding business within the jurisdiction of national administrative organs, Incorporated Administrative Agencies
(IAA), and public corporations”71 (italics added). Malaysia’s Development Administration Circular No. 4 of 1992, which lays out the roles of different levels of government (i.e., ministries, state or federal statutory bodies, and local authorities) in the management of public complaints, says that the public may lodge complaints regarding dissatisfaction caused by “any administrative action, including those made by Government agencies that have been privatized or institutions that have a monopoly”72 (italics added). Pursuant to this provision, Malaysia’s Public Complaints Bureau is able to investigate the private sector and make it accountable for the delivery of public services.

In countries where the mandate over the private sector is not explicit, ombudsman and other accountability institutions have devised resourceful ways to provide redress to the public. The discussion below is not exhaustive, as it focuses on AOA members, but it provides a good picture of how ombudsmen in Asia are responding to the growing role of the private sector in the provision of public services.

**Hong Kong, China**

The Ombudsman of Hong Kong, China has the power to investigate alleged acts of maladministration committed by government departments and public organizations. It may also initiate direct investigations, even without a complaint, if it thinks that a person may have incurred an injustice resulting from maladministration. After an investigation, the ombudsman may report its opinions and recommendations to the head of the concerned agency, together with a time frame for actions to be taken. If no action is taken, or if the action taken is inadequate, the ombudsman can submit its report to the chief executive, together with such observations as it thinks fit. If the ombudsman considers that a serious injustice has taken place, it may submit an extended report to the chief executive. In such cases, the chief executive is mandated to table the report in the legislative council within one month or such period as he may determine.

As in many jurisdictions, a number of public services have been outsourced in Hong Kong, China including cleaning, garbage collection, the management of housing estates, and others. Under its ordinance, the ombudsman does not have any direct responsibility for complaints involving the private providers of public services, which are subject to different regulations. The law limits its mandate to public officials.

This limitation has not, however, prevented the Hong Kong Ombudsman from ensuring accountability regarding outsourced public services. While authority over these services has been delegated elsewhere, accountability remains with the government, specifically with the department or agency that entered into the contract with the private entity.73 The government department or agency concerned must closely monitor the contractor’s performance and provide necessary guidance for meeting public expectations.74

Nevertheless, in dealing with grievances concerning outsourced services, the ombudsman’s strategy is not to intervene directly, but to refer the case to the department(s) that outsourced the services in the first place. This approach has proven successful, as is illustrated by the following case:

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Case No. 1  Garbage Collection

The complainant alleged that, at around 4:00 a.m. every morning, a refuse collection vehicle would come to collect garbage in front of the building in which he lived, causing nuisance and odor. The complainant had repeatedly complained to the Food and Environmental Hygiene Department (FEHP), but the problem remained unsolved because it was not within the purview of the FEHP. Nonetheless, the FEHP referred the case to the police and to the Environmental Protection Department (EPD) for action.

In this case, the complainant declined EPD assistance. However, the EPD still investigated the case. Records showed that no similar complaints had been received in the prior few years. As the complainant refused to disclose his personal information and did not contact the department directly, the EPD could not conduct any odor assessment at his flat. Still, it asked the cleansing contractor to consider another location for garbage collection to reduce the nuisance. The contractor complied.


Pakistan

Established in 1983, the Wafaqi Mohtasib (Federal Ombudsman) of Pakistan functions as an “administrative justice institution” against maladministration. Its primary objective is to “diagnose, investigate, redress and rectify any injustice done to a person through mal-administration” committed by “any agency or any of its officers or employees. The ‘Agency’ includes a Ministry, Division, Department, Commission or office of the Federal Government or statutory corporation or other institution established or controlled by the Federal Government.”

As a general rule, the Federal Ombudsman does not have jurisdiction over the private sector although Ombudsman offices exist for the banking and insurance industries, both with jurisdiction over the private sector.

There is no specific legislation granting the federal and provincial ombudsmen jurisdiction over private providers of public services that have been decentralized, privatized, or made subject to a PPP. Pakistan’s Ministry of Law, however, has ruled that privatized public utilities and companies must remain answerable to the Federal Ombudsman regarding public complaints and consumer issues. It held that completely privatized companies, over which the government no longer has any control, still fall under the jurisdiction of the Federal Ombudsman because the government established them in the first place. Regulatory bodies like National Electric Power Regulatory Authority, Oil and Gas Regulatory Authority, and the Pakistan Telecommunication Authority continue to help resolve complaints about service delivery, and are also answerable to the Federal Ombudsman.

Significantly, the Ministry of Law’s ruling arose when two privatized companies—the Pakistan Telecommunication Company (PTCL) and the Karachi Electric Supply Company—refused to appear before the ombudsman’s office or answer queries arising from public complaints on the grounds that “they had become private concerns after partial or full management transfers and hence not answerable to the ombudsman.”

In the case of the PTCL, it is worth noting that the Federal Ombudsman has developed an innovative approach to helping customers obtain redress, albeit indirectly, for complaints they have filed against the company.

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78 Kiani, Privatized Public Utilities..
The PTCL used to be a state-owned entity, but was privatized in 2006 when the private investor Etisalat took over its management. Although the government is still a significant shareholder, the PTCL is no longer a government entity.\textsuperscript{79} It remains, however, within the jurisdiction of the Federal Ombudsman. In fact, of all the major federal agencies within the Wafaqi Mohtasib’s jurisdiction, the PTCL ranks third in the number of complaints received.

In partnership with the United Nations Development Programme (UNDP), the Federal Ombudsman is helping the PTCL and four other companies to improve their redress and response systems, as well as their procedures for aligning public services with citizens’ needs and expectations.\textsuperscript{80}

**Thailand**

The Ombudsman of Thailand was established on 14 September 1999 to consider and investigate complaints of injustice, illegality, or maladministration done to persons by “a civil servant, member or employee of a government body, state agency, state enterprise or local government.”\textsuperscript{81} According to the 2004 guiding code of conduct, the ombudsman and his staff must redress public grievances promptly and fairly. The 2007 Constitution of Thailand substantially changed the mandate of the ombudsman to that of a constitutional body that would safeguard the people’s rights and “inspect the exercise of state power.” It also gave enormous \textit{suo moto} power to the ombudsman to investigate cases that involve adverse effects on the public or in which the safeguarding of the public interest is required.\textsuperscript{82}

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**Case No. 2  Foul Smell from a Shrimp-Processing Company**

After receiving a complaint from community residents about a foul smell coming from a shrimp-processing company, the Office of the Ombudsman of Thailand instructed the Provincial Industrial Office (PIO) to investigate the cause of the problem by inspecting the company’s equipment. The PIO found some defects and ordered the company to replace the defective parts. Still, the problem remained unresolved. The Ombudsman’s office conducted a further investigation of the concerned government agencies, and found that public officials had failed to ensure compliance by the companies in the area. The Ombudsman’s office instructed the Tambon Administrative Organization, the PIO, and the Provincial Health Office to perform their duties and strictly enforce the rules and regulations for industry expansion and pollution control. The Provincial Health Office was instructed to monitor the company’s plants on the third and sixth months of every year. The concerned public agencies were also required to report their performance, and were advised that failure to improve their services would generate further action by the Ombudsman’s office.


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Although the jurisdiction of the Ombudsman of Thailand is limited to public authorities, and does not cover private individuals or companies, the ombudsman investigates any complaint against an individual or firm engaged in the delivery of a public service by focusing on the public authorities that outsourced the service. The ombudsman has also documented resolved cases involving decentralized functions and services of the government. These cases include complaints about the operations of the Bangkok Metropolitan Administration, the national government’s unexplained decreases in financial assistance to villages and subdistricts, an unlawful purchase of waste disposal

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\textsuperscript{80} The other agencies are Sui Northern Gas Pipelines Ltd (SNGPL), the National Database and Registration Authority (NADRA), Pakistan Post, and State Life Insurance Corporation (SLIC).


services by the Tambon Administrative Organization, failure to perform their duties by the Provincial Industrial Office and the Provincial Health Office, failure to dredge a clogged drainage system by a municipality and the Department of Highways, and other unlawful practices.\footnote{See \textit{Thai Ombudsman at a Glance}, 44–75, for the 50 highlighted cases. Many of these cases involved complaints about public services that were supposed to be delivered by subnational government institutions.} Case No. 3 illustrates a situation where the ombudsman acted on a complaint against a private company regarding air pollution. While it has no jurisdiction over the private company, the ombudsman retained its authority over the decentralized government instrumentalities that are supposed to enforce rules and regulations and monitor operations and safety standards.

\begin{center}
\begin{tabular}{|l|}
\hline
\textbf{Case No. 3} Complaint on Outsourced Public Service \\
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Citizens complained to the ombudsman that the public toilet in their community was very dirty. Aside from the foul smell, it posed a health hazard—particularly to young children and the elderly—and also gave tourists a bad image of the community. The private company contracted to clean the toilet had not been doing its job for a long time.

While the ombudsman can take action by investigating the public agency that outsourced the service, it cannot investigate the private contractor directly, but it can determine why the government agency did not supervise the private contractor to ensure that the expected services were delivered. After the investigation, the ombudsman may give its recommendation on how to resolve the case.

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\end{tabular}
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\footnote{Giddings, Ombudsman: Accountability and Contracts, p. 93.}


Philippines

The Office of the Ombudsman of the Philippines has a very broad mandate that covers all government instrumentalities, personnel, services, and functions, including national government agencies, local government units, and government-owned and controlled corporations. The Philippines ombudsman’s legal framework originates from the 1987 Constitution, which states that it can “investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.”\footnote{The 1987 Constitution of the Republic of the Philippines. Article 11: Accountability of Public Officers, Section 13. http://www.chanrobles.com/article11.htm
} It can enforce administrative, civil, and criminal liability laws in every case for which there is sufficient evidence. It also has preventive, investigative, and prosecutorial powers in cases of graft and corruption.

The 1987 Constitution and Republic Act No. 6770, which created the Office of the Ombudsman, limit the jurisdiction of the ombudsman to government bureaucrats. According to Ombudsman officials, complaints filed against private entities are usually dismissed due to lack of jurisdiction, or they have been very difficult to pursue or prove (as in Case No. 4). It has therefore been suggested that the ombudsman be mandated to look into private persons or corporations engaged in public service delivery if public funds or other resources are involved, which is similar to the “follow the dollar approach” espoused by the Australian Commonwealth Ombudsman. Under this approach, “the Ombudsman’s jurisdiction would be attracted if the decision making is government funded no matter who makes the decision.”\footnote{Giddings, Ombudsman: Accountability and Contracts, p. 93.}

However, the Ombudsman can claim jurisdiction over outsourced services, or those delivered via PPPs, when there is established proof or evidence that collusion or conspiracy between public official(s) and the private partner has occurred. Under a specific law (Republic Act No. 3019), private individuals can be investigated and prosecuted together with public officers if a conspiracy to commit an irregularity is established.
Case No. 4  Task Force Illegal Hatak (Towing)

This case illustrates the Philippines Ombudsman’s lack of jurisdiction over private contractors authorized by the public sector to perform towing functions. The Task Force Illegal Hatak was created to address the abuses committed by towing companies contracted by local government units to tow vehicles that were illegally parked or blocking traffic. Although the abuses of these companies were proven, the ombudsman had difficulty pursuing cases against them because they were not within its jurisdiction, as they were not public officials, and the local government unit concerned refused to cooperate.

Source: A field investigator from the Office of the Ombudsman of the Philippines.

Case No. 5 illustrates a situation in which the Philippines Ombudsman can pursue a case of suspected conspiracy between government officials and a private entity if citizens bring the case to its attention.

Case No. 5  A Case of Outsourcing in the Philippines

In the Philippines, certain functions of the Land Transportation Office (LTO) have been outsourced. A case in point is the drug testing requirement for drivers before they are issued licenses. Since the government does not have the capacity to administer drug tests, certain private companies have been accredited to perform such tests. The question was raised whether the ombudsman should pursue possible cases of collusion between certain frontline LTO officials and private drug testing companies.

There have been cases in which LTO officials encouraged applicants to go to their “preferred” drug testing companies to obtain their tests. Either citizens do not suspect potential collusion and corruption, or they simply let it go because all they want is to get their driver’s license. Some ombudsman officials have told us that they may pursue a case if it is warranted and brought before them. However, there are accompanying issues that must be addressed, including the resources of the ombudsman office and the willingness of citizens to testify.

Source: Authors’ experiences at the Land Transportation Office.

Thus, the ombudsman is viewed as having some authority over private sector entities, but it can only issue decisions regarding government agencies or operations. It cannot take direct action against a private service contractor, especially if the dispute is about the quality of service. Case No. 6 concerns a nongovernment cooperative organization. The ombudsman handled this case by investigating the government agency that lent money to the cooperative.

Case No. 6  The Case of Rural Electric Cooperatives in the Philippines

Cooperatives are considered nongovernment organizations in the Philippines and are therefore not part of the public sector. Electric cooperatives are among the most common. Any misdemeanor committed by officers of these electric cooperatives is considered outside the ombudsman’s jurisdiction. However, if a cooperative has a loan from the National Electrification Agency (NEA), a government-owned and -controlled corporation, NEA can step in to ensure that the borrowed funds are properly utilized. The Office of the Ombudsman can file the case if NEA finds evidence of misuse of public funds.


The Philippines Ombudsman can also enforce private sector accountability through partnerships with its own stakeholders. In 2005, the Ombudsman entered into a memorandum of agreement with the Department of Public Works and Highways (DPWH), the Department of Education, and the Boy Scouts of the Philippines, together with the parent–teacher community associations in every community where a public school was to be
built. The memorandum of agreement sought to address corruption and irregularities in the construction of public school buildings, which the DPWH was outsourcing to private contractors. The partnership, called the “Bayanihang Eskwela,” was based on the premise that communities could monitor such construction (i.e., to see whether it is compliant with the terms of reference), and thereby serve as a complementary accountability mechanism to improve project performance.

These partnerships proved to be effective. By February 2007, 16 of 25 projects were 100% completed, while 9 were 50%–85% completed. Of the completed projects, 6 involving DPWH engineers and contractors finished early. The average completion period of 81 days, although still considered long, is remarkable when compared with those of other projects, which generally take more than 1 year to finish. The quality of the school buildings was reported to be satisfactory, and they were completed within the prescribed costs.

Conclusions and the Way Forward

Decentralization, privatization, and PPPs have provided a new context for ombudsmanship. The process of decentralization continues to be a challenge for ombudsmen, who must adjust at the policy, organizational, and individual levels. Our study has shown that most ombudsman offices in Asia have done just that, but they need to enhance their organizational capability if they are to perform their expanded role more effectively.

The ombudsman’s accessibility may be a concern, inasmuch as the devolution of public services does not automatically mean a corresponding decentralization of ombudsman operations. In this regard, an information technology system similar to ePeople of the Republic of Korea’s Anti-Corruption & Civil Rights Commission would be helpful in increasing ombudsman accessibility. This is a one-stop system for civil and administrative complaints that connects 56 offices of the central government through the internet, making the filing and processing of cases more efficient. It also acts as an interactive forum linking citizens and policy makers through an e-portal, where citizens can raise questions and make suggestions and comments about government policies.

When the private sector provides public services, the jurisdiction of the ombudsman is unclear, except when it comes to consumer protection. From the survey of the participants in the AOA workshop in Bangkok, we learned that ombudsman offices need to clarify their role in addressing malfeasance and misfeasance committed by the private sector in the delivery of public services. The experience of various countries shows that government accountability diminishes once the private sector has taken over the delivery of public services. With privatization and PPPs, ombudsman offices appear constrained by their legal mandates, which in most cases do not explicitly include the private sector.

The traditional concept and role of the ombudsman has been more reactive than active in nature. With the current developments in Asia brought about by new public management, there is a need for ombudsmen to play a more proactive role in matters of public service delivery.

Thus, a government decision to delegate the delivery of a public service to the private sector should not exclude a role for the ombudsman. As shown by the experiences of the ombudsman offices discussed earlier, there are various ways in which an ombudsman can provide redress and protect the public welfare. Table 2 presents a summary of various types of private sector participation, along with possible entry points through which the ombudsman could enforce accountability.

As noted earlier, whenever the provision of a public service is transferred to the private sector, the government should make a conscious effort (especially at the policy level) to strengthen accountability mechanisms. Effective grievance redress should be a key component of all private sector arrangements involving public service delivery. As noted by Giddings, this was the same point made by the Ontario Ombudsman who urged the Ontario Prime
Ensuring Accountability in Privatized and Decentralized Delivery of Public Services

Minister to ensure that effective and independent complaint-resolution mechanisms were protected in view of the government’s plans for extensive privatization and self-regulation. The Ontario Ombudsman pointed out that:

It has become a basic feature of democracy that individuals who believe they have been treated unfairly in the provision of public services have a right of recourse to seek redress. As the government introduces a range of initiatives to re-structure the delivery of government services, it is necessary to be vigilant in ensuring the right of complaint is not overlooked in the process, or indeed lost altogether.

At the same time, the government should ensure that the standards set in public–private contracts are strictly enforced, with compliance monitored regularly. The ombudsman can play a key role by advising the government on the best ways to safeguard the public interest and by holding the service provider accountable. As an independent institution, the ombudsman can extend its jurisdiction to include examinations of the terms of contracts between the government and private agencies.

Another area worth exploring is the ombudsman’s role in systemic investigations—finding the root causes of maladministration in cases involving a large number of complaints. Since PPPs normally cover public utilities serving a large number of people, the ombudsman can be tapped to look into systemic issues that are causing recurring problems.

NPM and the role of ombudsman in Asia should not be considered in isolation. In almost all Asian countries, the ombudsman plays an important role in ensuring quality public services by looking into such issues as delays in pension payments, inaction or unsatisfactory action by government departments regarding service delivery, the quality of outsourced services, the terms and conditions of outsourcing, the government’s role regarding outsourced services, the need for service providers to issue service charters, and the provision of avenues for citizens’ grievance redress.

Ombudsmen should continue to maintain their role under NPM. As long as the ombudsman is viewed by the people as someone who adds value in promoting higher standards of service delivery, there appears to be no threat to the institution’s existence and jurisdiction. But ombudsmen need to demonstrate that value by devising new areas of service and ways of functioning. Similarly, as the administrative systems in many countries become more and more complex because of globalization, ombudsmen will require greater expertise to deal with such challenges as the technical nature of many citizens’ complaints, the higher expectations on the part of an increasingly aware public and, of course, the growing role of the private sector in public service delivery. Information and communication technology can help empower ombudsmen, along with other best practices by ombudsmen in the region.

Finally, another area worth looking into is the expansion of the ombudsman’s jurisdiction to include private sector providers of core public services that are clearly defined in the law. One example is the law creating the Ombudsman of Argentina, the Defensor del Pueblo (Defender of the People), which directly addresses the issues of decentralization, privatization, and PPPs. It specifies that the ombudsman Tablhas jurisdiction over public utilities that have been privatized, Article 2 of Law No. 6644, which created the Ombudsman of Argentina, states that “[t]he Office of the Defender of the People shall have jurisdiction over public non-state legal entities that exercise public powers, as well as over private suppliers of public utilities.” This may serve as a model for ombudsman institutions in AOA member countries, should they feel the need to adapt to decentralization or expand their jurisdiction to include private sector providers of public services.

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References


Ensuring Accountability in Privatized and Decentralized Delivery of Public Services


Ombudsman and Stakeholder Engagement for Improved Service Delivery

Carlos Wing-Hung Lo, Henry Wai Hang Yee, Nicole Ning Liu, and Honying Li*

Summary

This study explores the use of stakeholder engagement as a policy instrument for building the capacity of member institutions of the Asian Ombudsman Association (AOA) to proactively redress administrative grievances of the general public, improve public services and management, and enhance the accountability of the government. To address this important issue of capacity building, the study includes two parts. The first part comprises a cross-comparison review of stakeholder engagement among AOA member institutions, providing a global picture of the current situation of stakeholder engagement in terms of policy orientation, practice, achievements, and future developments. The second part presents an in-depth case study of the ombudsman institution in Hong Kong, China, with a focus on the institutional arrangements of stakeholder engagement and stakeholders’ views on their experiences with the ombudsman institution.

The study provides strong evidence that the members of the supply side (that is, member institutions) are willing to engage the stakeholders and find that it pays off, and that members of the demand side (individual stakeholders) are prepared to be engaged and are quite certain of the institutions’ contributions. In addition, the findings reveal that the engagement has come mainly from the primary group of stakeholders and that most stakeholders of the secondary groups are under-engaged. At the same time, the study highlights the promising opportunity for a more progressive strategy and hence a more organized effort among the member institutions in stakeholder engagement. Therefore, the core issue that has emerged from the empirical research is how to institutionalize stakeholder engagement as a permanent means of increasing the capacity of member institutions to provide responsible ombudsmen. In this regard, this study formulates a framework for the strategic design of stakeholder engagement in the work of ombudsman institutions. It is hoped that such a framework will help member institutions to arrive at a proper strategy for organizing systematic efforts to engage individual stakeholders, thereby producing a positive impact on their service delivery.

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Introduction

Increasingly, Asian countries are redressing administrative grievances through ombudsmen and similar formal institutional setups. A recent study conducted by the Asian Development Bank (ADB) has found that most member institutions of the Asian Ombudsman Association (AOA) have institutionally achieved the threshold of being capable of handling complaints against maladministration and corruption in terms of legal basis, mandate, independence, jurisdiction, and powers. Amid this administrative convergence, variations were identified among ombudsmen in different localities relating to their structures, functions, and institutional capacities. Specifically, some are more established and have greater administrative capacity, while others have lower degrees of efficacy and are still evolving, the differences based on the level of economic development and the degree of democratic evolution. One salient feature is that various best practices and innovative measures have been adopted by individual ombudsmen in most jurisdictions to improve their administrative capacity for enforcing the accountability of government authorities. Building capacity through administrative innovation improves the quality of service delivery by overcoming existing institutional constraints in their respective contextual settings. For this reason, capacity building has emerged as a major theme for ombudsman institutions in Asian countries.

A question arises as to how “quality of service” should be defined as far as the capacity of an ombudsman is concerned. A traditional understanding derives from a client-oriented perspective on capacity building (underpinned by the “new public management” thinking prevailing since the 1970s). Such a perspective maintains a focus on the design, process, and outcome with respect to the satisfaction of complainants. More recently, a progressive concept of the “value-added ombudsman” has been proposed by Gilles Paquet, who conceives the institution of the ombudsman as going beyond reactive administrative redress to undertake the constructive role of an “architect of better governance.” This new challenge signals a paradigm shift that demands more innovative thinking about building capacity. The quality of service delivery will reflect a reorientation of public management toward removing the sources of maladministration, and away from simply addressing administrative problems with passive piecemeal solutions. We may characterize this new development as the demand for a “responsible ombudsman”—responsible both to the government and to society.

“Responsible to the government” refers to the cure of the bureaucratic pathologies of the department subject to complaint through a reengineering process designed and propelled by the ombudsman. “Responsible to society” means that the complainants and all stakeholders will be ensured better service thereafter from the department previously subject to complaint. In this way, improved service delivery finds its expression in the dialectical relationship between administrative complaints and better governance.

How should this improved service delivery be achieved by the responsible ombudsman? Recent studies on public management innovation for better governance have proposed stakeholder engagement in the work of government as a possible policy option. This concept maintains that a greater involvement of stakeholders in the work of government can improve the quality of both decisions and services. For example, the United Kingdom has taken progressive steps to practice stakeholder engagement in local government, with positive experiences. Indeed, stakeholder engagement goes beyond the narrow confines of civil engagement or public participation to involve major stakeholder groups in the delivery of an accountable government, focusing on the improvement of decision making and service quality. The ideal situation would be for the ombudsmen and stakeholders to

coproduce public services and management. This would include co-planning, codesign, comanagement, and co-delivery. Although much research is still required to assess its practicality, organization, and performance impact, stakeholder engagement has already emerged as a new direction for public management. As a result, there are strong theoretical and empirical bases for ombudsman institutions to systematically organize stakeholder engagement for improving their service delivery, so as to become more responsible institutions.

A Stakeholder Perspective on Ombudsman Institutions

Stakeholder engagement, a management concept originating in the business sector, has become increasingly adopted by governments and public organizations, based on the belief that increased stakeholder engagement would improve the quality of decision making and services. “Stakeholder” refers to “any group or individual who can affect or is affected by the achievement of the organization’s objectives.” In this study, “organizations” will refer to ombudsman institutions. Stakeholder engagement in ombudsman institutions can be defined as the active involvement of individual stakeholders in the work of the ombudsman to deliver the core services of redressing administrative grievances and improving public administration that lead to an enhancement of government accountability. The objective of stakeholder engagement is to leverage the resources and expertise of individual stakeholders to improve the processes within and enhance the performance of ombudsman institutions. The impact and contribution of stakeholder engagement depends very much on the depth and quality of the engagement arrangements.

Who or what are the major stakeholder groups of ombudsman institutions? Generally speaking, the stakeholder map of ombudsman institutions is quite similar to that of a government and its functional authorities, and therefore is not difficult to characterize. Conceptually, stakeholders include a primary group that consists of government and public organizations, the general public, and nongovernment organizations and community groups; and a secondary group of media, assembly representatives, and political parties (Figure 1). Stakeholders in the primary group are those

Figure 1 A Stakeholder Map of the Ombudsman

Note: The dark-blue ovals represent components of the primary group; the light-blue represent those of the secondary group.
Source: Government of Hong Kong, China, Office of The Ombudsman.

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directly affected by the core functions of ombudsman institutions, acting either as complainants or those about whom complaints are received. Stakeholders in the secondary group have a considerable interest in keeping a close eye on ombudsman institutions and in seeking improvement in these institutions, mostly on behalf of the primary group but also for the wider public interest in social justice. The apparently discrete stakeholders in the primary and secondary groups are in fact networked with each other, with various types of relationships among them. A more sophisticated perspective should take contextual variations into consideration when figuring out the stakeholder map of an ombudsman institution, and should also assess the stakeholders’ balance of power (Figure 2). Regime types, administrative ethoses, and political cultures are among the most important institutional factors.

**Figure 2  A Stakeholder Network of the Ombudsman**

How should individual stakeholder groups be engaged in the work of an ombudsman? The engagement approaches that are open to ombudsman institutions range from inactive, reactive, and proactive to interactive.7 The inactive approach, which ignores stakeholder concerns, is now seldom practiced. The reactive approach, a passive way to act on stakeholder concerns under pressure, is the typical mode of behavior in bureaucratic and public organizations. The proactive approach, which anticipates stakeholder concerns and takes actions to address them, is more commonly adopted today. Finally, the interactive approach, which actively engages with stakeholders in an ongoing relationship of mutual respect, openness, and trust, is an ideal of the new public management. For each approach, there are different levels of involvement, including the operational, policy, and systemic levels. The content of engagement ranges from words to deeds in terms of quality and depth; from publicity and community relations (mostly one-way), communication (two-way), and dialogue (interactive) to collaboration, partnership, and coproduction. In a nutshell, the conceptual purpose of engagement is to inform, involve, and empower individual stakeholders in the work of ombudsman institutions in order to build or enhance their administrative capacity for improving service delivery. The engagement concept in capacity building is summarized in Table 1.

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Table 1  The Engagement Concept in Capacity Building

<table>
<thead>
<tr>
<th>Act of engagement</th>
<th>Inform</th>
<th>Involve</th>
<th>Empower</th>
</tr>
</thead>
<tbody>
<tr>
<td>Content of engagement</td>
<td>Communication</td>
<td>Participation</td>
<td>Action</td>
</tr>
<tr>
<td>Objective of engagement</td>
<td>Basis for engagement</td>
<td>Exchange of viewpoints</td>
<td>Problem solving</td>
</tr>
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</table>

What institutional arrangements should be adopted for effective stakeholder engagement? Stakeholder engagement in public sector management is a relatively new topic. Research on proper engagement arrangements and on best practices at a generic level is still developing, and there is little relating specifically to ombudsman institutions. One may conceptualize engagement arrangements in terms of their degree of formality (formal or informal) and regularity (regular or ad hoc). In general, a formal arrangement organized on a regular basis is more desirable than, and superior to, an informal arrangement on an ad hoc basis.

The most critical and thorny issue in stakeholder engagement concerns the proper assessment of its effectiveness. Measuring the performance and outcomes of stakeholder engagement is challenging and daunting in both the public and business sectors. Thus, while there has been a growing recognition and acceptance of stakeholder engagement as a state-of-the-art practice in the public sector, its actual impact remains controversial and open to debate. The crux of the matter is the lack of a set of commonly accepted assessment criteria. A practical way to measure the impact is to assess the performance of key stakeholder programs adopted or major actions taken. Based on the current literature on performance assessments in the public sector, assessments can be made of improvements in ombudsman–public communications, the promotion of ombudsman–public relations, the ombudsman’s image, the promotion of mutual trust, the degree of stakeholder involvement, and in the ability to leverage stakeholder inputs.8

Although stakeholder engagement is relatively new in public sector management in general, and in ombudsman institutions in particular, it is fair to say that individual member institutions of the AOA have already introduced some forms of stakeholder engagement, though most of them are mainly citizen involvement or public participation initiatives. Thus, the core aim of this study is to discover the extent to which individual stakeholder groups have been engaged in the work of ombudsman institutions, the institutional arrangements adopted, and the outcomes achieved. In this respect, the primary task is to identify best practices and the innovative measures of stakeholder engagement that have been employed by member institutions. This study focuses on the Office of The Ombudsman, Hong Kong, China, in an in-depth case study of stakeholder engagement practices by ombudsman institutions.

Objectives of the Study

The objectives of this cross-jurisdictional study are to

- conceptualize and operationalize stakeholder engagement in the work of the ombudsman for improving service delivery,
- identify the major forms of stakeholder engagement in the work of individual AOA member institutions,
- pool best practices and innovative measures of stakeholder engagement introduced by individual ombudsmen,
- assess the outcomes and performance of current stakeholder engagement practices in terms of quality of service delivery,
- conduct a gap analysis of stakeholder engagement, and
- propose possible ways for effective stakeholder engagement to improve service quality.

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Research Methodology and the Administration of the Study

This study of stakeholder engagement practices among AOA member institutions consists of two parts: a cross-jurisdictional comparison and a case study of Hong Kong, China. The study employs qualitative research methods in the collection and analysis of data.

Cross-Jurisdictional Study

For the comparative study, information comes from two sources: web-based material about individual ombudsman institutions and a semi-structured questionnaire survey. In the search of relevant web pages, all information relating to stakeholder engagement was collected, categorized, and analyzed. In the qualitative survey, nine open-ended questions were constructed to ask individual member institutions about their ideas concerning “progressive” (that is, responsible) ombudsman, their opinions on stakeholder engagement, and their stakeholder engagement practices (Appendix 1). All 27 AOA member institutions were approached; the questionnaire was sent by e-mail on 10 March 2010, and the ombudsmen or their delegates were asked to complete it. The full proposal was attached to the e-mail to give the respondents a clear idea of the study. Three rounds of reminders were sent out, on 28 March, 13 April, and 6 May. Each time, a supporting e-mail from Haider Bhurgri, the Asian Development Bank (ADB) (regional technical assistance project supporting the AOA) consultant on knowledge products in the AOA Secretariat, encouraged the recipient to complete the questionnaire. When the qualitative survey closed, at the end of May 2010, eight completed questionnaires had been received. In the case of the Commission Against Corruption of Macao, China, an interview was conducted on 26 May in their office to complete the questionnaire.

The In-Depth Case Study of Hong Kong, China

For our in-depth examination of stakeholder engagement by an ombudsman institution, we chose the Office of The Ombudsman, Hong Kong, China, for two main reasons. First, it is highly institutionalized, has a solid legal foundation, and operates in an institutional environment increasingly favorable to public participation, given the steady progress of political democratization.9 Second, it has been highly rated for its quality of service and its performance in redressing administrative grievances.

The case study consists of two parts. The first part involves a close examination of ombudsman–stakeholder relationships and related engagement practices, using information derived from interviews of leading officials in the Office of The Ombudsman and related documents. The second part is devoted to stakeholder research, focusing on the engagement of individual stakeholders in the work of the ombudsman institution, with interviews as the instrument for collecting their views and opinions.

Stakeholder Engagement in Action: Current Practices among Member Institutions

There are currently 27 member institutions from 17 countries in the AOA. The institutional environments of these ombudsman institutions are very diverse in terms of political system, economic development, and cultural context. The institutions’ scope and functions are similarly diverse. Some are wide enough to include

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anticorruption (e.g., the Commission Against Corruption, Macao, China) or the protection of civil rights (e.g., the Anti-Corruption & Civil Rights Commission, Republic of Korea), while others are narrower, focusing on a specialized area such as taxation (e.g., the Federal Tax Ombudsman, Pakistan) or insurance (e.g., the Federal Insurance Ombudsman, Pakistan).

Table 2 provides a summary of the major features of each member institution. Despite the considerable diversity in their backgrounds, we were able to place the member institutions into four groups in terms of their political and economic contexts. The first group, characterized by advanced democracies and economies, includes AOA member institutions from Japan; the Republic of Korea; Hong Kong, China; and Macao, China. The second group, whose members have democratic election systems in place and developing economies, contains the member institutions from India, Iran, Malaysia, Pakistan, Sri Lanka, Thailand, and Yemen. The third group,

Table 2  Major Institutional Features of Member Institutions

<table>
<thead>
<tr>
<th>Member Institution and Country</th>
<th>Type of Political System</th>
<th>Level of Economic Development</th>
<th>Type of Culture (Predominant)</th>
<th>Level of Establishment</th>
<th>Scope of Jurisdiction</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of The Ombudsman, Hong Kong, China</td>
<td>Close to liberal democracy</td>
<td>Developed</td>
<td>Chinese–British</td>
<td>Local: Special Administrative Region</td>
<td>Administrative complaints</td>
<td>A special administrative region of the People’s Republic of China; formerly a British colony</td>
</tr>
<tr>
<td>Administrative Evaluation Bureau, Japan</td>
<td>Democratic</td>
<td>Developed</td>
<td>Japanese</td>
<td>National</td>
<td>Administrative complaints</td>
<td></td>
</tr>
<tr>
<td>Anti-Corruption &amp; Civil Rights Commission, Republic of Korea</td>
<td>Democratic</td>
<td>Developed</td>
<td>Korean</td>
<td>National</td>
<td>Anticorruption and protection of civil rights</td>
<td></td>
</tr>
<tr>
<td>Commission Against Corruption, Macao, China</td>
<td>Close to liberal democracy</td>
<td>Advanced stage of development</td>
<td>Chinese–Portuguese</td>
<td>Local: Special Administrative Region</td>
<td>Anticorruption and administrative complaints</td>
<td>A special administrative region of the People’s Republic of China; formerly a Portuguese colony</td>
</tr>
<tr>
<td>Lokayukt (Ombudsman) Organization, State of Madhya Pradesh, India</td>
<td>Democratic</td>
<td>Developing</td>
<td>Indian and Hindu</td>
<td>State</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Lokayukta (Ombudsman), Uttar Pradesh, India</td>
<td>Democratic</td>
<td>Developing</td>
<td>Indian and Hindu</td>
<td>State</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Komisi Nasional (Ombudsman), Indonesia</td>
<td>Democratic</td>
<td>Developing</td>
<td>Multicultural (Hindu, Buddhist, Confucian, and Islamic)</td>
<td>National</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>General Inspection Organization, Iran</td>
<td>Islamic, democratic</td>
<td>Developing</td>
<td>Persian Islamic</td>
<td>National</td>
<td>Administrative complaints</td>
<td>Islamic form of democracy</td>
</tr>
<tr>
<td>Member Institution and Country</td>
<td>Type of Political System</td>
<td>Level of Economic Development</td>
<td>Type of Culture (Predominant)</td>
<td>Level of Establishment</td>
<td>Scope of Jurisdiction</td>
<td>Remark</td>
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<tr>
<td>Public Complaints Bureau, Malaysia</td>
<td>Democratic</td>
<td>Advanced stage of development</td>
<td>Multicultural (Muslim and Buddhist)</td>
<td>National</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Office of the Wafaqi Mohtasib (Federal Ombudsman), Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>Federal</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Banking Mohtasib, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>Federal</td>
<td>Banking Issues</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Federal Insurance Ombudsman, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>Federal</td>
<td>Insurance issues</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Federal Tax Ombudsman, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>Federal</td>
<td>Tax issues</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Provincial Ombudsman of Balochistan, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>State</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Office of the Ombudsman (Mohtasib) Punjab, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>State</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Provincial Ombudsman of Sindh, Pakistan</td>
<td>Democratic</td>
<td>Developing</td>
<td>Islamic</td>
<td>State</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Office of the Ombudsman of the Philippines</td>
<td>Democratic</td>
<td>Developing</td>
<td>Multicultural (a blend of Malaysian, Spanish, American, and Asian culture)</td>
<td>National</td>
<td>Administrative complaints</td>
<td>A territory of the United States from 1898 to 1946</td>
</tr>
<tr>
<td>Office of the Parliamentary Commission for Administration, Sri Lanka</td>
<td>Democratic</td>
<td>Developing</td>
<td>Buddhist and Hindu</td>
<td>National</td>
<td>Administrative complaints</td>
<td>Formerly a British colony</td>
</tr>
<tr>
<td>Office of the Ombudsman, Thailand</td>
<td>Democratic</td>
<td>Developing</td>
<td>Buddhist</td>
<td>National</td>
<td>Administrative complaints</td>
<td></td>
</tr>
</tbody>
</table>

*continued on next page*
characterized by communist political systems and transition economies, comprises the member institutions from the People’s Republic of China (PRC) and Viet Nam. The last group comprises member institutions from former Soviet republic, with newly acquired democratic political systems and newly developed market economies: Azerbaijan, the Kyrgyz Republic, Tatarstan, and Uzbekistan. While we expect that there will be considerable variation within these categories in the number of individual stakeholders and in the practice of stakeholder engagement among individual member institutions, the differences are less marked among members within the same group.

In the following sections, we present evidence on stakeholder practices among member institutions obtained from their websites and from the semi-structured questionnaire survey.
Stakeholder Engagement Practices among Member Institutions: Evidence from the Websites

The examination of the websites of member institutions had two major objectives: to see how far the website can serve as a vehicle for stakeholder engagement, and to obtain evidence of stakeholder engagement for analysis. This part of the research was hampered by the lack of information on the addresses of the websites of a few member institutions and the availability of English versions. In addition, the English versions are not always full translations of the native-language websites, and may be presented from a third-party perspective (such as the website of the Administrative Evaluation Bureau, of Japan). Although the English version may not contain fine details about the member institution concerned, we have assumed that the essence and the key information are retained.

Websites as a Platform for Stakeholder Engagement

In our website research, we found that 24 out of 27 members provide their websites in English alongside the full version in the native language. Table 3 summarizes the basic features of these websites. In the era of the internet, the use of websites for reaching stakeholders has become a common practice, widely known as e-government. The websites of these 24 member institutions perform the basic function of serving as information and communication hubs. A proper understanding of the ombudsman institutions by stakeholders and a mechanism for two-way communication are essential for building a foundation for the advanced practice of stakeholder engagement. More than half of the websites enable concerned parties or individuals to file their complaints online. In the most advanced case—the Anti-Corruption & Civil Rights Commission of the Republic of Korea—the website also serves as a vehicle for collecting inputs from stakeholders for decision making. In this case, a publicly displayed online platform is designed for consulting stakeholders on policy and management issues.

Table 3  The Website as a Platform for Stakeholder Engagement among Member Institutions: An Overview

<table>
<thead>
<tr>
<th>Member Institution and Country</th>
<th>Website</th>
<th>English</th>
<th>Services Provided</th>
<th>Engagement Information</th>
<th>Making Stakeholder Engagement Explicit</th>
<th>Detail of Engagement Information</th>
<th>Practice for Engaging Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of The Ombudsman, Hong Kong, China</td>
<td><a href="http://www.ombudsman.gov.hk/index.shtml">www.ombudsman.gov.hk/index.shtml</a></td>
<td>Y</td>
<td>Information, communication</td>
<td>Y</td>
<td>N</td>
<td>Not detailed</td>
<td>Y</td>
</tr>
<tr>
<td>Administrative Evaluation Bureau, Japan</td>
<td><a href="http://www.soumu.go.jp/english/aeb/index.html">www.soumu.go.jp/english/aeb/index.html</a></td>
<td>Y</td>
<td>Information</td>
<td>Y</td>
<td>Y</td>
<td>Very detailed</td>
<td>N</td>
</tr>
<tr>
<td>Anti-Corruption &amp; Civil Rights Commission, Republic of Korea</td>
<td><a href="http://www.acrc.go.kr/eng_index.html">www.acrc.go.kr/eng_index.html</a></td>
<td>Y</td>
<td>Information communication, transaction, input</td>
<td>Y</td>
<td>Y - citizens</td>
<td>Very detailed for citizens</td>
<td>N</td>
</tr>
<tr>
<td>Commission Against Corruption, Macao, China</td>
<td><a href="http://www.ccac.org.mo/">www.ccac.org.mo/</a></td>
<td>Y</td>
<td>Information, communication, input</td>
<td>Y</td>
<td>Y</td>
<td>Detailed</td>
<td>Y</td>
</tr>
<tr>
<td>Lokayukt (Ombudsman), Madhya Pradesh, India</td>
<td><a href="http://www.mplokapukt.nic.in/">www.mplokapukt.nic.in/</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

continued on next page
<table>
<thead>
<tr>
<th>Member Institution and Country</th>
<th>Website</th>
<th>English</th>
<th>Services Provided</th>
<th>Engagement Information</th>
<th>Making Stakeholder Engagement Explicit</th>
<th>Detail of Engagement Information</th>
<th>Practice for Engaging Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lokayukt (Ombudsman), State of Uttar Pradesh, India</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>Komisi Ombudsman Nasional, Indonesia</td>
<td><a href="http://www.ombudsman.go.id/Website/index/id">www.ombudsman.go.id/Website/index/id</a></td>
<td>N</td>
<td>Information, communication</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>General Inspection Organization, Iran</td>
<td><a href="http://www.gio.ir/">www.gio.ir/</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Office of the Wafaqi Mohtasib (Federal Ombudsman), Pakistan</td>
<td><a href="http://www.mohtasib.gov.pk/">www.mohtasib.gov.pk/</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>Y</td>
<td>Y</td>
<td>Very detailed</td>
<td>…</td>
</tr>
<tr>
<td>Banking Mohtasib, Pakistan</td>
<td><a href="http://www.bankingmohtasib.gov.pk/index.php">www.bankingmohtasib.gov.pk/index.php</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Federal Insurance Ombudsman, Pakistan</td>
<td><a href="http://www.insuranceombudsman.gov.pk/">www.insuranceombudsman.gov.pk/</a> (not always accessible)</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>Federal Tax Ombudsman, Pakistan</td>
<td><a href="http://www.fto.gov.pk/">www.fto.gov.pk/</a></td>
<td>Y</td>
<td>Information, communication</td>
<td>Y</td>
<td>Y</td>
<td>Detailed</td>
<td>N</td>
</tr>
<tr>
<td>Provincial Ombudsman of Balochistan, Pakistan</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>Office of the Ombudsman (Mohtasib) Punjab, Pakistan</td>
<td><a href="http://www.ombudsmanpunjab.gov.pk/">www.ombudsmanpunjab.gov.pk/</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Provincial Ombudsman of Sindh, Pakistan</td>
<td><a href="http://www.mohtasibsindh.gov.pk/">www.mohtasibsindh.gov.pk/</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>Y</td>
<td>Y</td>
<td>Detailed</td>
<td>N</td>
</tr>
</tbody>
</table>

*continued on next page*
Table 3 continued

<table>
<thead>
<tr>
<th>Member Institution and Country</th>
<th>Website</th>
<th>English</th>
<th>Services Provided</th>
<th>Engagement Information</th>
<th>Making Stakeholder Engagement Explicit</th>
<th>Detail of Engagement Information</th>
<th>Practice for Engaging Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliamentary Commission for Administration, Sri Lanka</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Office of the Ombudsman, Thailand</td>
<td><a href="http://www.ombudsman.go.th/10/eng/index1.html">www.ombudsman.go.th/10/eng/index1.html</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Central Organization for Control and Auditing, Yemen</td>
<td><a href="http://www.coca.gov.ye/index.php?lang=2">www.coca.gov.ye/index.php?lang=2</a></td>
<td>Y</td>
<td>Information, communication, transaction</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Ministry of Supervision, People’s Republic of China</td>
<td><a href="http://english.gov.cn/2005-10/03/content_74320.htm">http://english.gov.cn/2005-10/03/content_74320.htm</a></td>
<td>Y</td>
<td>Information, communication</td>
<td>Y</td>
<td>N</td>
<td>Not detailed</td>
<td>N</td>
</tr>
<tr>
<td>Government Inspectorate of Viet Nam, Viet Nam</td>
<td><a href="http://thanhtra.gov.vn/">http://thanhtra.gov.vn/</a></td>
<td>N</td>
<td>Information</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Commission for Human Rights, Azerbaijan</td>
<td><a href="http://ombudsman.gov.az/view.php?lang=en&amp;menu=0">http://ombudsman.gov.az/view.php?lang=en&amp;menu=0</a></td>
<td>Y</td>
<td>Information, communication</td>
<td>...</td>
<td>...</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Institute of Ombudsman (Akyikatchy), Kyrgyz Republic</td>
<td><a href="http://www.ombudsman.kg/en.html">www.ombudsman.kg/en.html</a></td>
<td>N</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Commissioner for Human Rights, Tatarstan</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Oliy Majlis of the Republic of Uzbekistan for the Human Rights</td>
<td><a href="http://ombudsman.uz/main">http://ombudsman.uz/main</a></td>
<td>Y</td>
<td>Information, communication, transaction, input</td>
<td>Y</td>
<td>Y</td>
<td>Very detailed</td>
<td>Y</td>
</tr>
</tbody>
</table>

... = not available, N = no, Y = yes.
Source: Websites of AOA member institutions.
Such facilities for stakeholder engagement, however, are less explicit and not as prevalent on the websites of the other member institutions. Information on stakeholder engagement can be found on 12 members’ websites, 9 of which make stakeholder engagement an explicit matter of policy orientation and commitment. Of these 12 websites, 10 provide detailed or very detailed explanations of the mechanisms of stakeholder engagement, the exceptions being the Ministry of Supervision of the PRC and the Office of The Ombudsman, Hong Kong, China. These findings indicate that there is no lack of knowledge among member institutions on the use of the website as a platform for stakeholder engagement. But, stronger advocacy and perhaps greater education and training are necessary and desirable for it to become common practice.

Of the 12 member institutions that have stakeholder engagement practices, it is interesting to note that at least one member institution from each political–economic group has engaged stakeholders in its operations. This is encouraging, and indicates that the universal nature of stakeholder engagement can overcome the restrictions that may be imposed by specific institutional environments, at least to some extent. Table 4 highlights the stakeholder engagement practices of these 12 member institutions (for more details, see Appendix 2). The Administrative Evaluation Bureau of Japan and the Public Complaints Bureau of Malaysia top the table with four stakeholder engagement programs each. These programs are formal and regular, engaging bureaucratic authorities, public organizations, the general public, and the media. Interestingly, what separates these two member institutions is the different approach adopted in engaging these stakeholders: the Administrative Evaluation Bureau’s proactive approach for forging collaboration and promoting communication at the operational level, on the one hand, and the Public Complaints Bureau’s reactive approach for conducting dialogue and facilitating communication at the operational level, on the other.

Table 4  The Practice of Stakeholder Engagement among Member Institutions

<table>
<thead>
<tr>
<th>Ombudsman Institution and Country</th>
<th>Number of Programs, Initiatives</th>
<th>Stakeholder Groups Engaged (Number of Programs and Initiatives)</th>
<th>Institutional Arrangement</th>
<th>Approach to Engagement</th>
<th>Level of Engagement</th>
<th>Type of Engagement</th>
<th>Type of Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Evaluation Bureau, Japan</td>
<td>4, 0</td>
<td>Bureaucratic authorities (2)</td>
<td>Formal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Public organizations (1)</td>
<td></td>
<td></td>
<td></td>
<td>Communication</td>
<td>Redressing administrative grievances</td>
</tr>
<tr>
<td></td>
<td></td>
<td>General public: citizens (1)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Complaints Bureau, Malaysia</td>
<td>4, 0</td>
<td>Bureaucratic authorities (1)</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Improving public management</td>
</tr>
<tr>
<td></td>
<td></td>
<td>General public: citizens at the grassroots level (2)</td>
<td></td>
<td></td>
<td></td>
<td>Communication</td>
<td>Redressing administrative grievances</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mass media (1)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commission Against Corruption, Macao, China</td>
<td>2, 3</td>
<td>Bureaucratic authorities (2)</td>
<td>Formal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Collaboration</td>
<td>Improving public/private management</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Interest group: business sector (1)</td>
<td></td>
<td></td>
<td></td>
<td>Communication</td>
<td>Redressing administrative complaints</td>
</tr>
<tr>
<td></td>
<td></td>
<td>General public: schools (1)</td>
<td>Informal and ad hoc</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mass media (1)</td>
<td>Informal and regular</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ombudsman Institution and Country</td>
<td>Number of Programs, Initiatives</td>
<td>Stakeholder Groups Engaged (Number of Programs and Initiatives)</td>
<td>Institutional Arrangement</td>
<td>Approach to Engagement</td>
<td>Level of Engagement</td>
<td>Type of Engagement</td>
<td>Type of Services</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>--------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>---------------------------</td>
<td>---------------------</td>
<td>--------------------</td>
<td>------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Office of the Ombudsman of the Philippines</td>
<td>3, 0</td>
<td>Bureaucratic authorities (2) Mass media (1)</td>
<td>Formal and regular</td>
<td>Remedial Operational</td>
<td>Dialogue Communication Public relations</td>
<td>Improving public management Redressing administrative grievances</td>
<td></td>
</tr>
<tr>
<td>Oly Majlis of the Republic of Uzbekistan for Human Rights</td>
<td>1, 3</td>
<td>General public: experts (2) Interest groups: NGOs (1) Mass media (1)</td>
<td>Formal and regular Informal and regular</td>
<td>Interactive Proactive Policy Operational</td>
<td>Collaboration</td>
<td>Improving public management Enhancing government accountability</td>
<td></td>
</tr>
<tr>
<td>Anti-Corruption &amp; Civil Rights Commission, Republic of Korea</td>
<td>1, 0</td>
<td>General public</td>
<td>Formal and regular</td>
<td>Proactive Remedial Policy</td>
<td>Dialogue Communication</td>
<td>Improving public management Redressing administrative grievances</td>
<td></td>
</tr>
<tr>
<td>Office of the Ombudsman, Thailand</td>
<td>1, 0</td>
<td>Government authorities</td>
<td>Formal and regular</td>
<td>... ... ...</td>
<td>...</td>
<td>Improving public management</td>
<td></td>
</tr>
<tr>
<td>Office of the Wafaqi Mohtasib (Federal Ombudsman), Pakistan</td>
<td>1, 0</td>
<td>Interest groups General public</td>
<td>Formal and regular</td>
<td>Proactive Remedial</td>
<td>Operational Dialogue</td>
<td>Improving public and private management</td>
<td></td>
</tr>
<tr>
<td>Federal Tax Ombudsman, Pakistan</td>
<td>1, 0</td>
<td>Interest group: the business sector</td>
<td>Formal and regular</td>
<td>Remedial Operational</td>
<td>Communication</td>
<td>Improving public and private management</td>
<td></td>
</tr>
<tr>
<td>Banking Mohtasib (Ombudsman) Pakistan</td>
<td>1, 0</td>
<td>Interest group: the business sector General public</td>
<td>Informal and irregular</td>
<td>Remedial Operational</td>
<td>Dialogue</td>
<td>Improving public and private management</td>
<td></td>
</tr>
<tr>
<td>Office of The Ombudsman, Hong Kong, China</td>
<td>0, 1</td>
<td>Mass media</td>
<td>Informal and regular</td>
<td>Proactive Operational</td>
<td>Communication Public relations</td>
<td>Redressing administrative complaints</td>
<td></td>
</tr>
<tr>
<td>Ministry of Supervision, People’s Republic of China</td>
<td>0, 1</td>
<td>Bureaucratic authorities ad hoc</td>
<td>Informal and regular</td>
<td>Proactive Operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
<td></td>
</tr>
</tbody>
</table>

... = not available, NGO = nongovernment organization.
Source: Websites of AOA member institutions.
In third and fourth places on the table are the Commission Against Corruption of Macao, China, with two programs and three initiatives, and the Office of the Ombudsman of the Philippines, with three programs. Below these, the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) has initiated strong practices by introducing one program and three initiatives in this newly emerged democratic country. The “Public Expert Panel” program introduced by its ombudsman institution is progressive in that it takes an interactive approach to bringing experts together for collaboration at the policy level on human rights issues. For the Ministry of Supervision of the PRC, where the administrative ethos of public participation has yet to take root, initiatives are both informal and ad hoc, generally collaborations with other bureaucratic authorities for corruption prevention at the operational level.

Member institutions from Pakistan have also made a substantial attempt, if we count all their individual efforts together. In Pakistan, three formal and regular programs in total have been organized to engage a wide range of efforts to work with nongovernment stakeholders, including interest groups and the general public. Although most of these programs are at the operational level and remedial in nature, they facilitate dialogue for solving the problems of individual stakeholders.

Some overall observations should be mentioned. First, an institutional environment with a higher degree of democracy and greater economic development is more conducive to the practice of stakeholder engagement. Second, the primary stakeholder groups of bureaucratic authorities and the general public are the main targets of engagement. That this strategy focuses on such a narrow range of engagement is not surprising, particularly at the early stages in the development of stakeholder engagement in the public sector where experience is limited, resources are scarce, and commitment is uncertain. Third, the great majority of the engagement programs adopted are both formal and regular, showing that the practice is becoming increasingly embedded. Fourth, these engagement efforts are mostly conducted for remedial purposes at the operational level. This highlights the dominance of a short-term and pragmatic orientation toward satisfying the needs of complainants. Fifth, the mass media appear to be the stakeholder that is receiving growing attention; five member institutions have indicated an organized effort of active engagement with the media (Table 5).

The sixth observation is that collaboration appears to be the emerging norm for engaging bureaucratic counterparts, while dialogue has been increasingly practiced in engaging the general public. These are good signs, as it is important for ombudsman institutions to mitigate bureaucratic authorities’ suspicions so that they will be less resistant to working with the institutions toward possible solutions, and will be more receptive to their recommendations. As for the general public, engagement should go beyond public relations or communication for promoting mutual understanding, and move toward dialogue for problem solving. Lastly, engagement efforts have centered on the delivery of the two core services of ombudsman institutions: improving public management and redressing administrative grievances. Only the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights has undertaken an initiative that may directly help to enhance government accountability in interacting with the legislative, executive, and judicial branches of state power. In reality, the synergetic effect of improving public management and redressing administrative grievances enhances government accountability.
### Table 5  The Practice of Media Engagement among Member Institutions

<table>
<thead>
<tr>
<th>Ombudsman Institution and Country</th>
<th>Institutional Arrangement</th>
<th>Approach to Engagement</th>
<th>Level of Engagement</th>
<th>Type of Engagement</th>
<th>Type of Service</th>
<th>Details of Program or Arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of The Ombudsman, Hong Kong, China</td>
<td>Informal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Communication</td>
<td>Redressing</td>
<td>“With the increased public awareness of our role and mission, evidenced by the rising number of enquiries and complaints, we have adjusted our promotion strategies. Instead of broadcasting our Announcement of Public Interest (&quot;API&quot;) film clip, greater emphasis has been placed on disseminating fuller information on our investigative work through media releases and press conferences.” (Office of The Ombudsman, Hong Kong, 2009, 6.2)</td>
</tr>
<tr>
<td>Commission Against Corruption (CCAC), Macao, China</td>
<td>Informal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Redressing</td>
<td>“The CCAC organized the ‘Tea Meeting on Clean Administration’ each year in order to obtain opinions and suggestions about anticorruption work from media workers. The commission also held press conferences to release information about anticorruption work to the media in order to enhance transparency.”</td>
</tr>
<tr>
<td>Public Complaints Bureau (PCB), Malaysia</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Redressing</td>
<td>“All government agencies are required to respond to issues raised by major dailies against them within 3 working days. The PCB has created a System in its i-Aduan System to help the agencies updates their feedback to the relevant newspapers. “An automatic reminder will be sent from the system to the Secretary General of the Ministry if the ministry failed to reply to the newspaper within 3 working days. The PCB will prepare a weekly report for the Chief Secretary of the government to inform him on statistics and issues raised via local newspapers. All the ministries have been notified about this through a letter of the Chief Secretary to the government dated 11 December 2007: Monitoring of News and Complaints on Public Service Published by the Local Dailies.”</td>
</tr>
<tr>
<td>Ombudsman Institution and Country</td>
<td>Institutional Arrangement</td>
<td>Approach to Engagement</td>
<td>Level of Engagement</td>
<td>Type of Engagement</td>
<td>Type of Service</td>
<td>Details of Program or Arrangement</td>
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<tr>
<td>Office of the Ombudsman of the Philippines</td>
<td>Informal and regular</td>
<td>Interactive Proactive</td>
<td>Policy</td>
<td>Dialogue Communication Public relations</td>
<td>Redressing administrative complaints Improving public management</td>
<td>“Media are actively involved in the events and activities organized by the ombudsman. Through participation in these events and activities, the media can convey the message of the latest progress of the ombudsman’s work to the public, e.g., an integrity march to celebrate International Anti-Corruption Day, and provide feedback in an interactive way, e.g., in a five-part series of focus group discussions.”</td>
</tr>
<tr>
<td>Oliy Majlis of the Republic of Uzbekistan for Human Rights</td>
<td>Informal and regular</td>
<td>Interactive Proactive</td>
<td>Policy Operational</td>
<td>Collaboration Dialogue Communication Public relations</td>
<td>Redressing administrative complaints Improving public management</td>
<td>“For the purposes of the effective exercise of the ombudsman’s functions in the area of raising awareness of human rights, generating public understanding of the necessity to respect and ensure the observance of human rights, creating a human rights culture, as well as improving the level of knowledge of human rights issues, it is anticipated to develop cooperation between the Institute of Ombudsman and mass media in the following areas: 1. Cooperation between the ombudsman and mass media in the area of building awareness of human rights among the general public; 2. Promoting activities of the ombudsman and other national human rights institutions; 3. Broadcasting the results of human rights monitoring activities undertaken by the ombudsman”</td>
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</table>

Source: Websites of AOA member institutions.
Best Practices in Stakeholder Engagement among Members

Based on information contained in the websites, we have identified seven programs undertaken by member institutions that embody best practices in stakeholder engagement, involving such stakeholders as bureaucratic authorities, the general public, and the media.

The Policy Evaluation System: Administrative Evaluation Bureau, Japan


The Policy Evaluation System was introduced as a formal and regular program that targets bureaucratic authorities to help them to be fully accountable to the public in performing their administrative functions and duties. The realization of efficient, high-quality public administration is the primary driver of reform in central ministries and bureaucratic authorities. The key to the system is to involve individual bureaucratic authorities in the evaluation of the policies for which they are responsible, focusing on “how necessary, efficient, and effective their policies are.” Under this collaborative effort, positive results have been achieved, as demonstrated by the increasing number of policies being reviewed and improved. In the 2007 fiscal year, it was reported that 3,700 policy evaluations were conducted.

The Integrity Management Plan: Commission Against Corruption of Macao, China


The Integrity Management Plan, introduced in late 2007, aims to increase the administrative integrity of bureaucratic authorities by tightening internal management against corruptive practices. Under this program, the Commission Against Corruption will sign an Integrity Management Plan - Protocol of Collaboration with individual government departments to help them improve departmental management, giving special attention to corruption-prone areas, and to raise government employees’ awareness of integrity issues such as conflicts of interest. The plan has received a favorable response; 60 departments have already signed the protocol.

The Mesra Rakyat Program: Public Complaints Bureau of Malaysia


The Mesra Rakyat (MESRA) Program was launched in 2002 to bring together bureaucratic authorities and the general public in a dialogue to redress the administrative grievances of ordinary citizens. It is a formal and regular arrangement, with dialogue sessions normally chaired by the honorable minister, the deputy minister, the parliamentary secretary, the chief minister, the chief secretary to the government, and the state secretary or the director general of the Public Complaints Bureau. In these sessions, ordinary people are able to directly communicate their complaints to heads of departments from state and district government agencies. The Public Complaints Bureau records all the complaints and ensures that the relevant bureaucratic authorities take appropriate remedial action.

Monitoring System for News and Complaints via Media: Public Complaints Bureau of Malaysia


The Monitoring System for News and Complaints via Media was adopted in October 2007 and assigned responsibility to the Public Complaints Bureau for monitoring news and complaints published in local newspapers about public service agencies. The public service agencies concerned are required to respond to the issues or resolve complaints against them within 3 working days. The Electronic Online Complaint Management System (i-Aduan) system was set up by the Public Complaints Bureau to enable these agencies to update their feedback to the relevant newspapers. If the ministry concerned fails to act within the prescribed period, the secretary general of the ministry will receive an automatic reminder from the system. The Public Complaints Bureau keeps the chief secretary of the government closely informed of the statistics and issues raised in the major local dailies by a weekly report. Notification was sent to all ministries about this new system through a letter from the chief secretary on 11 December 2007.\(^1\)

Integrity Development Review Program: Office of the Ombudsman of the Philippines


The Integrity Development Review Program, piloted internally by the Ombudsman of the Philippines in 2004 with assistance from the United States Agency for International Development and eventually by other donor institutions like the World Bank, was extended to other bureaucratic authorities 2 years later, having achieved the objective of reviewing the robustness of its own system against corruption. The program is a collection of diagnostic tools, employing self-assessment scorecards for managers, feedback surveys of employees, and corruption vulnerability assessments. It is designed to strengthen the institutional capacity of bureaucratic authorities and public organizations for the prevention of corruption in the public sector. This is accomplished through assessing the robustness of corruption resistance mechanisms and identifying the vulnerabilities of government agencies to corruption. Necessary and appropriate measures are adopted by individual government agencies in the completion of this self-assessment.

Because of its demonstrated effect, the ombudsman has received favorable responses from its bureaucratic counterparts. A total of 16 government agencies completed the Integrity Development Review between 2006 and 2007. Because these agencies were supportive, the ombudsman was able to enhance this collaborative effort by setting up agency-based integrity development committees to monitor the progress of the implementation of the recommendations of the Integrity Development Review contained in the agency action plan. The program seeks to provide active agency involvement in developing top management commitment and sense of ownership. The process is action-oriented, with the aim of formulating a set of integrity and transparency reforms for any agency pledged to prevent corruption. The latest development has been very encouraging: In 2009, the ombudsman managed to forge a partnership with the Department of Social Welfare and Development after a year’s diligent, effort.

The Responsible, Enabling and Accountable Systems for Children’s Rights Project: Wafaqi Mohtasib (Federal Ombudsman) of Pakistan


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A Children’s Complaints Office was established in the Secretariat of the Wafaqi Mohtasib (Federal Ombudsman) in a joint effort with the Ombudsman of the United Nations Children’s Fund (UNICEF) (Pakistan office) under the Responsible, Enabling and Accountable Systems for Children’s Rights (REACH) project, aimed at protecting children’s rights from bureaucratic encroachment. Covering all eight regional offices of the Wafaqi Mohtasib, it serves as a mechanism for reaching children, helping them lodge complaints, and redressing their grievances regarding maladministration in federal agencies. The agencies include health, education, and social and population welfare; the project also covers immunization, HIV/AIDS, and tobacco-use control programs. Complaints can be filed either by personal visit, online, or by e-mail. To be effective in the protection of children’s rights, the project attempts to provide a platform for engaging different stakeholders in advocacy, consultation, and research. The project actively feeds policy input to the government regarding systemic issues adversely affecting the rights of children in public administration.

**Concept of Cooperation: Uzbekistan**


In recognition of the importance of a collaborative network with state powers, the Concept of Cooperation, developed in 1989, was designed to empower the ombudsman to leverage the powers, resources, and expertise of the legislative, executive, and judicial institutions through active and deep cooperation to protect human rights. Its objectives are to

- assist the promotion of legal safeguards for the activities of the ombudsman and improve legislation of the Republic of Uzbekistan in the field of human rights;
- increase the effectiveness of receiving and handling complaints from citizens concerning violations of their rights; and undertake necessary measures to restore their rights, freedoms, and legitimate interests through joint efforts of all institutions working for the protection of human rights;
- undertake joint checks on the implementation of legislation of the Republic of Uzbekistan pertaining to human rights; and elaborate suggestions and recommendations for the improvement of the activities of the state apparatus;
- cooperate in educational and awareness-raising activities, with a view to improving legal awareness among the staff of judicial and law enforcement bodies and among particular groups of citizens; and
- coordinate activities in the development of international cooperation regarding human rights issues.

Joint institutional efforts have been achieved mainly through the mechanism of a formal agreement of cooperation between the ombudsman and judicial and law enforcement bodies. Already included in the list of formal cooperators are the Constitutional Court (which signed the agreement in December 1999), the General Prosecutor’s Office, the Ministry of Interior, the Ministry of Health, and the Ministry of Justice. Because of these progressive engagement arrangements, a total management framework for the protection of human rights has come into being with comprehensive coverage including legislation, policy, implementation, monitoring, redress, and research. The ombudsman has achieved positive results from these collaboration efforts in the protection of human rights and the redress of human rights grievances. The Constitutional Court helps to provide the proper interpretation of constitutional law relating to human rights, the General Prosecutor helps to restore human rights, the Ministry of the Interior helps to protect the rights of convicts, and the Ministry of Health helps to protect the rights of patients and medical staff.
Stakeholder Engagement Practices among Member Institutions: Evidence from the Open-Ended Questionnaire Survey

The core objective of the open-ended questionnaire survey of member institutions was to obtain a clear understanding of their ideas regarding stakeholder engagement and their performance in engaging different stakeholders. Appendix 3 provides a summary of the interview data.

General Understanding of Stakeholder Engagement

To obtain member institutions’ perceptions of stakeholder engagement, we asked: “Please spell out your idea/understanding of stakeholder engagement” and “Please indicate the major stakeholders of the ombudsman’s work.” Most of the respondents agreed to the general definition that “stakeholders are those individuals and groups that are affected by the decisions and actions of the ombudsman institution.” The respondents also agreed that stakeholder engagement should include both directly and indirectly affected individuals and groups, even though their degree of involvement in the work of the ombudsman might be different. Four out of the nine respondents clearly differentiated between key (primary, or direct) and other (secondary, or indirect) stakeholders in terms of their level of participation and the degree of impact on them. Only one respondent adopted a focused and transactional perspective to identify just two stakeholder groups, one consisting of individuals or groups who have administrative grievances against public servants for their actions or inactions, and another including those public servants. For the purposes of this discussion, each institution is referred to by a number to keep its identity anonymous.

We note that very few ombudsman institutions that participated in this study have instituted a formal system for measuring the effectiveness of stakeholder engagement. Institution 8 is the exception; it has already adopted a model for evaluating stakeholders’ contributions and participation and also plans to introduce a key performance index for a more rigorous assessment. Other institutions have their own approaches for assessing the effectiveness of stakeholder engagement, including monthly reports, media feedback, assessment by concerned parties, and internal meetings. A more progressive idea from Institution 5 was to have an independent commission undertake the assessment.

How should the effectiveness of stakeholder engagement be measured? Some ombudsman institutions thought that a key assessment criterion could be the number of cases which were concluded or in which a final settlement was reached, while a few others suggested that there are various measures, such as satisfaction with the ombudsman’s services, the improvement of social awareness, and the demand for the ombudsman’s services. Specifically, Institution 9 viewed the issue of effectiveness in terms of its working relations with government departments: “After years of engagement, targeted departments have changed their attitudes towards us, from resistance to acceptance, and are more receptive to our recommendations. This allows us to practice better a preventive approach.” In addition, some objective measurements were also mentioned, including the degree of transparency, the capacity of the ombudsman institution, the standard of administration, the cultivation of a positive culture for complaint management, and competitiveness and attractiveness to foreign investors.

Perceived Effectiveness of Stakeholder Engagement

While there is common agreement on the importance of stakeholder engagement, there are variations among the nine respondents in the perceived effectiveness of stakeholder engagement. The majority view is positive; six respondents endorsed the effectiveness of stakeholder engagement, particularly in the provision of information and expertise. The respondent from Institution 5 explicitly stated that stakeholder engagement was a useful tool in enhancing the empowerment of the ombudsman institution; in this case, political leaders and government agencies were the major stakeholders engaged. The other three respondents thought that these are pros and
cons of stakeholder engagement, arguing that the effectiveness of stakeholder engagement depends largely on specific issues and on the stakeholders’ understanding of these issues. Institution 9 cautioned us about the complexity of the relationship between the ombudsman and stakeholders, where “stakeholders such as government departments and the general public have both a confrontational and a collaborative relationship with us. False complaints are unavoidable…the ombudsman should work from a fair standpoint rather than being biased by complainants.”

At the same time, there may be conflicting interests among stakeholders. One respondent noticed that “the relationship among stakeholders is complex. Sometimes the ombudsman is not the first choice in complainants’ perceptions, as we will work from an unbiased standpoint to investigate the two sides” (respondent from Institution 9). Thus, the respondent from Institution 5 stated that, while stakeholder engagement has already, been made an integral part of every project to reduce the risk of failure, it was not easy to manage because there were conflicting interests among the stakeholders. Other concerns included stakeholders’ potentially seeking personal benefit, revenge, or blackmail. Finally, some ombudsman institutions found it difficult to distinguish between stakeholder participation and interference. These worries about stakeholder engagement was best described by the respondent from Institution 8:

It depends on the issue and on the understanding of stakeholders in a particular issue. If stakeholders know the concerned issue very well, including related matters such as the correct role and mandate of the ombudsman under the provision of existing law, they will be helpful and provide practical information and recommendations leading to an improvement in the quality of decisions and in the stakeholder engagement service delivery of the ombudsman, and vice versa … stakeholder engagement is able to create a participatory atmosphere acquiring holistic information as much as possible. However, it could be the case that stakeholders try to emphasize only their own interest without sufficient knowledge of the circumstances, as well as try to dominate with one-way communication.

Current Forms of Stakeholder Engagement: Achievements and Outcomes

To discover the extent to which individual stakeholder groups have been engaged in the work of ombudsman institutions, and the outcomes they have achieved, we asked about the current forms of stakeholder engagement adopted by individual ombudsman institutions. Common practices currently adopted include periodic meetings and conferences on administrative complaints held at both headquarters and local offices, and involving stakeholders in the process of investigating administrative complaints—including the collection of information and the organization of the hearing in which government officials and concerned authorities get to explain, clarify, and defend. In addition, proactive practices undertaken by individual ombudsman institutions include programs or seminars to familiarize stakeholders with the role and functions of the ombudsman institution, as well as training sessions and workshops for parties and alliances on anticorruption. It is encouraging to see the positive attitude of ombudsman staff members regarding the practice of stakeholder engagement, as reported by most of the respondents. Among these, Institution 2 presented the most favorable view: “We appreciate this innovation, as stakeholder engagement harmonizes our work, and stakeholders’ ideas help achieve the commonly cherished goal of improved service delivery.” Indeed, staff support is vital to sustaining and enhancing the organization’s long-term effort.

From the responses a general consensus emerged that the objective of stakeholder engagement is to redress administrative grievances and reduce maladministration through obtaining greater stakeholder support. This is indeed in accordance with the idea of coproducing public services and management. 12 The perception of stakeholder engagement as a purposive act for enhancing service delivery was clearly reflected in respondents’ answers concerning the results and performance of stakeholder engagement programs, which centered on the

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12 Cooper, Bryer, and Meck, Collaborative Public Management.
redress of complaints, the improvement in the acceptance of ombudsman decisions, the increase in awareness of and confidence in the work of ombudsman institutions, the improvement in transparency, and the promotion of mutual understanding. Indeed, the respondents’ opinions reflect a growing recognition of stakeholder engagement as an effective tool in improving the quality of decisions and service delivery by ombudsman institutions. These positive outcomes provide solid empirical support for our view that through systematic and organized stakeholder engagement a responsible ombudsman can achieve service delivery.

**Best Practices of Stakeholder Engagement**

The respondents strongly asserted that there are no best forms of stakeholder engagement. The general opinion was that good practices should be able to improve the accuracy of information, employ different media channels, enhance public relations, and promote social awareness of the work of ombudsman institutions. A few respondents mentioned that stakeholder engagement should also embrace actions to ensure that the government agencies or civil servants under complaint should have the opportunity for a full hearing. They also stated that government bodies should implement the recommendations of an ombudsman.

Underlying the respondents’ perceptions of stakeholder engagement was the emerging concept of the “responsible ombudsman,” according to which the ombudsman institution should improve its service delivery by focusing on the dialectical relation between administrative complaints and better governance. An ideal stakeholder engagement, as the respondent from Institution 5 conceived it, requires “a collaborative approach instead of a hierarchical (top-down) [one]” in redressing public grievances or resolving complaints. This progressive idea was echoed by the respondent from Institution 8:

> I would like to suggest in principle that the form and arrangement of stakeholder engagement should involve at least three words: “stay,” “say,” and “strive.” That means we have to find a model or forum to engage a stakeholder to stay, say, and strive in our work. “Stay” means to cooperate with the ombudsman’s work. This could be in a form of participation in the ombudsman’s activities, e.g., seminar, focus group. “Say” means stakeholders will reflect their sincere opinions in connection with the ombudsman’s work, i.e., satisfaction or dissatisfaction with the ombudsman’s performance as well as the recommendation. “Strive” means to put forward with the ombudsman to redress grievances and create good and ethical governance for all.

**Difficulties and Constraints in Stakeholder Engagement**

Two main aspects of concern were revealed regarding current difficulties in introducing stakeholder engagement programs. The first aspect concerned institutional constraints related to mechanisms and resources. In this respect, some respondents identified the limitations of current practices in the gap analysis, which included limited functions and power of the ombudsman institution; insufficient presence and limited reach of the ombudsman at the lower (subnational) level; and lack of manpower and technical and financial support. Legal constraints were also identified, manifesting themselves in two ways. First, some respondents acknowledged that the absence of proper legislation and provisions not only restricts the ombudsman’s direct functions and powers, but also impedes the stakeholder engagement mechanism. Second, the secrecy provisions in related legislation may restrict the ombudsman institution from effectively communicating with stakeholders, particularly secondary stakeholders, on effective operations.

The second aspect related to constraints on the capability of stakeholders to participate in the work of ombudsman institutions. The respondents were concerned about the stakeholders’ limited knowledge of the jurisdiction of the ombudsman institution, their lack of a clear understanding of the purpose of stakeholder engagement, and their lack of preparedness to be actively engaged. Most difficult of all, trust between the ombudsman institution and individual stakeholders has not been built up enough to make engagement exercises active and positive. Manifestations of this lack of trust, as mentioned by some respondents, included “[t]he
possible of false complaints against public officials” and the fact that “complainants sometimes did not provide us with the full picture of the case by hiding the evidence which may be disadvantageous to them” (respondent from Institution 9). More pointedly, the respondent from Institution 6 pointed out that the prevalence of distrust of the ombudsman institution and its ability and commitment to correct social ills was the major stumbling block to undertaking credible stakeholder engagement:

Public apathy and distrust has continued to be the main stumbling block to any stakeholder engagement in the past. A chilling effect on the general public due to the endemic nature of corruption and perceptions of big corrupt politicians not being punished has substantially reduced the eagerness of stakeholders to be actively involved in anticorruption work.

Looking Forward: Future Plans for Managing Stakeholder Engagement

Given the positive opinions of most of the respondents about stakeholder engagement, what are the possible steps for its further development in the light of the difficulties and constraints mentioned above? Strengthening the infrastructure for stakeholder engagement is the primary task. In particular, most of the respondents opined that the legal framework should be revised to give ombudsman institutions more power in order to make them credible and reliable in the redress of grievances and the fight against corruption. An increase in the transparency of ombudsman institutions and the provision of channels for hearing stakeholders’ voices and concerns has helped to build a solid foundation for engagement. In the information era, the availability of a comprehensive database is important for active and effective stakeholder management. Thus, respondents recommended the development of national databases on stakeholders and related organizations to learn from past experiences of stakeholder engagement. Similar databases on the mapping of stakeholders and organizations could also be helpful, including data relating to priority issues, rights, needs, and desires.

In addition to the institutional infrastructure, there is the important issue of managing the ombudsman–stakeholder relationship. The respondents strongly perceived an immediate need to build up trust and confidence among concerned parties to remove their suspicions, clear their doubts, and, most importantly, avoid individual interest-seeking behavior. The respondent from Institution 8 opined that this could be achieved through “the development of creditability (i.e., competency, leadership, positive attitude, etc.) and care (i.e., sincerity, sympathy, consideration, etc.); meanwhile risks that affect trust and confidence (i.e., discrimination, prejudgment, etc.) have to be eliminated.” After all, the core task is to furnish the stakeholders with a proper mind-set so that they can adopt a proactive approach to stakeholder engagement through more active participation in the work of ombudsman institutions.

It is worth noting that attention was also given to reducing the various drawbacks of stakeholder engagement, such as individual profit-seeking behavior. The focus was on the prevention of the proliferation of unsubstantiated complaints in the process of stakeholder engagement. Two respondents provided their advice: “a word of caution is required so that false complaints can be avoided” (respondent from Institution 4) and “adopts a cool-headed and unbiased standpoint to look at different kinds of complaints, some of which are with good will while others are with ulterior motives” (respondent from Institution 9). Given that stakeholder engagement is in its initial stage of development in most member institutions, it is inevitable that the respondents will eventually focus their attention on plans to broaden and deepen stakeholder engagement. Regardless, ensuring that stakeholders engage with good will is a proper issue to consider at this point.
The Practice of Stakeholder Engagement in Hong Kong, China: The Case of the Office of The Ombudsman

The Ombudsman Institution and Stakeholder Engagement Practices

In response to growing popular demands for accountable administration and quality public management during the process of steady democratization in Hong Kong, China, the government followed international trends by establishing an ombudsman institution in 1989. It was known as the Office of the Commissioner for Administrative Complaints until it was renamed the Office of The Ombudsman in December 1996. The commissioner was given all the powers commonly given to the ombudsman in other jurisdictions, and in this area the legislation of the Government of Hong Kong, China is on a par with that of Commonwealth countries. The ombudsman was established as an independent office, generally standing outside the government administrative framework. To perform a watchdog role, the ombudsman is appointed by the chief executive of the Hong Kong Special Administrative Region (by the Governor before the handover in 1997) to hold office for 5 years. There have been four holders of the office in the last 21 years. Alan Lai, who assumed the office in 2009, is the current ombudsman.

The administrative complaints system was originally established with 27 staffers. Despite its expansion to a staff of 107, its structural arrangements remain simple and straightforward. Currently, the Office of The Ombudsman has three functional divisions (Figure 3). The Administration and Development Division, led by a chief manager, maintains in-house administrative order through its Administrative Section and takes care of public relations through its External Relations Section. The two Investigation Divisions, led by an assistant ombudsman, are responsible for the investigation of complaints. Working closely with these two divisions is the Assessment Team (under the Chief Investigation Office), which receives and conducts the initial screening of complaints lodged by the public. The Translation Section provides necessary language support for the operation. In summary,

Figure 3 Organizational Structure of the Office of The Ombudsman, Hong Kong, China

[Diagram of organizational structure]

DI = direct investigation.

Source: http://www.ombudsman.gov.hk/organisation_structure.shtml

after 2 decades of building and development, the Office of The Ombudsman has now reached the stage of institutional maturity.

The policy-making body of the Office of The Ombudsman is the Directorate, which is composed of the ombudsman, the deputy ombudsman, and the two assistant ombudsmen. Professional and expert advice concerning issues arising from the handling of administrative complaints comes from three independent panels of legal, medical, and engineering advisors appointed by the ombudsman.

The ombudsman is required to make an annual report to the chief executive on his activities and investigations, and the chief executive must submit a copy to the Legislative Council. The ombudsman can also refer individual reports to the chief executive if he sees fit, or if he feels government officials have not acted adequately on his recommendations.14

From Arthur Garcia to Andrew So to Alice Tai (the first three ombudsmen), the ombudsman institution in Hong Kong, China has progressively evolved, increasing its capacity for redressing administrative grievances and for improving the quality of its service delivery. The last 2 decades have witnessed the introduction of a direct access system for the lodging of administrative complaints, the acquisition of direct investigatory powers, the expansion of the office’s jurisdiction, and the attainment of independence in staffing. The title change from the Office of the Commissioner for Administrative Complaints to the Office of The Ombudsman is also significant, personifying the style of the ombudsman institution by replacing the unimaginative and bureaucratic concept of “commissioner” with the specific image of “the ombudsman.”

Consequently, the ombudsman institution has become lively, and now reflects the character of the holder of the office. This has been exemplified in the contrasting styles of two former ombudsmen: Andrew So, who was more assertive because of his background as a former legislative councilor, and Alice Tai, who was more transactional given her prolonged career experience as an administrative officer in the government.15 Thus, Andrew So sought to address the broader policy issues that lay behind individual instances of maladministration through aggressive direct investigation; the controversial New Airport Case was the outstanding example. In contrast, Alice Tai focused on the efficient handling of administrative complaints and the effective improvement of government administration through such new initiatives as the extension of the Ombudsman Awards to acknowledge public officers’ professional complaint handling, the introduction of a telephone complaint service, and the wide use of mediation as an alternative mechanism for the quick settlement of minor cases of maladministration. Their consecutive efforts have firmly established the ombudsman institution as a reliable and credible office for the redress of administrative grievances during the transition from a bureaucratic polity in the colonial era to an increasingly accountable government in the wake of the handover.16

During the time of these two former ombudsmen, there was a notable trend toward involving a wide range of stakeholders in the work of the ombudsman, with a view to improving the quality of service. Among these efforts were the introduction of the Justice of the Peace Assistance Scheme, the organization of outreach talks for government and public organizations, and meetings with legislative councilors. These initiatives provided the necessary institutional foundation and strength for Alan Lai to take the Office of The Ombudsman further out of the bureaucratic tradition of agency domination through the practice of a progressive mode of stakeholder engagement under the growing influence of civil society.

14 Clark, Administrative Complaints Ordinance.
15 For more details on the style of these ombudsmen, see: G. Drewry. 2009. Ombudsmen and Administrative Law—Bright Stars in a Parallel Universe? Asia Pacific Law Review. 17 (1). pp. 3–26; and Office of The Ombudsman, Hong Kong, China (Hong Kong Ombudsman). 2009. 20 Years On. Annual Report of The Ombudsman. Hong Kong, China.
Ombudsman and Stakeholder Engagement: Past Practices and Current Development

Although there is no clear policy statement that makes stakeholder engagement an orientation, in the last 2 decades the Office of The Ombudsman has increasingly acted in an unbureaucratic manner to connect itself with a variety of stakeholders. The amendment of the Commissioner for Administrative Complaints Ordinance in 1994, which replaced the referral system with a direct complaints arrangement for the public and which empowered direct investigation, has opened the way for the ombudsman office to be active in framing its relationship with stakeholders.

Past Practices under Ombudsmen Andrew So and Alice Tai

Probably due to his political career, Andrew So displayed an unbureaucratic style of ombudsmanship from the beginning of his tenure. On the one hand, he endeavored to build a popular image for himself to make the Office of The Ombudsman approachable. Thus, the focus of the publicity effort at that time was on familiarizing the public with the role of the ombudsman and the services provided by the office. In addition, he extended his reach to society by including nonofficial justices of the peace in the Justices of the Peace Assistance Scheme. On the other hand, he adopted a cooperative approach when dealing with government departments subject to complaints, in order to secure their support for investigations and make them less resistant to his recommendations. The introduction of the Ombudsman Awards for acknowledging public organizations’ positive handling of complaints was a friendly gesture that helped to achieve this purpose.

In contrast, Alice Tai ran the office with an administrative style that emphasized the professional handling of complaints in terms of processing time and acceptance of recommended improvement measures, that is, the core value of “upholding professionalism in the performance of their functions.” This results-oriented approach, built around the Performance Pledge adopted by the Office of The Ombudsman, made communication with various stakeholders a major effort of her office. To promote a positive culture for the processing of complaints, the resource center was used and publications were prepared to enable the public to develop a proper understanding of the role and the work of the ombudsman. To cultivate a positive service culture, outreach talks were delivered to government departments and public organizations to clearly convey to them the key message that improvement in the quality of public services is the essence of redressing grievances concerning maladministration. As an encouragement, the Ombudsman Awards were extended in 2000 to acknowledge the contribution of individual public officers to better services, and then to the professional performance of those handling complaints. As for the secondary stakeholders, seminars about the mission of the office were conducted for district councilors, meetings were arranged with legislative councilors to obtain their views on the operations and the future development of the ombudsman, and visits to government departments and public organizations to observe administrative realities at close quarters were organized for the justices of the peace.

Various observations can be made regarding these two ombudsmen’s efforts to reach different stakeholders during their tenure. First, the general public, government departments, and public organizations were the core foci of attention; most of the time, justices of the peace, district councils, and the legislative council were secondary for official purposes. Second, in the communication process, the ombudsman was quite active, taking a leading role while all stakeholders were rather passive. Third, the involvement of all stakeholders in the work of the ombudsman was quite restricted in scope, as the ombudsman–stakeholder relationship was promoted under the bureaucratic mindset of publicity and external relations. Fourth, and more positively, the Ombudsman Awards was an innovative initiative to cultivate a better working relationship with government departments and public organizations. In short, there remained much scope for the ombudsman to be more aggressive in

17 Hong Kong Ombudsman, 20 Years On.
stakeholder engagement through the formulation of a coherent strategy for stakeholders and through the
development of major programs to leverage the resources of individual stakeholders more effectively.

Current Development under Ombudsman Alan Lai

How far has Ombudsman Alan Lai gone beyond the narrow horizon of public relations to practice engagement
in interacting with his stakeholders since his assumption of office in 2009? And what are his current practices
and future plans? It is clear that the concept of stakeholder engagement is already foremost in the mind of
the ombudsman and his senior officers. They have demonstrated a good understanding of the essence of
stakeholder engagement, and have extended the definition of stakeholders to cover groups and individuals with
a particular interest in their work. They view government departments, public organizations, and complainants
as their principal stakeholders. The stakeholder map is conceptualized in Figure 4.

Improving the quality of the ombudsman’s work for the primary stakeholders has been identified as the
central theme of ombudsman–stakeholder interactions. For complainants, the quality to be improved is
that of the investigation—to make the process of handling and redressing their grievances efficient and the
result effective. For government departments and public organizations subject to complaint, it is to make the
process cooperative and the recommended courses of action for administrative improvement constructive and
acceptable. The ombudsman and his staff believe that stakeholder engagement allows them to leverage the
resources and expertise of relevant stakeholders to improve their service delivery, by enhancing the credibility of
their investigative findings and gaining acceptance of their conclusions and recommendations. In addition,
engagement represents a mechanism to ensure “balance and fairness, objectivity and impartiality” in their work.
In this way, the legitimacy of the ombudsman can be effectively maintained and increased.

Mapping Stakeholder Engagement Practices

There is a noticeable continuation of the pragmatic strategy through which the ombudsman and his office
had been interacting with their stakeholders, inasmuch as Ombudsman Alan Lai shares a similar career path
and administrative experience with his immediate predecessor, Alice Tai. As indicated by the Office of The
Ombudsman, “stakeholder engagement practices have evolved over the years in the natural course of delivering”
their services. With a get-things-done mind-set predominant, the efforts of stakeholder engagement are geared
to enabling the ombudsman institution to “fulfill its role and mission in improving public administration.”

The major stakeholder engagement programs and initiatives for individual stakeholders are as follows:

• **General public:** The Client Opinion Survey has been periodically administered to citizens who have lodged
complaints to the ombudsman to seek their views on the quality of services provided. The survey was
introduced in 1998, and further surveys were conducted in 2001 and 2004. One encouraging trend is the
increase in the response rate from 12.7% in 1998 to 31.4% in 2004. The latest survey was completed in June
2010; its analysis is currently under way.

• **Related government departments and public bodies:** Meetings are held from time to time with the
directorates of these bodies, e.g., the Lands Department and Housing Department, on general issues rather
than individual complaints. This is done to enhance their operations and handling of public complaints and
to listen to their feedback on the ombudsman’s investigations.

• **People and organizations in the same or related sector(s) as the complainants:** Consultations with
such people and organizations, e.g., with a trade union regarding a complaint from a cleaning worker or a
nongovernment organization concerning a complaint from a visually impaired person, are conducted on an
as-needed basis to help the ombudsman understand particular cases under investigation.

• **Interest groups:** Consultations with individual interest groups, e.g., a doctors’ association or a group of
parents of children with specific learning difficulties, are conducted to seek their views and opinions on cases
under investigation, allowing the ombudsman to gain a better understanding of the case.
• **Politicians and legislators**: Regular meetings are held with legislative councilors and chairpersons of district councils to exchange views on the ombudsman’s work and to obtain input for possible improvements.

• **Honorary professional advisors**: Consultations are organized where necessary to seek advice for the improvement of the work of the ombudsman or for a better understanding of specific cases under investigation, particularly those involving legal issues.

• **Justices of the peace**: Visits to government departments and public organizations are arranged periodically to promote understanding of the work of such departments and organizations. Such occasions also allow the ombudsman to listen to the feedback of justices of the peace on their own work.

• **The media**: Press conferences, press releases, interviews, and broadcasts are regularly organized to publish investigative reports and to promote the ombudsman’s work.

**Good Practices Regarding Stakeholder Engagement**

Among the major efforts to engage stakeholders in the work of the ombudsman, two initiatives are considered good practice: the Jurisdictional Review, which is a one-off exercise, and direct investigation, which has been undertaken regularly since its introduction in 1994. Both these activities have provided good platforms for stakeholder engagement.

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19. “Justice of the Peace” is essentially an honorary title given by the government to community leaders, and to certain officials while still in office. They have no judicial functions; their main duties are limited to visiting prisons, institutions for young offenders and drug addicts, psychiatric hospitals, remand homes, places of refuge, and reception and detention centres; administering statutory declarations; and serving as members of advisory panels. (see Section 5, JP Ordinance - Cap510).
• **The Jurisdictional Review:** In response to the increasing calls for expanding the ombudsman’s jurisdiction to better serve the public, Ombudsman Alice Tai conducted a comprehensive review of her jurisdiction between 2008 and 2009, with testimony taken from a local human rights body in the process. At the end of the review, she made recommendations to the government to add more public bodies to her schedule and to relax some of the restrictions on her investigative powers. The ombudsman held a briefing session with legislative councilors to help them understand her recommendations.

• **Direct investigation:** The ombudsman was given the power to initiate direct investigations into issues of maladministration in the 1994 amendments to the Commissioner for Administrative Complaints Ordinance. Various stakeholders are engaged in the process of direct investigation from the preparation stage to the announcement of the report, with the objectives of quality assurance and enhancement. When identifying areas of maladministration for possible direct investigation, the ombudsman usually consults the views of different stakeholders, through formal or informal channels, to make sure that the investigations address issues of public concern. Most direct investigations are publicly declared, and all interested or concerned parties are invited to provide relevant information and comments. At the same time, the ombudsman also proactively approaches relevant groups and advisors to seek their advice and opinions. In addition, government departments and public organizations which are the targets of investigations are invited to comment on the ombudsman’s findings and recommendations. All investigation reports are announced through the media for public dissemination. Since 1994, 76 direct investigations have been conducted, an average of 5 every year. These investigations have covered a wide range of maladministration issues in education, housing, hospital and health services, welfare, municipal services, public utilities, and building management.20

Assessment of stakeholder engagement in the work of the ombudsman centers on the contribution of individual efforts to the wider objective of efficient, effective, and fair administration. Thus, the level of satisfaction with the outcome of the investigation is one of the key indicators for assessing the effectiveness of stakeholder engagement. More specifically, the outcome-based approach to stakeholder engagement has seen the ombudsman institution employ two objective measurements: the improvement of public administration and quality of services through the ombudsman’s recommendations, and the cultivation of a positive culture of complaint management.

**Institutionalization of Stakeholder Engagement in the Work of the Ombudsman**

In general, officers and staff are supportive of the policy direction and the practice of stakeholder engagement. As indicated by the Office of The Ombudsman, the officers and staff are encouraged to suggest means of improvement and there is no lack of good ideas from them, particularly regarding which stakeholders should be engaged. For example, a legal advisor with expertise in human rights issues was recently consulted on a complicated case involving prisoners’ rights. As for the stakeholders, their feedback on the ombudsman’s engagement initiatives has been favorable and encouraging, and their suggestions have always been taken seriously. Feedback is collected from stakeholders by way of regular client surveys and meetings with government departments and public bodies, legislative councilors, and chairpersons of district councils. The feedback helps improve investigative procedures and provides suggestions for new investigations.

With regard to the institutional constraints on effective stakeholder engagement, the ability to deepen the engagement of stakeholders in the work of the ombudsman is restricted by the secrecy provision in the Ombudsman Ordinance. The legal requirement to keep all information relating to complaints and investigations confidential has posed difficulties in open communications with individual stakeholders and in engaging them in the process.

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20 Cheung, Evaluating the Ombudsman System, pp. 89–90.
Opinions of Stakeholders on Engagement with the Work of the Ombudsman

Based on the stakeholder map prepared by the Office of The Ombudsman (Figure 2), we focused our study on bureaucratic authorities, public organizations, and the general public in the primary group; and the assembly, the media, interest groups, and concerned parties in the secondary group. To gather opinions from individual stakeholders on stakeholder engagement in the work of the ombudsman institution, a set of 7 to 10 questions was developed for the interviews of selected parties in each stakeholder group. Between May and early July 2010, 23 interviews were conducted, each lasting 45 to 75 minutes. In only one instance was a written reply chosen, where the respondent was a government department. All the stakeholders interviewed were selected in consultation with the Office of The Ombudsman. Most stakeholders we contacted were quite receptive to our invitation and took part in the study. In particular, all interviewees spoke freely on individual questions, and they welcomed this unprecedented research effort from the ombudsman to seek stakeholders’ opinions regarding possible improvements in stakeholder engagement and service quality. Details of the arrangement for interviews are provided in Table 6.

Table 6  Stakeholder Engagement in the Office of The Ombudsman, Hong Kong, China: Arrangement of Stakeholder Interviews

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Number</th>
<th>Date of Interview/s or Reply</th>
<th>Mode and Duration</th>
<th>Details of Arrangement</th>
</tr>
</thead>
</table>
| Bureaucratic authorities and public organizations | 5      | 9 June to 2 July 2010        | Face to face: 60–75 minutes (3)  
Written reply (1) | Selected and contacted by Hong Kong Ombudsman. |
| General public: citizens            | 6      | 11 to 22 June 2010           | Face to face: 45–60 minutes (5)  
Telephone interview: 45 minutes (1) | Arranged by the OMHK. 
Letters were sent to 60 citizens selected by the OMHK on 8 June 2010 to invite them to take part in the study. All of them had previously lodged complaints with the ombudsman. Six of the earliest respondents were interviewed. |
| General public: Justices of the peace | 2      | 13 to 18 May 2010            | Face to face: 60 minutes       | Selected and arranged by the OMHK. |
| Legislative councilors              | 2      | 21 to 28 June 2010           | Face to face: 60 minutes       | Proposed by the OMHK. 
Contacted and arranged independently. |
| Community groups                    | 4      | 11 to 15 June 2010           | Face to face: 45–70 minutes    | Selected and contacted by the OMHK. |
| Media                               | 2      | 27 May to 18 June 2010       | Face to face: 60 minutes       
Telephone interview: 45 minutes | Proposed by the OMHK. 
Contacted and arranged independently. |
| Legal advisors                      | 2      | 4 to 6 May 2010              | Face to face: 30–60 minutes    | Selected and contacted by the OMHK. |

Source: Office of The Ombudsman, Hong Kong, China (OMHK).
The General Public

Out of 60 invitations sent to citizens who had lodged complaints to the ombudsman, we interviewed six respondents—four male and two female—about their personal experiences in their encounters with the Office of The Ombudsman, focusing on public engagement. The interviewees based their opinions mostly on the outcomes of their cases. As a result, there were two distinct groups of comments: favorable and critical. On the whole, the interviewees’ opinions highlight the impression of the general public of the ombudsman’s delivery of his core function of redressing people’s administrative grievances and with respect to public engagement.

Knowledge of the ombudsman. Knowledge of the ombudsman among the six interviewees was mixed. Four admitted they know very little about the ombudsman and lack a full understanding of the office and its work. Their knowledge comes from the media, the ombudsman website, magazines, and publicity leaflets. The other two interviewees were more familiar with the ombudsman because of their civil service background. One even had direct experience with the ombudsman’s office in its investigation of the department in which he previously worked. The general understanding among the respondents is that the ombudsman is an important organization, independent of the government, for handling public complaints against maladministration.

The Idea of a responsible ombudsman. Respondents believed that a responsible ombudsman should be unbiased and unbureaucratic in handling citizens’ administrative complaints, and should make fair judgment on the cases regardless of the powerful positions of the government departments concerned. Simply put, the ombudsman should play the role of Justice Pao Kung (a high-ranking government official in the North Sung Dynasty who made his name in history by upholding justice, redressing popular grievances against government maladministration and officials’ abuse of power in an uncompromising manner): be approachable, dare to uphold justice for ordinary citizens, and most important of all, have no fear of the rich or of powerful high-ranking officials.

Interactions with the ombudsman. All the interviewees had interacted with the ombudsman and his office by lodging complaints against government departments. They indicated that they went to the ombudsman because they had failed to get their demands met by the departments concerned. With two exceptions, the interviewees went to the ombudsman as a last resort. They started with a personal appearance in the Office of The Ombudsman to register their complaints. Thereafter, communication was mainly formal and written, with phone conversations to follow up on related issues. They each received a formal letter from the ombudsman about the outcome of his and her case at the completion of the investigation, along with a note asking for feedback. All interviewees considered the approach and attitude of the staff of the office to be positive, less bureaucratic, and more helpful than those at other government departments. Four of the interviewees were not satisfied with the outcomes of their cases, while the other two found their final judgments agreeable. One of these provided feedback to the ombudsman, while the other said that he should have done so. Those who were disappointed with their outcomes and critical of the way in which their cases were handled and concluded did not send in their critical comments as feedback.

Views and impressions of the ombudsman. There was a split in their views and opinions regarding the ombudsman. The positive comments came mainly from the two interviewees whose grievances were redressed. Their view was that the ombudsman made fair and unbiased judgments based on the realities after investigation. Their results had given them a good feeling about the ombudsman and the impression that he was helpful in handling the complaints of the general public. All the negative comments were made by the four interviewees who were not happy with their outcomes. They took the view that the ombudsman was not powerful enough to require the departments concerned to take proper action. In short, the ombudsman can only investigate and make recommendations, without necessarily solving the problems complained about. On balance, the majority view was that the ombudsman should act as a channel for popular complaints against government departments, and that his office is able to right injustices through proper investigation.

Engagement of citizens in the work of the ombudsman. In the eyes of all the interviewees, there is a lot of room for the ombudsman to further engage citizens in his work. It is crucial here to raise the level of public
knowledge about the ombudsman. In addition to current publicity activities, the ombudsman should make an effort to publicize himself and his office, focusing on the significant results the office has achieved in rectifying maladministration. These efforts would help the ombudsman to reach the public effectively and inform citizens more fully about his roles, functions, jurisdiction, and limitations. On the basis of their personal experiences, one interviewee indicated that she had learned more about the ombudsman and developed a greater interest in his work, three said that they would continue to be interested in the activities of the Office of The Ombudsman, and the other two remarked that they had learned the limitations of the ombudsman’s ability to handle popular complaints. All the interviewees felt that information restrictions and the adoption of a neutral standpoint may have hampered the ombudsman’s ability to engage the public.

Purpose of engagement. For the interviewees, the purpose of engagement is very clear: to obtain a better understanding of the Office of The Ombudsman, particularly concerning its jurisdiction and operational procedures, to be able to make full use of it as a channel for redressing their grievances. In addition, the ombudsman is viewed as an important resource for the public for improving the quality of public services. One interviewee said that he would like to see more citizens use the services of the ombudsman to solve their problems, rather than resorting to such actions as marching or hunger strikes.

Suggestions for citizens’ engagement. The interviewees want to bring the ombudsman office to the public so that it could learn about citizens’ administrative grievances through direct contact. Their suggestions include holding regular meetings with local communities and the district council as a way to interact with citizens and organizing seminars for citizens to improve their knowledge about the ombudsman and to promote mutual understanding. Finally, they felt that a popular survey is a good way for the ombudsman to learn the public’s opinions about the ombudsman institution and their grievances concerning governmental administration. On the whole, the interviewers said, the ombudsman should not fear that these publicity efforts will lead to an overwhelming surge of popular complaints.

It is unsurprising to hear conflicting opinions from this group of interviewees, since their views will inevitably have been shaped by their direct experience of success or disappointment with the ombudsman. The contrasting experiences and opinions of these interviewees have highlighted the complexity inherent in the engagement of citizens. Certainly, positive experiences pump people up, as one interviewee indicated: “Before I went to the ombudsman, my family and friends all undermined my enthusiasm by saying that only one out of ten cases dealt with by the ombudsman was substantiated. I am happy to see my case being substantiated.”

Government Departments and Public Organizations

Despite the short notice, four government departments and one public organization took part in this study. All of them had been subjects of complaints to the ombudsman. However, they have worked closely with his office in handling citizens’ complaints. Therefore, they are in a good position to express their views on their interactions with the ombudsman and his engagement practices. The three government departments and one public organization arranged for their officials in charge of complaint cases, and who deal with the Office of The Ombudsman, to participate in an interview. In three of these cases, two or three officials took part in the interview. One government department opted to send us its opinions in written form. We found that all of the interviewers welcomed this initiative from the ombudsman to solicit their opinions; hence, the conversations were conducted in a frank and constructive atmosphere.

Knowledge of the ombudsman. Given their direct involvement with the Office of The Ombudsman in handling complaints against their departments or organizations, a majority of these interviewees had good knowledge of the ombudsman. The office is perceived as an institution empowered by law to investigate maladministration of government departments and public organizations, and to make suggestions for the department or organization concerned to improve its management and service delivery. Specifically, all of the interviewees said that they would like to learn more about the operation of the Office of The Ombudsman, particularly those from the frontline staff of their departments or organizations. Their information is sourced mainly from the ombudsman’s
periodical reports, statistics, and press conferences, while their level of attention to this information ranges from close (because of the work requirements) to insufficient (because of a heavy workload). One progressive opinion was that it would be very helpful if the ombudsman could update them on his activities and communicate with them about the performance of their departments.

The idea of a responsible ombudsman. A shared concept of a responsible ombudsman emerged from the comments of these interviewees, revealing their high expectations of the ombudsman and his work. According to the interviewees, a responsible ombudsman should balance the interests of the public and individual departments or organizations in performing his functions of redressing administrative grievances and improving public administration. On the complainants’ side, he should teach the public how to lodge a proper complaint by cultivating a complaint culture such that individual departments and organizations will not be flooded with trivial cases; he should also ensure that complaints of maladministration raised by the public are thoroughly investigated and that grievances and concerns are properly redressed. On the side of government departments and public organizations subject to complaints, he should carefully screen out ungrounded and minor cases, streamline the investigative process by developing teams familiar with the operations of departments and organizations with specialized functions, consider the operational needs and resource constraints of the department or organization concerned, make constructive but practical and realistic suggestions for improvement, and communicate closely with individual departments and organizations (including obtaining feedback) to prevent frivolous complaints and repeated cases.

Interaction with the ombudsman. All the interviewees have had direct working relations with the ombudsman in handling complaints from the public against their government departments or public organizations, mostly on a case-by-case basis. The interviewees are the designated officials in charge of this work. The starting point for their interaction was the receipt of the complaint file from the Office of The Ombudsman requesting the details required from their departments or organizations. The departments or organizations then assigned officials to take up these cases and assist the investigation. Their major tasks were to clarify the case, explain and elaborate the operation, find the facts, and provide information to the satisfaction of the Office of The Ombudsman. Upon completing these tasks, the officials summed up the case and sent all the material and information to the Office of The Ombudsman. Throughout the process of investigation, the officials kept in close contact with the investigators at the Office of The Ombudsman, mainly through written communication and telephone conversations. If additional time was required, they would ask the Office of The Ombudsman for an extension, which was generally granted without much difficulty. When they had views that conflicted with those of the ombudsman, the officials would ask for meetings to help resolve matters, although sometimes it was not easy or even possible to arrive at a consensus.

Finally, it was the Office of The Ombudsman that decided that the investigation was complete and that the case file should be closed. The Office then communicated the judgment of the case to the officials, as well as possible courses of action for improvement. In return, the designated officials gave their feedback, after studying the recommendations with leading officials in their department and, in major cases, with their directors. A formal report containing the suggested improvements would have also been sent to them when the Office of The Ombudsman concluded the case. The department or organization then took measures to implement the recommendations and provided a progress report on the implementation to the Office of The Ombudsman after a specified period of time, usually 3 to 6 months. Apart from working on complaint cases, the officials interviewed have also been engaged by the ombudsman in direct investigations on specific topics in an advisory capacity. The Ombudsman Award presentation was another occasion mentioned by the interviewees that gave them an opportunity to meet with the ombudsman and his officers and that served as an important source of encouragement and recognition for their efforts.

In general, the interviewees made it clear that they fully understood the legal rights of the Office of The Ombudsman in handling the complaints against them. Therefore, they were cooperative in working with the office, supportive in helping the investigation, and receptive to the resulting recommendations. They were also glad to see that the ombudsman took their feedback seriously; in one instance, the ombudsman reversed his judgment and the complaint case was not substantiated after the department concerned had clarified the issue. One interviewee’s department welcomed the ombudsman’s practice of asking the department or organization concerned to send a reply directly to the complainants in minor cases—a good way to save time. Lastly, the
interviewees shared the opinion that the ombudsman has fulfilled his role well and that the services of the ombudsman institution have improved during the course of their interactions.

A few constructive suggestions deserve closer attention. First, the interviewees stated a desire to have more face-to-face communication with the Office of The Ombudsman during investigations, since experience has shown that work-related meetings and visits are very helpful in forging cooperation, communicating the details of the case, and promoting mutual understanding. Second, the hope was expressed that the ombudsman’s investigative team would work closely with government departments and public organizations in handling complaint cases involving professional areas and specialized issues, to better utilize the expertise of these bodies. Finally, it was suggested that the ombudsman should expand his engagement with individual departments and organizations from the current focus of handling complaints on a case-by-case basis to promoting mutual understanding and cultivating positive working relationships at the institutional level.

Views and impressions of the ombudsman. A large majority of the interviewees confirmed the important role of the ombudsman. It was said that the ombudsman has become increasingly proactive and collaborative, engaging not only remedially by handling complaints but also proactively by conducting direct investigations into controversial public management issues. The only worry expressed was that it may be difficult for the Office of The Ombudsman to handle complaints in some specialized areas, such as medical services.

Engagement of government departments and public organizations in the work of the ombudsman. All of the government departments and public organizations that took part in this study said that it was most desirable for them to be engaged in the work of the ombudsman, and that this should go beyond a case-by-case approach. In particular, there was a strong feeling that deeper engagement could effectively prevent direct confrontation and dissipate suspicion—the normal feature of investigator-investigated relations—and instead promote a collaborative working ethos. Most respondents indicated a strong desire to have more occasions to cultivate a general understanding and exchange ideas for promoting closer working relations with the ombudsman and his investigators. Indeed, regular communications with the Office of The Ombudsman can be beneficial. For example, one interviewee reported that, on one occasion, it was helpful that “the ombudsman told us how to deal with violent language used in unreasonable complaints. We did not dare to take the radical action of dismissing the case for fear that the complainants would threaten to go to the ombudsman.” Another interviewee stated that “The Office of The Ombudsman explains to us its jurisdiction every time it comes to us, and informs us of its focus and operations.”

Purpose of engagement. According to the respondents, the main purpose of engagement is to build a constructive working relationship at the case level and cultivate a proactive approach to interagency collaboration at the institutional level. At the case level, the focus is on improving the current framework of operation to make the investigation fair to the department or organization concerned through more in-depth interactions. These interactions aim to (i) allow exchanges of views on complaints, (ii) reach greater consensus on the proper steps and timetable for handling a specific complaint, (iii) address respective operational procedures and resource constraints, (iv) work together on the proper resolution of the maladministration issues involved, (v) obtain due consideration of the feedback from the department or organization on the draft of the report, and (vi) make an appropriate arrangement for the implementation of the recommendations. At the institutional level, the purpose is to set up an arrangement for interagency collaboration to implement a proactive approach; the interviewees had the shared opinion that the prevention of complaints is better than a remedial end-of-pipeline solution. A progressive view is that the departments or organizations can learn good practices for handing public complaints from the ombudsman.

Suggestions for engagement of government departments and public organizations. According to the interviewees, government departments and public organizations can be engaged in the work of the ombudsman at two levels: operational and institutional. Suggestions for engagement at the operational level are as follows:

- **Channels for regular communication.** There should be channels through which individual departments and public organizations can learn how the Office of The Ombudsman operates, how it settles cases, and how it is constrained in handling complaints, so that they can adjust current arrangements to work more smoothly
in support of an investigation. These include regular visits, working meetings, and seminars. If each side is to communicate its point effectively, it is essential to identify its contact person.

- **A transparent ombudsman.** To remove all possible barriers to constructive engagement, the ombudsman should make the operation of the office transparent as far as practically possible. Moreover, the Office of The Ombudsman should enable government departments and public organizations to obtain full knowledge of its operational details and ways of handling complaints.

- **Development of specialized investigation teams.** To allow effective engagement and improve efficiency in an investigation, the Office of The Ombudsman should develop specialized investigation teams to deal with government departments and public organizations that appear regularly at the top of the complaints table.

The interviewees’ suggestions for engagement at the institutional level include the following:

- **Regular visits and meetings.** There should be face-to-face meetings between senior officials of the Office of The Ombudsman and individual government departments and public organizations once or twice a year to provide an institutional foundation for effective engagement. These meetings could range from informal visits for casual communication to formal arrangements with clear working agendas.

- **Review meetings.** To be proactive in the handling of administrative complaints, the Office of The Ombudsman should work closely with individual government departments and public organizations to review complaint cases systematically. The purpose would be to identify common features and characteristics for the effective improvement of public administration and the prevention of similar complaints.

- **Provision of consultation.** To preempt administrative complaints against individual departments and public organizations, the ombudsman should provide mechanisms for these bodies to consult his opinions in the design and improvement of public service delivery and related procedures.

What the interviewees are looking for in their engagement with the ombudsman is active cooperation, even partnership if possible. To this end, the ombudsman should be more open-minded and take the initiative to understand the operational realities and institutional constraints of the department or organization subject to complaint. On this basis, he and his leading officials should listen to the particular department or organization, appreciate their diligent supportive effort, consider their feedback seriously, and work out acceptable and feasible recommendations. With such a progressive paradigm, the ombudsman will be able to open the way for the engagement of government departments and public organizations in his work. The interviewees rate the ombudsman’s performance in interacting with government departments and public organizations from 6 to 8 on a 10-point scale, which reflects reasonable satisfaction while leaving room for improvement.

**Legal Advisors**

We interviewed two legal advisors of the ombudsman who are members of the Ombudsman’s Panel of Professional Advisers (Legal) about their involvement in the work of the ombudsman. Both are professors at the law schools of local universities and have substantial knowledge of ombudsman institutions and related ordinances.

**Knowledge of the ombudsman.** The legal advisors are very familiar with the roles and functions of the ombudsman, particularly their legal aspects, since both have provided legal advice to the ombudsman in the past and expect to do so in the future. Both advisors have noticed the rising number of administrative complaints, which they attribute to (i) the increase in social expectations and the educational level of the public, as well as the improvement of the economy; (ii) the relatively poor performance of government departments that have let the people down; (iii) the increase in criticism of government departments’ nonperformance by the media; and (iv) the increasing unfairness in society as perceived by the public. The most immediate tasks for the ombudsman are to reduce the number of ungrounded complaints and to redress valid grievances over administrative justice. In the long run, the ombudsman should take a proactive approach to handling maladministration. For example, the ombudsman should work closely with the Housing Department, which has topped the table of administrative complaints for years, to improve its operation and restructure its procedures in problem-ridden areas to prevent further complaints.
The idea of a responsible ombudsman. Stakeholder engagement is viewed as the right thing to do, although it is hard to achieve. To be responsible and responsive, the ombudsman should define its accountability properly. Efficiency in handling complaints can serve as evidence that the basic requirements are being satisfied. To achieve a high level of performance, the ombudsman should adopt a preventive and proactive approach to maladministration. The core task here is to conduct a proper study of the Office of The Ombudsman itself to assess its impact on government operations.

Interaction with the ombudsman. The two interviewees mentioned the provision of legal advice on specific cases as their major form of interaction with the ombudsman. They understood that panel members were engaged mainly on the cases for which their advice was required during the 3 years of their appointment. Such an arrangement may not be conducive to close contact with the ombudsman and hinders them from keeping up with the ongoing development of his work. The interviewees would like the ombudsman to make their engagement more regular at the individual level and more organized at the panel level.

Views and impressions of the ombudsman. The ombudsman has gradually moved away from being conservative and case-focused to being more progressive. In this respect, direct investigations have allowed him to be proactive in the review of government departments and public organizations, with a view to improving their procedures and services, as well as enhancing the value of their services and their awareness of citizen preferences.

Engagement of legal advisors in the work of the ombudsman. The two interviewees felt they could make a greater contribution to the work of the ombudsman if the engagement went beyond the current need-directed, case-by-case basis. Both of them desired more direct and regular communication between the ombudsman and legal advisors. They hoped that the ombudsman would develop a full plan to utilize their expertise in a more productive way. In short, they believed that legal advisors could play a proactive role, and they would like to help.

Purpose of engagement. The advisors regarded the use of advisory panels as a good way to utilize community resources; such panels serve as resource banks to provide expertise at both the case and institutional level. Legal advisors can offer useful insights to improve the legal aspects of the ombudsman institution, either through their engagement in investigations or in the management of the Office of The Ombudsman. Specifically, legal advisors can be engaged in decision making at different levels, in operational review, and in institutional improvements.

Suggestions for the engagement of legal advisors. For both interviewees, regular meetings with the panel of legal advisors constitute the basis for building trust and cultivating a good working relationship. They suggested more extensive engagement arrangements. At the operational level, legal advisors could consult on extensive cases under investigation and conduct periodic reviews of operational issues. In addition, they could be involved in conducting systematic reviews of closed cases and reports, to help the ombudsman make operational improvements and identify best practices in handling administrative complaints. This would allow the ombudsman to go beyond the case-by-case viewpoint to analyze case material as a whole, to determine whether priority has been properly accorded, and whether there are common themes emerging to be systematically dealt with in future efforts. All of these aspects would improve the quality of planning, decisions, and service delivery. At the institutional level, legal advisors could be involved in periodic institutional reviews to give advice on legal issues, particularly regarding the legal restriction on the release of information, to achieve a higher degree of administrative transparency and facilitate stakeholder engagement.

On the whole, the advisors interviewed believe that the ombudsman should take an active approach to practicing stakeholder engagement. Under the current paradigm of new public management, the ombudsman should be proactive rather than remedial. In this regard, the advisors pointed out that the ombudsman should not feel prohibited from engaging stakeholders by the ordinance. Although there are legal restrictions on disclosure, there is seldom a case that demands confidential information for the purpose of stakeholder engagement. In cases relating to privacy issues or where gray areas are involved, the ombudsman can exercise his judgment on the proper level of confidentiality to be maintained.
Justices of the Peace

Justices of the peace were added to the stakeholder map of the ombudsman when the government assigned them an advisory role in the 1990s. Two justices of the peace—one a lawyer and the other a doctor—were asked their opinions about their involvement in the work of the ombudsman. Both have experience providing professional services to the government and the community.

Knowledge of the ombudsman. The two justices offered a clear idea that the basic role of the ombudsman is to receive administrative complaints from the public, investigate these complaints, and suggest courses of action to improve government administration and public management. One interviewee noted that mediation is increasingly used to settle citizens’ grievances about maladministration, and also referred to the growing trend of stakeholder engagement in the work of the ombudsman.

Interaction with the ombudsman. The justices’ interaction with the ombudsman has been quite sporadic. The ombudsman contacted them once or twice a year. Information notices arrived from time to time to alert them to updated information on the ombudsman’s website. They recounted visits to government departments arranged by the ombudsman that provided them with good opportunities to learn about government operations.

Engagement of the justices in the work of the ombudsman. Both interviewees felt that the purpose of their involvement in the work of the ombudsman was not always clear. They would like to see more interactions between justices and the ombudsman, and they would like to play a more significant role as stakeholders. For them, the full potential of justices could be more effectively realized if the ombudsman were to institute a system for seeking their advice on major issues and for using them as a bridge to reach the public.

Purpose of engagement. The interviewees confirmed that justices could make an even more valuable contribution to the ombudsman; their diverse expertise should be regarded as a resource. From their point of view, justices can be engaged at both policy and operational levels. One interviewee indicated that a group of justices with legal backgrounds could advise the ombudsman on mediation or provide related training for his officials. Another interviewee stated that he could address urgent government administration problems and major public management issues for the ombudsman to consider in the planning of direct investigations. Justices of the peace could also help publicize the work of the ombudsman and act as his ambassadors to the public.

Suggestions for the justices’ engagement. The key is to build trust between the justices and the ombudsman. There should be regular meetings to promote mutual understanding. Such meetings would allow the justices to learn more about the work of the ombudsman, including current policies, focus, and priorities, and would enable the ombudsman to obtain better knowledge about the background and expertise of individual justices. Most important of all, periodic contact would provide the justices with a greater incentive to closely follow the ombudsman’s updates and to communicate their opinions to him.

Generally speaking, to make full use of the justices’ expertise, it will be necessary to provide them with a clear role and a sense of purpose as major stakeholders. Current arrangements may not be enough to meet their aspirations, as they are looking forward to a higher degree of engagement with the ombudsman.

Legislative Councilors

Legislative councilors are an important stakeholder group for the ombudsman because the office is legally required to submit an annual report to the chief executive of the Hong Kong Special Administrative Region, who tables it before the Legislative Council. The ombudsman also meets annually with members of the Legislative Council to brief them on his work and to answer questions. Two legislative councilors (out of three suggested by the ombudsman) were interviewed on their engagement in the work of the ombudsman. There are altogether 60 members of the Legislative Council.
Knowledge of the ombudsman. The two legislative councilors had different degrees of knowledge of the ombudsman. One admitted that her limited knowledge resulted from limited communication with the ombudsman; while the other indicated that his knowledge was better because of his direct interaction with the ombudsman when referring complaint cases. Both interviewees understand the ombudsman as an institution for handling people’s complaints against government maladministration, with ample power to access government internal documents in conducting investigations, but less power to ensure that government departments actually adopt his recommended improvements.

The idea of a responsible ombudsman. The legislative councilors agreed that the ombudsman should be proactive instead of remedial in performing his two key functions. He should proactively inform the public about his jurisdiction so that it can lodge its complaints and be engaged more effectively, and he should be proactive in monitoring the government to improve public administration. To explain responsibility, one interviewee referred to the high standard of Justice Pao Kung, who made his name in Chinese history through the effective redress of popular grievances against administrative injustice and of wrongs involving high-ranking government officials who were corrupt and abused their power. Accordingly, the ombudsman should effectively integrate his three major tasks: solving people’s complaints, improving public administration, and strengthening government accountability. To live up to the expectations of the public, the ombudsman must not be seen as a “toothless tiger.” In redressing popular grievances and correcting the maladministration of individual government departments, he should closely monitor the implementation of his recommendations and seek feedback from the complainants about whether the maladministration has been properly dealt with. The ombudsman should keep his operation transparent by informing the public of the findings of the office’s investigations and the difficulties involved.

Interaction with the ombudsman. One of the interviewees said that he has referred cases of people’s complaints against government departments to the Office of The Ombudsman a number of times. In handling people’s complaints as a legislative councilor, he normally contacted the ombudsman’s office for possible further action for those cases that could not be directly resolved with the government department concerned. The latest referral had been 3 years before, and was still under judicial review because the complainant had not yet received compensation, despite the ombudsman’s recommendation to the government department. The other interviewee’s interaction with the ombudsman was mainly at the ombudsman’s annual meeting with members of the Legislative Council. Her opinion was that these annual meetings were too brief to touch on many issues in an in-depth and serious manner. She has checked the website of the ombudsman for information but has not been a regular visitor to the site. Finally, both councilors would like more occasions to establish personal contact with the ombudsman, which would facilitate better communication and working relations.

Views and Impressions of the ombudsman. In the opinion of these interviewees, the ombudsman is more powerful and effective than the legislative councilors in handling people’s administrative complaints, given the office’s almost unrestricted access to government documents in the investigation process. In addition, he is in a better position than the legislative councilors to maintain an unbiased standpoint in the redress of complaints. The respondents’ views and impressions of the ombudsman were basically positive. They were concerned, however, that the ombudsman may not always have sufficient power to ensure that government departments comply with his recommendations for administrative improvement after investigations are completed. In addition, the ombudsman may not always be sufficiently proactive in performing his functions. For example, for government departments with the highest rate of complaints, the ombudsman should go beyond a case-by-case approach by proactively talking to the affected parties to acquire a deeper and fuller picture of the problems. In this way, he could make better suggestions to the department concerned, thus obviating the need for further complaints.

Engagement of legislative councilors in the work of the ombudsman. The two interviewees expressed support for the ombudsman and saw their engagement as helpful to his work. To be more effective, the current engagement should be further strengthened and communication should be enhanced to make all legislative
councilors sufficiently interested in the work of the ombudsman. In particular, the ombudsman should be more active in publicizing himself and his office to the Legislative Council, and should provide more channels for the members to learn about his work in addition to the annual meetings. As one interviewee saw it, legislative councilors and the ombudsman should work together more often on cases, since both handle citizens’ complaints regarding administration. In short, there is a lot of room for cooperation between the two parties.

**Purposes of legislative councilors’ engagement.** The interviewees would like the ombudsman to be more powerful, to force government departments to implement their recommendations, and to have greater resources for handling administrative complaints. With respect to the first two points, if the legislative councilors were properly engaged, they could put pressure on the government departments to fully implement the ombudsman’s recommendations. One interviewee stated that their engagement could also give them a deeper understanding of the ombudsman, particularly as to jurisdiction, and this would motivate them to join in handling complaint cases received from the public, including referring cases that are more appropriate for the ombudsman to take up because of his access to government information. In addition, she pointed out that the legislative councilors and the ombudsman could join forces to improve government policies: the ombudsman could help identify where the policy problems are by analyzing the patterns of complaints, and on this basis the legislative councilors could propose policy changes.

**Suggestions for legislative councilors’ engagement.** The respondents’ position was that the ombudsman should engage legislative councilors more in the office’s work, by means ranging from informal courtesy meetings to the following:

- **Briefing sessions for the legislative councilors.** Like some other commissioners, the ombudsman should hold a brief orientation session for legislative councilors after each election to let new councilors know about the office’s work, in the interest of facilitating future communication and engagement.
- **Forging a partnership.** A formal and regular partnership between the ombudsman and the legislative councilors may be necessary and desirable for working jointly on administrative complaints, improving government policies, and enhancing the capacity of the Office of The Ombudsman.
- **Better information flow.** The ombudsman should be active in keeping the legislative councilors informed of his work in a more focused way; otherwise, it is difficult for them to know about the office’s activities and follow the progress of its work. In particular, information about cases closed and direct investigations completed would help the legislative councilors learn more about the grievances presented and propose possible improvements in the governmental process. In exchange, the legislative councilors could be a source of information on administrative grievances for the ombudsman during the planning of direct investigations because of their close connections with average citizens.

The two legislative councilors expressed the strong opinion that their engagement could provide greater institutional support for the work of the ombudsman, particularly in the areas of maintaining independence, building work capacity, expanding jurisdiction, and increasing the office’s power and enforcement of recommendations. The issues of privacy and confidentiality should not be a barrier to promoting a closer working relationship. In this regard, the ombudsman should take a greater initiative in engaging the legislative councilors for collaboration and even a partnership.

**Community Groups**

We interviewed the representatives of four community groups to seek their views on the ombudsman and his interaction with them. The Office of The Ombudsman had approached three of the representatives to solicit their professional advice on issues related to direct investigations, while the fourth had approached the ombudsman to communicate a grievance.
Knowledge of the ombudsman. The representatives admitted that their knowledge of the Office of The Ombudsman was limited, although they had heard of it. Given the lack of any reason to contact the ombudsman in the past, they did not have much incentive to understand the ombudsman’s work. The basic understanding of the Office of The Ombudsman among the interviewees was that it was an organization with which the public could lodge its social grievances and complaints against government departments.

The idea of a responsible ombudsman. One interviewee suggested that a responsible ombudsman should be accountable to the public in general, and to both the complainants and the government departments concerned in particular. Specifically, the ombudsman should determine whether a complaint is genuine and should make constructive recommendations for the government departments involved once the case is substantiated.

Interaction with the ombudsman. The patterns of interaction with the ombudsman differed among the four community groups. Three of them were approached by the Office of The Ombudsman because of their professional or operational relevance to the subjects of its direct investigation. The office contacted the representative of each group to ask for information on specific technical issues related to their service area. On all these occasions, the representative served as a source of information, referred the office to other social or community groups that could be helpful to the investigation, advised the office on professional operations, and helped to collect opinions from their service recipients. Communication between the representative and the Office of The Ombudsman took different forms, including written statements, informal conversations, and formal interviews. At the beginning of the case, the representative was briefed on the issues under investigation, the objective of the interactions, and the input and contribution expected. In short, these interactions were focused on utilizing the group’s particular knowledge and expertise. As for the remaining community group, the representative lodged a complaint directly to the ombudsman, who was subsequently persuaded to conduct a direct investigation into the social issue concerned and who maintained contact with the group until the case was concluded. During the interview, the interviewee emphatically stated that her group was pleased with the ombudsman’s positive response to the complaint and with the diligent effort involved in conducting the comprehensive investigation.

Views and impressions of the ombudsman. The views and impressions of the ombudsman that the interviewees developed from their direct interactions was, on the whole, positive. The representatives of the three community groups that were consulted felt good because they were trusted by the ombudsman and were able to help. Further, they thought positively of these engagements and believed that they would benefit from the improvement in the delivery of public services if their information and advice proved useful. One of the interviewees reported that the results of the engagement met the group’s expectations. The representative of the community group that had lodged a complaint was particularly impressed by the ombudsman’s performance in the entire process; the ombudsman had patiently listened to the group’s grievances, adopted a serious attitude when studying its case and related complaints when considering a direct investigation, made a concerted effort to attend related conferences and activities, kept the group informed of the progress of the investigation, and asked the group to download the investigation report.

Engagement of community groups in the work of the ombudsman. All these interviewees expressed a desire to become more engaged in the work of the ombudsman. One of them pointed out that it had been impossible for them to meet government officials in the past, so they were pleased that the Office of The Ombudsman had approached them. The general view was that the ombudsman should extend his outreach to community groups. The three community groups that were consulted considered their engagements to be good starting points for promoting a mutual understanding that would help them to have a long-term impact on the ombudsman’s work. The interviewee for the group that had registered a complaint stated that the members were very tentative in their first contact with the ombudsman to seek help with their grievance, but their attempt paid off. In summary, all the interviewees said that their experiences of engagement were on balance positive, their knowledge about the ombudsman significantly improved, and, most important of all, that their interest in the work of the ombudsman increased.
Purposes of community group engagement. The representatives of the four community groups judged that such groups could be a useful source of professional input and social information for the ombudsman, and that they therefore should be more regularly engaged. As indicated above, they would like to develop a long-term working relationship with the ombudsman to provide the office with relevant support, inputs, and advice. Through such engagement, they hope to increase the ombudsman’s resources and help the office act proactively rather than remedially in redressing complaints and improving the quality of public service. In addition, if engagement intensified, they could expand their network, become more familiar with the work of the ombudsman, and make more contact with other government departments. Finally, the community group representatives realized that better engagement would help them achieve their missions.

Suggestions for community group engagement. All of the interviewees were interested in long-term engagement with the ombudsman in a cooperative and interactive way. Familiarizing community groups with the work, structure, and jurisdiction of the ombudsman and his office through briefing sessions and informal visits could be the starting point. On this foundation, the ombudsman could hold seminars or meetings on specific topics, such as medical issues, to work more closely with the community groups and obtain information and advice from them. For specific issues, the ombudsman could engage the most appropriate community groups on a case-by-case basis.

The representatives of the community groups interviewed expressed their full understanding that it is impossible for the ombudsman to engage every community group. However, they felt that community groups had already contributed to the work of the ombudsman during past investigations. They look forward to having a more systematic, in-depth, interactive, and long-term collaboration with the ombudsman because they see that engagement could also help achieve their own organizations’ missions. However, the initiation of engagement is in the hands of the ombudsman.

The Media

Opinions regarding the Office of The Ombudsman were sought from reporters working for two major local newspapers, focusing on their interaction with the ombudsman. Both reporters have covered the ombudsman’s activities.

Knowledge of the ombudsman. The reporters had a basic knowledge of the role and function of the ombudsman as a channel for popular complaints against maladministration and as an agency to improve government administration. However, neither had a clear idea about the operational details of the ombudsman’s office, particularly its procedures for handling complaints and conducting investigations. For them, the ombudsman should improve its visibility and make the office more accessible to the media in order to establish a better focal point for their reporting activities.

The idea of a responsible ombudsman. One reporter provided her vision of a responsible ombudsman: the ombudsman should educate the public about the proper way to lodge an administrative complaint, including the channels for lodging a complaint and the requirements for evidence; it should earn the confidence of government departments by handling administrative complaints in an unbiased manner; and, most important of all, it should make the office and its operations more transparent by engaging the media.

Interaction with the ombudsman. The interviewees’ contacts with the ombudsman came mainly from attendance at official press conferences, which usually dealt with operational matters. The question-and-answer sessions provided the occasions to obtain additional information about the complaints and investigations. In most cases, the reporters’ access to information was restricted by the ombudsman’s concern about issues of confidentiality and privacy. Given all the institutional constraints, the specialized staff in the Office of The Ombudsman responsible for interacting with the media may not always able to meet reporters’ demands for information. Both interviewees believed that communication with the ombudsman remains an area for improvement.
Views and impressions of the ombudsman. Both interviewees thought that the ombudsman’s office is an important organization in Hong Kong, China, with a mission to “evaluate the work of government departments and to find the room for improving their work.” However, they saw the ombudsman as too cautious in dealing with the media, judging from the conservative and formal press conferences, which are organized in such a way as to keep information confidential. In short, the ombudsman should be more active and responsive in meeting requests for information from the media.

Engagement of the media in the work of the ombudsman. The reporters felt that the media should be actively engaged in the work of the ombudsman, and that the ombudsman should emphasize the supply of information. In particular, media personnel should have access to the ombudsman or to leading officials of the office for answers to questions or clarifications regarding serious sudden events or “big issues.” The respondents’ view was that the media could help monitor government departments, but only if the ombudsman provides them with the necessary information.

Purposes of media engagement. The two reporters considered the media to be an important and effective channel for engaging the public with the work of the ombudsman. Working closely with the media, the ombudsman should inform the general public that his office is working hard to improve public management through the redress of administrative grievances; this would also draw wider social attention to prevalent administrative problems and encourage discussion. In addition, the media are a good resource for information. If properly engaged, the media could exchange information with the ombudsman on major administrative problems and possible solutions. Moreover, the media are keen to go beyond superficial coverage of the ombudsman’s work to report the actual impact of its activities. As one of the reporters said, “We would like to get more solid information from the ombudsman that could help improve the public’s understanding of the ombudsman.”

Suggestions for media engagement. The reporters suggested that the ombudsman should cultivate a closer relationship with the media and engage them as an ally. Their suggestions are specific and well thought out:

- **Make the ombudsman more accessible and more informative.** This is a goal of primary importance for the media. In general, the ombudsman’s office should keep the media better informed of its annual targets, policies, and plans, so that reporters can track its progress. In particular, the ombudsman should share the details of cases and investigations with the media as much as possible, including administrative issues, the handling process, and the conclusions. This would allow the media and the public to develop a better understanding of the ombudsman and his work. Finally, the ombudsman should make its office accessible to the media as far as is practically possible.
- **Interact regularly.** The ombudsman should communicate with the media on a regular basis. More importantly, the office and its leading officials should build up relationships with the media, either through formal press conferences or informal contacts. The media are a good channel for the ombudsman’s office to express itself and convey its message to society.
- **Take an active approach to the media.** The ombudsman should take an active approach in interacting with the media. He should respond through the media in a timely manner to current issues of public administration, and he (or a representative from the office) should appear in radio or TV programs more often to inform the public of the office’s work.
- **Restructure press conferences.** The ombudsman should change current press conference practice by giving early notification to the media so that they can be more prepared, using multimedia techniques to make presentations livelier, and providing reporters with more background information and case materials to make media reporting more solid and effective.
- **Adopt best practices from the media engagement strategy of the Privacy Commissioner of Personal Data.** Apart from holding formal meetings, the commissioner organizes informal meetings such as dinner

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21 The Privacy Commissioner for Personal Data is appointed by the chief executive of the Government of Hong Kong, China. The Office is a statutory body entrusted with the task of protecting the personal data and privacy of individuals and of ensuring compliance with the Hong Kong Personal Data (Privacy) Ordinance.
gatherings on a periodic basis to listen to the media. In these relaxed settings, members of the media normally raise questions or provide information not offered in formal meetings. As a whole, these informal occasions promote mutual understanding, allow open conversation, and facilitate a free exchange of views.

Although the two media interviewees did not rate the ombudsman’s performance in engaging the media very highly, there is no doubt that the media are willing to be engaged in this work. They could supply information on areas of nonperformance in public administration, serve as an ally in monitoring government departments, and engage the public and other stakeholders. In return, the ombudsman should be more active, accessible, and open-minded in interacting with the media in order to be effectively engaged. In short, the ombudsman should increase efforts to inform, involve, and empower the media in order to serve its own purposes: publicizing the value of government accountability and cultivating a positive complaint culture, i.e., a culture of “taking complaints as a management tool in achieving higher service standards and improving public administration.”

Analysis and Assessment

The interviews with major stakeholders allow us to better understand their engagement in the work of the ombudsman. Table 7 provides a summary of the interview data, which reveal a strong consensus across all stakeholder groups regarding the desirability and benefits of active stakeholder engagement. The data also show that the ombudsman has already linked up with all major stakeholders, and has built up the infrastructure to reach and engage with them. Although the majority of the engagement effort has been devoted to the two primary stakeholders—government departments/public organizations and the general public—there is a growing awareness of the importance and relevance of the secondary stakeholders. The next step should be to act on the engagement demands of the stakeholders. The ombudsman should consider a proper engagement strategy and formulate appropriate engagement programs and initiatives in light of the stakeholders’ suggestions.

Several important points follow from a holistic and integrated analysis of the data. First, stakeholders exhibit different levels of knowledge about the ombudsman and the office’s activities, depending very much on their institutional link with the ombudsman. Generally speaking, every stakeholder group has at least a basic knowledge of the ombudsman’s role of redressing administrative grievances and improving public management, but only stakeholders having formal links with the ombudsman are familiar with his role of enhancing government accountability. One area that requires immediate attention is the limited knowledge of all stakeholders about the operations of the ombudsman and his office. The primary task for engagement appears to be to enable all stakeholders to be fully informed of the roles and operations of the ombudsman, particularly his office’s achievements and the impact of its work.

Second, there are two distinct views about what constitutes a responsible ombudsman. Stakeholders with a developed knowledge of the ombudsman’s jurisdiction and functions, notably government departments, public organizations, legal advisors, and justices of the peace, think that the ombudsman should take a balanced stance, cultivate a positive complaint culture, and adopt a proactive approach to maladministration. Stakeholders who share a common sense of justice, i.e., the general public, the media, the legislative councilors, and the community groups, view a responsible ombudsman as one who looks to Justice Pao Kung as a role model. Since there is a shared view that the ombudsman is important, a clear idea of a responsible ombudsman is important to stakeholder engagement.

Third, the diversity of stakeholders’ general impressions of the ombudsman is attributed largely to their diverse prior experiences of interaction and styles of communication with the ombudsman. Most notably, citizens’ perception of the ombudsman is heavily shaped by the favorability of results achieved by the office in the

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Table 7  Stakeholders’ Opinions on Engagement in the Work of The Ombudsman, Hong Kong, China

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<td>Government departments/Public organizations</td>
<td>Redress administrative grievances: high; limited knowledge of operations</td>
<td>Balances the interests of the public and those of government departments/public organizations</td>
<td>Direct involvement in investigation at the case level</td>
<td>Performs an important role</td>
<td>Active engagement is both desirable and beneficial: cooperative partnership</td>
<td>Familiarize each other with operational details and institutional constraints</td>
<td>Operational: • Channels for regular communication • A transparent ombudsman • Specialized investigation teams</td>
<td>Ranged from 6 to 8, with 7 as the majority view—room for more engagement on both institutional and operational levels</td>
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<td>Is responsible and responsive to complainants</td>
<td>Predominantly formal communication in written form</td>
<td>Increasingly collaborative and proactive</td>
<td>Expectation: Engagement on both institutional and operational levels</td>
<td>Prevent complaints proactively</td>
<td>Institutional: • Regular visits and meetings • Review meetings • Provide consultation</td>
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<td>Is far to the government departments/public organizations concerned</td>
<td>Occasional face-to-face interaction at the institutional level</td>
<td>Greater cooperation desirable in handling complaints in professional and specialized areas</td>
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<td>Receive feasible and realistic improvement recommendations from the ombudsman</td>
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<td>General public: citizens</td>
<td>Redress administrative grievances: high; limited knowledge of operations</td>
<td>Processes complaints speedily</td>
<td>Lodging of complaint</td>
<td>Consensus: an important institution</td>
<td>Active engagement is desirable for a better use of the ombudsman</td>
<td>Get a better understanding of the ombudsman</td>
<td>Bring the ombudsman to the public</td>
<td>Very mixed: Ranged from 4 to 8 (two under 5, two between 5 and 7; and two at 8), depending on the degree of satisfaction with complaint results; room for more active engagement</td>
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<td>Redresses governance effectively</td>
<td>Predominantly formal written communication</td>
<td>Positive views of interactions, procedure, and investigation process in the handling of complaints</td>
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<td>Lodge complaints more effectively</td>
<td>Publicize through district councils</td>
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<td>Unbiased and unbureaucratic</td>
<td>Telephone conversation to follow up</td>
<td>Mixed overall impression • favorable view: fair and unbiased judgment (those satisfied with the results) • negative view: not enough power to uphold justice (those not satisfied with the results)</td>
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<td>Be able to communicate their views effectively to the ombudsman during the investigation process</td>
<td>Conduct publicity seminars</td>
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<td>Justice Pao Kung as the role model</td>
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<td>Conduct opinion surveys</td>
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<td>General public: Justices of the peace (JPs)</td>
<td>Redress administrative grievances: high; limited knowledge of operations Improve public management: high Enhance government accountability: medium</td>
<td>…</td>
<td>Visits to government department Online communication to provide information</td>
<td>An important institution for the redress of complaints and the improvement of public management</td>
<td>Active engagement is desirable to strengthen the capacity of the ombudsman Expectation: Define a purpose of involvement for the JPs</td>
<td>Contribute their expertise to the ombudsman at both the policy and operational levels Be a source of input for direct investigations</td>
<td>Build trust between JPs and the ombudsman Have regular meetings Provide a role and a sense of purpose for the JPs</td>
<td>Around 5 to 6, with room for active and regular engagement</td>
</tr>
<tr>
<td>Legislative councilors</td>
<td>Redress administrative grievances: high; but limited knowledge of operations Improve public management: medium Enhance government accountability—medium</td>
<td>Proactive instead of remedial A tiger with teeth Justice Pao Kung as the role model</td>
<td>Question-and-answer sessions in the formal annual meeting of the Legislative Council Reference of cases to the ombudsman Annual report submitted to the Legislative Council as the major source of information</td>
<td>More effective than the Legislative Council in handling administrative complaints Area of concern: getting the ombudsman’s recommendations implemented May need Legislative Council as an ally</td>
<td>Active engagement is desirable and beneficial to both parties Expectation: greater outreach of the ombudsman to the Legislative Council and more publicity among Legislative Council members</td>
<td>To serve as an ally in getting recommendations implemented To work together to redress public complaints more efficiently To achieve policy improvements by the government</td>
<td>Briefing sessions to Legislative Council membersForging a partnershipBetter information flow</td>
<td>Ranged from 4 to 6, with room for active engagement and collaboration</td>
</tr>
<tr>
<td>Community groups</td>
<td>Redress administrative grievances: high; but limited knowledge of operations Improve public management: medium Enhance government accountability: low</td>
<td>Accountable to the public Sorts out genuine complaints Makes constructive recommendations to government departments and public organizations concerned</td>
<td>Supporting role: • Provision of information and advice during the ombudsman’s direct investigations • Direct communication and discussion • Case-specific consultations Lodging of complaints: • Predominantly formal written communications • Phone conversations in follow-up actions</td>
<td>Feel good about being engaged, and finding their advice is deemed helpful See the ombudsman as responsible</td>
<td>Active engagement is desirable and beneficial to both parties Expectation: Long-term and regular engagement with greater outreach by the ombudsman to community groups</td>
<td>Develop a long-term working relationship to support the ombudsman Network building with government institutions Act as a source of input for direct investigations</td>
<td>Briefing sessionsInformal visitsThematic seminars and workshops</td>
<td>Ranged from 6 to 8, with room for long-term and regular engagement</td>
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<tr>
<td>Media</td>
<td>Redress administrative grievances: high; but limited knowledge on operations</td>
<td>Improve public management: medium</td>
<td>Educates the public about proper methods for lodging of complaints</td>
<td>Press conferences organized by the Ombudsman</td>
<td>An important institution</td>
<td>Active engagement is desirable and beneficial to both parties</td>
<td>An effective channel to engage the public</td>
<td>More access and more information</td>
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<td></td>
<td></td>
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<td>Builds trust with government departments and public organizations</td>
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<td>Expectation: Sound communication with and good access to the ombudsman</td>
<td>As a watchdog for the ombudsman to get his recommendations implemented</td>
<td>Regular interactions</td>
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<td></td>
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<td></td>
<td>Transparent in operations</td>
<td></td>
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<td>Restructuring the press conference</td>
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<tr>
<td>Legal advisors</td>
<td>Redress administrative grievances: high; but limited knowledge of operations</td>
<td>Improve public management: high</td>
<td>Handles complaints efficiently: a basic requirement</td>
<td>Provision of legal advice on a case basis through telephone conversations</td>
<td>The ombudsman is basically conservative and case-focused</td>
<td>Active engagement is strongly desirable to strengthen the capacity of the ombudsman</td>
<td>Offer useful insights to improve legal aspects of the ombudsman's work—both investigation and management</td>
<td>Regular meetings</td>
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<td></td>
<td>Uses a proactive and preventive approach</td>
<td>Online communication to receive information</td>
<td></td>
<td>Expectation: Regular and long-term engagement to utilize legal advisors' expertise</td>
<td>At the operational level: • Arrangements for involving them in investigations • Periodic review of case materials</td>
<td>At the institutional level: • Institutional reviews</td>
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<td>Regularly assesses impact on government operations</td>
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... = not available.

Source: Interviews all stakeholders of the Office of The Ombudsman, Hong Kong, China.
handling of their complaint cases. The community groups’ favorable attitude derives mainly from their ability to make a positive contribution to the work of the ombudsman. The legislative councilors’ positive judgment that the ombudsman is superior to them in handling administrative complaints was based on the office’s responsiveness and helpfulness concerning the cases they referred to it. The media’s relatively negative impression results mainly from the ombudsman’s formal and conservative approach to the organization of press conferences. The consensus expressed by all stakeholders, however, was that the ombudsman is an important institution for upholding administrative justice and improving public management.

Fourth, there are growing demands among stakeholders regarding the type and level of their engagement in the work of the ombudsman. Government departments and public organizations, who rated their engagement most highly, would like to see it go beyond the case level to the institutional level, both formally and informally. The current mode of interaction and engagement could be better designed for the remaining stakeholders. The citizens would like to see more frequent contact between the ombudsman and the general public. The community groups are looking for long-term engagement with the ombudsman. Both the legal advisors and justices of the peace would like to have more two-way, purposeful engagement in the work of the ombudsman. The media are calling for greater access to the ombudsman and leading officials. Finally, the legislative councilors would like more opportunity to exchange views and conduct in-depth conversations with the ombudsman. In summary, there is a strong demand for the ombudsman to make stakeholder engagement more regular, multilevel, long-term, and interactive, and to specify explicit goals.

Fifth, the various stakeholders have different reasons for wanting engagement. Two primary stakeholders have particularly strong motives. The government departments and public organizations endeavor to ensure that the ombudsman is not biased against them when handling complaints, understand their operational constraints, and coproduce recommendations for improvement. The general public takes the perspective of the complainants, whose purpose is to obtain favorable verdicts and get their grievances addressed through the engagement process. This identification can be observed from interviewees’ lack of interest in the cases of others and in the ombudsman’s work in general, as well as the loss of confidence in the ombudsman when their cases were not substantiated or the outcomes failed to meet their expectations. All the stakeholders in the secondary groups were able to identify their possible contributions as engaged stakeholders of the ombudsman. The media could be a bridge between the ombudsman and the public. The community groups could expand their relationship network to benefit investigations relating to their causes. The Legislative Council could be an ally of the ombudsman by monitoring improvements in public management. And the legal advisors and justices of the peace could use their expertise to strengthen the capacity of the ombudsman. In particular, all these stakeholders could serve as sources of input in the planning of direct investigations. From them, the ombudsman should be able to gain insights into the purposes of engagement, the key concerns, the role the office should play, and the expectations of individual stakeholders regarding the design of appropriate engagement arrangements. After all, there is no one-size-fits-all stakeholder engagement strategy or initiative.

Finally, each stakeholder put forward suggestions about engagement that reflect a positive attitude about being engaged. The variations in the methods suggested by each of the seven stakeholders reflect their different purposes. In general, regular meetings, briefing sessions, and mutual visits are the most favored options. The promotion of mutual understanding and the establishment of personal contact are commonly seen as necessary for effective stakeholder engagement. Beyond these common denominators, however, individual stakeholders had their own specific ideas. The government departments and public organizations want the ombudsman to develop specialized teams to work with them. The citizens suggest that the ombudsman make use of district councils to reach them. The community groups think that thematic seminars and workshops can help to bring the ombudsman closer to them. The legislative councilors propose joint action to handle citizens’ administrative complaints. The media demand more effective channels for reaching the ombudsman and his leading officials. The legal advisors consider review exercises to be most helpful. And the justices of the peace see the need to be provided with a purpose for engagement. The message is now quite clear: methods of engagement should be tailor-made for each type of stakeholder.
What is the institutional performance of the ombudsman and the office in stakeholder engagement? Based on interviewees’ assessments, engagement with government departments and public organizations and community groups has achieved the best results, while engagement with the media appears to be the most challenging task, given current legal restrictions due to privacy concerns. The very mixed ratings from the general public, determined by the results of their complaints, are of interest. The demands of all the stakeholders regarding engagement are becoming more ambitious, but it seems that the desire of the legislative councilors and the media for active engagement is particularly strong. Given the tough task of stakeholder engagement within the context of Hong Kong, China’s rapid democratization, the ombudsman and his office have passed the test of institutional performance.

As revealed in the interviews, individual stakeholders are not aggressive in their push for engagement, an indication that this is a relatively new concept for them. Only government departments and public organizations hold (vaguely) the progressive idea of cooperative partnership and coproduction in stakeholder engagement, with most stakeholders using communication and constructive working relations as their frame of reference. The beauty of this picture is the stakeholders’ constructive approach to engagement: they see it as a way to make a contribution to the work of the ombudsman. There is now a clear opportunity for the ombudsman to act proactively on the stakeholders’ positive attitudes by creating a system of engagement that will utilize their social capital. Such a system would help a responsible ombudsman achieve a more effective performance and enhance the quality of the office’s services. In short, the stakeholders have given the go-ahead for the ombudsman to engage them in a progressive way.

**Toward a Framework of Stakeholder Engagement in the Work of the Ombudsman**

In the cross-jurisdictional study, there is a strong consensus among the respondents on the desirability of stakeholder engagement in the work of the ombudsman institution. The study also indicates a general awareness of the growing importance of stakeholder engagement as a tool for capacity building for performance and service quality. Indeed, all nine member institutions that took part in the survey have already engaged individual stakeholders in different ways, and have improved services as a result. Although the difficulties and limitations of stakeholder engagement are well understood, there are plans for broadening and deepening stakeholder engagement.

In the in-depth case study of Hong Kong, China, the focus was on different stakeholders’ engagement in the work of the ombudsman institution. It is encouraging to see that all stakeholders expressed a positive view of stakeholder engagement and considered it to be a component of a responsible ombudsman’s policies. Despite restricted experience in engagement and the lack of a progressive concept, most of the stakeholders have a sense of purpose and suggested ways of engagement that fit their aspirations. Although the ombudsman institution in Hong Kong, China has not been aggressive in engaging stakeholders, it has already institutionally linked up with individual stakeholders, with various degrees of engagement.

These two parts of the study combine to show the potential of stakeholder engagement for building and enhancing the capacity of the institution of the ombudsman. Most importantly, the supply (i.e., the ombudsman institutions) and demand (i.e., individual stakeholders) sides appear to share the aspiration of engagement. However, stakeholder engagement has yet to be comfortably established among AOA member institutions, as reflected in the absence of well-conceived stakeholder engagement strategies, a lack of long-term engagement arrangements, severe resource constraints, and unfamiliarity with the progressive concept of stakeholder engagement. While best practices and advanced strategies of stakeholder engagement can always be imported from ombudsman institutions in Western countries without much difficulty, the core issue here is: how should member institutions institutionalize stakeholder engagement as a permanent feature in order to improve the capacity and service delivery of a responsible ombudsman?
The findings of the two parts of the study presented here provide a solid basis for formulating a framework for engaging stakeholders in the work of ombudsman institutions. The parameters of this framework are discussed below:

**The preponderance of stakeholders.** The balance of power and influence among stakeholders, particularly those in the secondary group, differs depending on the environment in which an ombudsman institution must operate; different societies have varying degrees of openness, civic culture, economic development, and general level of education. As shown in the survey of member institutions, there are noticeable variations in the stakeholder map presented by the respondents. In the case of Hong Kong, China, the institutional environment is increasingly favorable to stakeholder engagement, since the political system has been steadily democratizing, acquiring all the major features of an open society, and its civic culture has shifted from passive to more active political participation as people’s consciousness about their political rights has grown. In this liberal setting, stakeholders will not only act on their own behalf, but will also network to have greater influence on the ombudsman and the office. Most notably, the general public has already developed the practice of seeking the support of the legislative councilors and resorting to the media when their administrative grievances are not appropriately redressed in a timely manner by the ombudsman. Likewise, there is a significant tendency for community groups and nongovernment organizations to ally themselves with the legislative councilors and the media to exert pressure on the ombudsman institution if they are not engaged in the institution. Thus, in addition to the analysis of their relative dominance, the network effect among stakeholders should be carefully considered.

**The positioning of stakeholder engagement.** The positioning of ombudsman institutions in stakeholder engagement is essential to the formulation of strategy. This positioning can be inward-looking, outward-looking, or both. Inward-looking engagement involves leveraging the resources and expertise of individual stakeholders for internal consumption including capacity building, quality improvement, and legitimacy enhancement. This requires the ombudsman institutions to open their organizations to stakeholder participation in decision making at the various levels. Outward-looking engagement involves building alliances with stakeholders for facilitating and supporting a proactive approach to service delivery, redressing administrative grievances, improving public management, and increasing government accountability. This requires the ombudsman institutions to take the initiative to reach stakeholders and to develop a sound network of cooperative relations with individual stakeholders. The progressive view is that there is much synergy to be achieved between the ombudsman and the stakeholders.

**Localizing and customizing stakeholder engagement strategy and practices.** Given the significant variations in environment among ombudsman institutions, there is no single formula for effective stakeholder engagement. To unlock the full potential of stakeholders, localizing and customizing the engagement strategy and practices is vital. This requires the ombudsman institutions to consider local regulatory environments, the normative values of the host society, and the cultural-cognitive dimensions of the organization. The issues to be considered include (i) the legal regime that trusts the ombudsman institution to redress administrative complaints (a proper legal mandate will strengthen its legitimacy for individual stakeholders), (ii) the expected social obligations of the ombudsman institution to various stakeholders (the demands for stakeholder engagement will be lower if the stakeholders’ social expectations are low), and (iii) the cultural frame of reference the ombudsman institution adopts when dealing with different stakeholders (the organizational culture of the ombudsman institution may be resistant to stakeholder engagement). Thus, global convergence of stakeholder engagement should not preclude local divergence.

**The portfolio concept.** The optimization of stakeholder engagement demands a discriminating approach to engagement with individual stakeholders. Given resource constraints and limited organizational capacity, it is theoretically undesirable and practically impossible to engage all stakeholders fully. The portfolio concept achieves an optimal strategy through a proper combination of stakeholders to be engaged with different levels of

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23 Lo, Legal Education and Legal Culture; Lo and Wickins, Accountable and Quality Public Administration.
Ombudsman and Stakeholder Engagement for Improved Service Delivery

involvement and resource investment. For example, in the People’s Republic of China, social groups and political parties that are underdeveloped are not included in the stakeholder portfolio. Even if they are included, they are of lesser importance and do not require the commitment of many resources. Each member institution should build up its own stakeholder portfolio by taking its unique institutional environment into consideration. A more sophisticated approach is to extend the differentiation strategy to each individual stakeholder by means of segmentation.

A balanced profile. It is necessary for an ombudsman institution to maintain a balanced profile of stakeholder engagement to prevent being captured by, or giving the impression of favoring, a particular stakeholder. Staying too close to a specific stakeholder will arouse hostility and suspicion from others. In balancing a profile among a number of stakeholders, the ombudsman should also take note of the complexity of their composition, most notably political parties, interest groups, the media, and elected members in the assembly.

The engagement ladder. The ombudsman institution should direct stakeholder engagement to serve its own purposes. Using the right mode of engagement to achieve the desired outcome is strategically important. The rungs of the engagement ladder, in increasing order of closeness and depth, start with relationship building (publicity and community relations, mostly one-way), communication (two-way), and dialogue (interactive), rising to capacity building for collaboration, partnership, and coproduction.

Linking engagement to the core responsibilities, competencies, and functions. Stakeholder engagement should be purposive and proactive; nonpurposive and reactive forms of engagement should be avoided. To be purposive and receive the direct benefit of engagement, the ombudsman institution should link its efforts to its core responsibilities and core competencies. What is required here is to determine the potential contribution of individual stakeholders to the ombudsman’s core responsibilities of redressing administrative grievances, improving public management, and enhancing government accountability; then appropriate matches should be made by linking different stakeholders to these core functions.

Tailoring arrangements for individual stakeholders. There is no one-size-fits-all arrangement for engaging different stakeholders, as indicated by their varied suggestions. Each stakeholder has its own purposes and agenda, motivations and drivers, and preferred modes and levels of engagement. The tasks or roles that stakeholders feel must be performed include information provision (most stakeholders); decision making (members of advisory committees and the assembly); being allies (members of the assembly, interest groups, and political parties); bridging (the media); providing publicity and education (the media); partnership (government departments, public organizations, and interest groups); offering advice (members of advisory committees and the assembly); providing administrative support (interest groups); or a combination of the above. Stakeholders’ motivations range from interest articulation to participation in decision making. Their preferences are equally varied: for example, government departments and public organizations believe that engagement should be conducted at both the operational and institutional levels, community groups see thematic workshops and seminars as being most helpful, and the media would like to have direct access to the spokesperson of the ombudsman institution. Finally, the right level of engagement is different for different stakeholders, and excessive engagement may not always be welcome. Thus, the ombudsman should devise a skillful and sophisticated way of conducting stakeholder engagement with each stakeholder in order to meet their demands, help them fulfill their aspirations, and offer the right incentives.

Making stakeholder engagement an ongoing process and an evolving concept—periodic review. Stakeholder engagement is not a one-off exercise, and engagement arrangements cannot be made once and for all. It is an ongoing process, so regular attention must be given to cultivating, maintaining, and enhancing engagement relations, and to adjusting the mode of engagement when needed. In addition, the engagement process can proceed gradually, reaching different stages along the engagement ladder from early to mature, and progressing from a lower degree of involvement, such as communication, to a higher degree of engagement, such as collaboration. Furthermore, the concept of stakeholder engagement is evolving to accommodate changes in institutional environments and stakeholder expectations. What is progressive today may become a basic requirement tomorrow, and new stakeholder groups may emerge and need to be engaged. Therefore, periodic reviews of stakeholder engagement, including its conceptual development and current practices, are
necessary for gathering feedback from stakeholders, assessing performance and achievement, and updating engagement strategy and programs.

**The performance of stakeholder engagement.** Stakeholder engagement should go beyond a public relations to produce a positive impact on the work of the ombudsman. From this perspective, the assessment of performance and results is an integral part of the entire stakeholder engagement arrangement, and is needed in order to maximize the effect and ensure value for money in the use of resources. The assessment exercise should be regular and programmatic at both the individual and aggregate levels. To be effective, the stakeholder performance model should relate principles (values), practice (process and programs), and impact as a coherent whole; this model, referred to here as the “VPI” model of stakeholder engagement, is structured as follows:

A. **Values: Principles of stakeholder engagement**
   a. The basic obligations of the ombudsman institution
   b. Three major elements
      i. Legitimacy: license to operate
      ii. Public responsibility: what the institution actually does within the framework of its own principles
      iii. Managerial discretion: for achieving stakeholder-responsible outcomes

B. **Practice: Process and programs**
   a. An ombudsman’s capacity to respond to stakeholder pressure or demands
   b. Three major elements
      i. Environmental scanning: information gathering for planning purposes
      ii. Stakeholder management: mapping the relationships of the stakeholders with the ombudsman institutions to design and deliver appropriate engagement programs and initiatives
      iii. Issue management: policy development to address public administration and management issues

C. **Impact measurement—does stakeholder engagement make a difference?**
   a. Internal stakeholder effects: those that affect stakeholders within the ombudsman institution, particularly the employees
   b. External stakeholder effects: the impact of the ombudsman institution’s actions on stakeholders outside the organization
   c. External institutional effects: the effects on government and society rather than on any particular stakeholder group

The immediate task here is to develop a set of criteria for impact measurement.

**Consideration of institutional constraints.** Ombudsman institutions cannot effectively practice stakeholder engagement without due consideration of institutional constraints, both internal and external. Internally, limited resources may restrict the capacity for engagement, the organizational culture may not be amenable to stakeholder engagement, and the lack of organizational experience may not allow an aggressive approach. Externally, the lower level of social desirability, the lack of preparedness of stakeholders for a higher degree of engagement, and the absence of a proper understanding of engagement among stakeholders, may impose considerable constraints. In addition, institutional constraints vary from time to time. The core issue here is to determine the extent to which internal and external institutional settings are favorable for stakeholder engagement.

In short, this framework is formulated to assist member institutions in their search for suitable schemes of stakeholder engagement adapted to local conditions. The potential problems of the capturing effect and the privacy restrictions should not become excuses for being conservative in stakeholder engagement or for delaying the engaging actions. Instead, progress can be made by exploring how far an individual stakeholder can be engaged to add value to the work of a member institution.

**Overall recommendations.** Finally, the overall recommendations are presented in Figure 5.
Conclusion: Institutionalizing Stakeholder Engagement for the Provision of a Responsible Ombudsman

This study has explored the use of stakeholder engagement as a policy instrument for building the capacity of AOA member institutions to perform the functions of redressing the administrative grievances of the general public, improving public services and management, and enhancing the accountability of the government in a proactive manner. To address this important issue of capacity building, the study included two parts. The first part was a cross-comparison of stakeholder engagement among AOA member institutions, which was performed through website research and the administration of an open-ended questionnaire on the idea and practice of stakeholder engagement. The cross-jurisdictional study provided a wider picture of the current situation of stakeholder engagement in terms of policy orientation, practice, achievements, and future developments. The idea of stakeholder engagement was well received among AOA members, and a significant number of AOA member institutions have already practiced stakeholder engagement. Moreover, there have been positive results, and stakeholder engagement has become gradually institutionalized.

The second part was an in-depth case study of the ombudsman institution in Hong Kong, China, with the focus on the institutional arrangements of stakeholder engagement and on stakeholders’ views concerning their engagement with the work of the ombudsman institution. Based on interviews with functionaries at the Office of The Ombudsman, Hong Kong, China, and with representatives of seven of its stakeholders, the study found that the environment for stakeholder engagement is quite favorable: The ombudsman has institutionally linked up with individual stakeholders and engages them in his work to different degrees and through different channels; the stakeholders find their engagement both desirable and beneficial, although its full potential is yet to be realized.

<table>
<thead>
<tr>
<th>Primary Stakeholders</th>
<th>Secondary Stakeholders</th>
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<tbody>
<tr>
<td>General Public</td>
<td>Assembly</td>
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<tr>
<td>Bureaucratic Authorities</td>
<td>Media</td>
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<td>Public Organizations</td>
<td>Political Parties</td>
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<td></td>
<td>NGOs/ Community Groups</td>
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**Figure 5 Overall Recommendations of the Study**

- **Primary Stakeholders**
  - Periodic review and assessment of stakeholder engagement
  - Create customized engagement program for each stakeholder group with specific objectives
  - Develop a core stakeholder engagement program
  - Create a stakeholder engagement master narrative
  - Drive stakeholder engagement throughout the organization (inside-out)
  - Leverage research insights to formulate member institution’s stakeholder engagement strategy

- **Secondary Stakeholders**
  - Set up a multi-stakeholder advisory board
  - Develop a stakeholder engagement communication theme and network
  - Prioritize efforts and focus on key stakeholders

*NGO = nongovernment organization.*

Source: Questionnaire survey completed by the Office of The Ombudsman, Hong Kong, China. 2010.
The integration of these two parts of the study provided strong evidence showing that parties on the supply side (that is, member institutions) are willing to engage the stakeholders and are finding that engagement pays off, and that parties on the demand side (individual stakeholders) are prepared to be engaged and are quite certain of their contributions. In addition, the integrated analysis showed that engagement has been focused mainly on the primary groups of stakeholders (bureaucratic authorities, public organizations, nongovernment organizations and political groups, and the general public), while most stakeholders of the secondary groups (the assembly, political parties, interest groups, and the media) are under-engaged. The study also highlighted the promising opportunity for a more progressive strategy for stakeholder engagement, and hence a more organized effort among the AOA member institutions. The core issue that emerged from the empirical research is the institutionalization of stakeholder engagement as a permanent feature for increasing the capacity of AOA member institutions to function as responsible ombudsmen. In this regard, this study has formulated a framework for the strategic design of stakeholder engagement in the work of the ombudsman institutions. It is hoped that such a framework will be helpful to AOA member institutions to arrive at a proper strategy for organizing systematic efforts to engage individual stakeholders, and thereby produce positive impacts on their service delivery.


Appendix 1

Ombudsman and Stakeholder Engagement for Improved Service Delivery: The Questionnaire

1. Please spell out your idea of stakeholder engagement.

2. Please indicate the major stakeholders of the ombudsman’s work. What is your opinion on engaging stakeholders in the work of the ombudsman?

3. Do you think that stakeholder engagement can improve the service delivery of the ombudsman?

4. What are the best forms of stakeholder engagement, in your view?

5. How would you assess the effectiveness of stakeholder engagement in the work of the ombudsman?

6. On the current practices of stakeholder engagement adopted by your ombudsman’s office:
   a. What are these current practices?
   b. Please give the details of these stakeholder engagement practices or programs, including:
      • the sources of the idea
      • the objectives
      • the structure and arrangements adopted
      • the results and performance
      • gap analysis
      • future development
   c. Please assess the strengths and weaknesses of individual stakeholder engagement practices and programs.
   d. What are the criteria adopted for evaluating the performance of these stakeholder engagement practices and programs?

7. Please comment on the popularity or acceptance of these stakeholder engagement practices and programs with
   a. the staff members in the Ombudsman Office,
   b. the stakeholder concerned, and
   c. other stakeholders.

8. What are the major difficulties and constraints in introducing and conducting stakeholder engagement?

9. Please give your views or advice on the adoption of stakeholder engagement as a tool to improve the quality of service delivery by the ombudsman.
### Appendix 2

**Summary of the Practice of Stakeholder Engagement Among Member Institutions**

<table>
<thead>
<tr>
<th>Programs/Policies</th>
<th>Stakeholder Group</th>
<th>Institutional Arrangement</th>
<th>Approach of Engagement</th>
<th>Level of Engagement</th>
<th>Types of Engagement</th>
<th>Types of Service</th>
<th>Engagement Practices</th>
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<tbody>
<tr>
<td><strong>EAST ASIA</strong></td>
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<tr>
<td><strong>1. Ministry of Supervision, People’s Republic of China</strong></td>
<td>Relevant Government Departments</td>
<td>Bureaucratic authorities</td>
<td>Informal and ad hoc</td>
<td>Proactive</td>
<td>Operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
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<td><strong>2. Office of The Ombudsman, Hong Kong, China</strong></td>
<td>Press Conferences</td>
<td>Media</td>
<td>Informal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Communication</td>
<td>Redressing administrative complaints</td>
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<tr>
<th>Programs/Policies</th>
<th>Stakeholder Group</th>
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<th>Types of Engagement</th>
<th>Types of Service</th>
<th>Engagement Practices</th>
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<td><strong>3. Administrative Evaluation Bureau, Japan</strong></td>
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<td>Policy Evaluation System</td>
<td>Bureaucratic authorities: “Each administrative organ itself” in “central ministries and agencies” Ministers in charge (MICs)</td>
<td>Formal and regular</td>
<td>Proactive and interactive</td>
<td>Operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
<td>They are “involved” to “examine how necessary, efficient, and effective their policies are.” The MICs help build a framework of policy evaluations for each administrative organ. They also conduct “evaluation for cross-cutting policies” and “check the quality of [self] policy evaluations” of each administrative organ.</td>
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<tr>
<td>Evaluation of Incorporated Administrative Agencies (IAAs)</td>
<td>Bureaucratic authorities and public organizations IAAs MICs</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational—at a project level</td>
<td>Collaboration</td>
<td>Improving public management</td>
<td>IAAs “are subject to periodic and rigorous ex-post evaluation and overall review.” MICs (through the “Commission on Policy Evaluation and Evaluation of Incorporated Administrative Agencies”) issue recommendations for improving or abolishing the main projects and business operations in IAAs.</td>
</tr>
<tr>
<td>Administrative Evaluation and Inspection</td>
<td>Bureaucratic authorities Research network consisting of Regional Administrative Evaluation Bureaus and other agencies MICs</td>
<td>Formal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
<td>MICS utilize the research network to “improve administrative operations and systems from a different standpoint from those of other offices and ministries.”</td>
</tr>
<tr>
<td>Administrative Counseling</td>
<td>General public</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational; may involve policy</td>
<td>Communication</td>
<td>Redressing administrative grievances</td>
<td>Citizens may submit their “complaints, opinions, requests, and other comments.” MICS mediate between relevant administrative organizations and complainants.</td>
</tr>
</tbody>
</table>
### Programs/Policies | Stakeholder Group | Institutional Arrangement | Approach of Engagement | Level of Engagement | Types of Engagement | Types of Service | Engagement Practices |
---|---|---|---|---|---|---|---|
**EAST ASIA**

4. Anti-Corruption & Civil Rights Commission, Republic of Korea

| e-People: Online Petition and Discussion Portal | General public | Formal and regular | Remedial | Operational | Dialogue | Redressing administrative complaints | An electronic channel, “e-People,” was established to allow users to create online petitions, propose agendas, engage in discussion with the government on policy, and suggest systemic civil reform proposals. |

5. Office of the Chief Ombudsman, Republic of Korea (Website cannot be located.)

6. Commission Against Corruption, Macao, China

| Management Plan | Bureaucratic authorities: all of the 60 departments that signed the Protocol of Collaboration | Formal and regular | Proactive | Operational | Collaboration | Improving public management | Under the Integrity Management Plan, implemented in 2007, a Protocol of Collaboration was signed with 60 departments. “Under the protocol, the Commission against Corruption (CCAC) assisted them in improving their internal management, especially in the corruption-prone areas, and strengthened public servants' awareness of integrity and conflict of interests." It also furthered its effort in "enhancing integrity management."

| Government Department Administrative Procedures | Bureaucratic authorities | Formal and regular | Proactive | Operational | Collaboration | Improving public management | CCAC partnered with different departments to reach an agreement to improve their administrative procedures. |

| Private Sector | Interest groups: associations in various industries such as construction, finance, the catering industry, small- and medium-sized companies, and tourism | Informal and ad hoc | Proactive | Operational | Communication: agency domination | Improving public and private management | “Seminars had been co-organized” with the above groups “to collect opinions on the prevention of corruption in the private sector.” |

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<tr>
<th>Programs/Policies</th>
<th>Stakeholder Group</th>
<th>Institutional Arrangement</th>
<th>Approach of Engagement</th>
<th>Level of Engagement</th>
<th>Types of Engagement</th>
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<td>6. Commission Against Corruption, Macao, China (continuation)</td>
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<tr>
<td>Schools</td>
<td>General public: Schools</td>
<td>Informal and ad hoc</td>
<td>Proactive</td>
<td>Operational</td>
<td>Community Relations: Agency domination</td>
<td>Improving public and private management</td>
<td>CCAC works with schools to develop “The New Generation of Integrity” and the “Honesty and Integrity Program for Teenagers” to promote moral education for teenagers.</td>
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<tr>
<td>Tea Meeting on Clean Administration Press Conferences</td>
<td>Media</td>
<td>Informal and regular</td>
<td>Proactive</td>
<td>Operational</td>
<td>Dialogue domination</td>
<td>Redressing administrative complaints Improving public management</td>
<td>“The CCAC organized the ‘Tea Meeting on Clean Administration’ each year in order to obtain opinions and suggestions about anticorruption work from media workers. The Commission also held press conferences to release the information about anticorruption work to the media in order to enhance the transparency.”</td>
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<tr>
<td>1. Komisi Nasional (Ombudsman), Indonesia (Website is not available in English.)</td>
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<td>2. Public Complaints Bureau, Malaysia</td>
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<tr>
<td>Mesra Rakyat (MESRA) Program</td>
<td>Bureaucratic authorities and the general public</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Redressing administrative grievances Improving public management</td>
<td>The MESRA program, introduced in 2002, is &quot;a dialogue session between Heads of Department from State and District government agencies with the public,&quot; chaired usually by “Honorable Minister, Deputy Minister, Parliamentary Secretary, Chief Minister, Chief Secretary to the Government, State Secretary or Director General of Public Complaints Bureau (PCB).” All complaints raised are recorded by the PCB. Remedial action is then taken with relevant agencies.</td>
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<td><strong>2. Public Complaints Bureau, Malaysia (continuation)</strong></td>
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<td>Mobile Complaints Counter (MCC)</td>
<td>General public: Citizens at the grassroots level</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Community relations</td>
<td>Communication</td>
<td>Redressing administrative grievances</td>
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<tr>
<td>Integrated Mobile Complaints Counter (IMCC)</td>
<td>General public</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Community relations</td>
<td>Communication</td>
<td>Redressing administrative grievances</td>
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<tr>
<td>Monitoring System for News and Complaints via Media</td>
<td>Media</td>
<td>Formal and regular</td>
<td>Remedial</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Community relations</td>
<td>Communication</td>
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</table>
### Programs/Policies | Stakeholder Group | Institutional Arrangement | Approach of Engagement | Level of Engagement | Types of Engagement | Types of Service | Engagement Practices
---|---|---|---|---|---|---|---
#### SOUTHEAST ASIA

3. Office of the Ombudsman of the Philippines

- **Integrity Development Review**
  - Bureaucratic authorities
  - Formal and regular
  - Proactive
  - Systemic, policy, operational
  - Collaboration
  - Improving public management
  - Through the Integrity Development Review, the ombudsmen or ombudsman “help[s] agencies study their own system...devise[s] counter-corruption action plans and strategies...” The review “is a compendium of diagnostic tools—self-assessment scorecards for managers, feedback surveys of employees, and corruption vulnerability assessments. It assesses “the robustness of corruption resistance mechanisms, and identifies the vulnerabilities of government agencies to corruption. It seeks to design and implement safeguards to prevent corruption in the public sector.”

- **Resident Ombudsman**
  - Bureaucratic authorities and the general public
  - Formal and regular
  - Proactive and remedial
  - Systemic and operational
  - Partnership
  - Improving public management
  - A resident ombudsman—a government employee—is assigned to each government agency. He or she “attends to requests for assistance of the public to facilitate their transactions with a particular government agency.” He or she is also “tasked with studying systems and procedures vulnerable to corruption and with making recommendations to improve them; reporting anomalies, irregular acts, unethical conduct, or illegal activities committed by the officials and employees of the office assigned; and aiding the gathering of evidence in the investigation.”

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<th>Programs/Policies</th>
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<td>4. Office of the Ombudsman, Thailand</td>
<td>Agencies</td>
<td>Bureaucratic authorities and public organizations</td>
<td>Formal and regular</td>
<td>Unknown</td>
<td>Unknown</td>
<td>Improving public management</td>
<td>Links and networks are to be built for coordination.</td>
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<td>5. Government Inspectorate of Viet Nam, Viet Nam (Website cannot be located.)</td>
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<tr>
<td>1. Ombudsman (Akyikatchy) Institution, Kyrgyz Republic (Website cannot be located.)</td>
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<td>2. Oliy Majlis of the Republic of Uzbekistan for Human Rights, Uzbekistan</td>
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<td>Public Expert Panel at the Institute of the Ombudsman</td>
<td>General public: experts</td>
<td>Formal and regular</td>
<td>Interactive</td>
<td>Policy</td>
<td>Collaboration</td>
<td>Improving public management</td>
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<td>Government Bodies and Institutions</td>
<td>Bureaucratic authorities, the assembly, and the judiciary</td>
<td>Informal and regular</td>
<td>Proactive</td>
<td>Policy and/or operational</td>
<td>Collaboration</td>
<td>Improving public management</td>
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<td>Nongovernment Organizations</td>
<td>Interest groups</td>
<td>Proactive</td>
<td>Policy and/or operational</td>
<td>Collaboration</td>
<td>Not available</td>
<td>Various and comprehensive</td>
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### Programs/Policies | Stakeholder Group | Institutional Arrangement | Approach of Engagement | Level of Engagement | Types of Engagement | Types of Service | Engagement Practices
---|---|---|---|---|---|---|---
### CENTRAL ASIA

2. Oliy Majlis of the Republic of Uzbekistan for Human Rights, Uzbekistan (continuation)

| Mass Media | Mass media | Informal and regular | Interactive and/or proactive | Policy and/or operational | Collaboration | Redressing administrative complaints, improving public management | “For the purposes of the effective exercise of the ombudsman’s functions in the area of raising awareness of human rights, generating public understanding of the necessity to respect and ensure observance of human rights, creating a human rights culture, as well as improving the level of knowledge of human rights issues, it is anticipated to develop cooperation between the Institute of Ombudsman and mass media in the following areas:
2. Promoting activities of the ombudsman and other national human rights institutions.
3. Broadcasting the results of human rights monitoring activities undertaken by the ombudsman.” |

### SOUTHWEST AND WEST ASIA

1. Commission for Human Rights, Azerbaijan (Content not available in English.)
2. General Inspection Organization, Iran (No indication of stakeholder engagement practices or policy.)
3. Parliamentary Commission for Administration, Sri Lanka (Website cannot be located.)
4. Commissioner for Human Rights, Republic of Tatarstan (Website cannot be located.)
5. Central Organization for Control and Auditing, Yemen (No indication of stakeholder engagement practices or policy.)
<table>
<thead>
<tr>
<th>Programs/Policies</th>
<th>Stakeholder Group</th>
<th>Institutional Arrangement</th>
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<td>SOUTH ASIA</td>
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<tr>
<td>1. Lokayukta (Ombudsman), State of Madhya Pradesh, India</td>
<td>(No indication of stakeholder engagement practices or policy.)</td>
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<tr>
<td>2. Lokayukta (Ombudsman), State of Uttar Pradesh, India</td>
<td>(Website cannot be located.)</td>
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<tr>
<td>3. Wafaqi Mohtasib (Federal Ombudsman), Pakistan</td>
<td>REACH Project</td>
<td>Interest groups, and the general public, including children</td>
<td>Formal and regular</td>
<td>Remedial or proactive</td>
<td>Operational</td>
<td>Dialogue</td>
<td>Redressing administrative grievances</td>
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<tr>
<td>4. Banking Mohtasib, Pakistan</td>
<td>(No indication of stakeholder engagement practice or policy.)</td>
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<tr>
<td>5. Office of Federal Insurance Ombudsman, Pakistan</td>
<td>(Website cannot be opened.)</td>
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<td>7. Provincial Ombudsman of Balochistan, Pakistan</td>
<td>(Website cannot be located.)</td>
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<td>8. Office of the Ombudsman Punjab, Pakistan</td>
<td>(No indication of stakeholder engagement practice or policy.)</td>
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<td>9. Provincial Ombudsman of Sindh, Pakistan</td>
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Source: Websites of AOA member institutions.
# Appendix 3

## Summary of the Survey of Member Institutions on Stakeholder Engagement

<table>
<thead>
<tr>
<th>Area</th>
<th>Institution 1</th>
<th>Institution 2</th>
<th>Institution 3</th>
<th>Institution 4</th>
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<th>Institution 6</th>
<th>Institution 7</th>
<th>Institution 8</th>
<th>Institution 9</th>
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<tbody>
<tr>
<td>1. Understanding of Stakeholder Engagement</td>
<td>The importance of strengthening collaboration among related stakeholders</td>
<td>Engage all affected parties through co-planning, co-designing, and coproducing</td>
<td>Engage groups and individuals with particular interest in the work of the ombudsman institution</td>
<td>Engage affected groups including complainants and targeted government departments</td>
<td>All parties are actively involved in all stages of the work of the ombudsman institution</td>
<td>Engage affected persons with rights and responsibilities or interests in the ombudsman institution</td>
<td>It is necessary to coproduce effective and sustainable settlements of administrative grievances</td>
<td>Involve those affected directly or indirectly by the decisions or actions of the ombudsman institution</td>
<td>Engage anyone related to public services</td>
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<tr>
<td>2.1 Major Stakeholders</td>
<td>National administrative organs, Administrative agencies, public corporations, and local government organs</td>
<td>Public at large Government agencies, Media and civil society, Functionaries of the ombudsman institution</td>
<td>Key stakeholders: government departments or public bodies, complainants, Others: interest groups, politicians and legislators, professional advisors, justices of the peace, media</td>
<td>General citizens or those opposing the action or inaction of a government employee, Government employees against whom a complaint is made, The government itself</td>
<td>Institution 5 is not strictly an ombudsman institution, Key stakeholders: prime minister and chief secretary to the government</td>
<td>Secondary stakeholders: international organizations, donor institutions, consultancies, and nongovernment organizations, Those ultimately affected are primary ones</td>
<td>Parliament, taxpayers, tax administrators, and the media</td>
<td>Complainants, public authorities, and the ombudsman institution itself</td>
<td>Direct stakeholders: users of public services</td>
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<th>Area</th>
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<tr>
<td>2.2</td>
<td>Opinion on</td>
<td>Becomes an</td>
<td>Stakeholder</td>
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<td>Stakeholder</td>
<td>Private sector</td>
<td>Reach equilibrium</td>
<td>Helps us decide</td>
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<td>Engaging</td>
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| 4. Best Forms of Stakeholder Engagement | Exchange documents formally among stakeholders about stakeholder engagement Ensure stakeholder engagement actually performs well.  
Stakeholders are not allowed to make decisions and/or recommendations by law  
Experienced experts work as consultants  
Hold periodic meetings with stakeholders. | Require detailed information and comments from stakeholders  
Consult stakeholders for expertise; open with the media.  
Monitor government departments and public bodies on implementation of ombudsman recommendations. | Encourage interested stakeholders, use post (even electronic media)  
Analyze newspaper information  
Ascertain the truth in data collection  
Give the opposition a full opportunity to be heard. | Various effective forms  
A more productive means could be the engagement through media to publicize the works of the ombudsman institution and to bring the mechanism to the intended clients. | Through anti-corruption institution and action programs, is a virtual academy that strengthens anticorruption commitments and stakeholders’ communication. | Establish advisory committee at national level and standing committees at subnational levels  
Periodic visits to stakeholders  
Web-based online; video conference; e-mail; monthly newsletters; annual report. | No best forms  
Depends on the case and policy of the ombudsman institution. | The ombudsman institution adopts a cool-headed and unbiased stand when looking at different kinds of complaints, some of which are made with good intentions, while others made are with ulterior motives. |
| 5. Assessment of Effectiveness of Stakeholder Engagement | No specific way to assess stakeholder engagement  
Depends on complexity of complaints, etc.  
Stakeholder engagement is effective if settlements can be arrived at. | Its effectiveness is clearly seen  
Issue monthly and annual reports to assess it  
Media provides feedback.  
The public’s attitude toward complaints reveals the effectiveness of stakeholder engagement. | Assessed by level of concerned parties’ satisfaction  
Objective measures: how much stakeholder engagement raises the standard of administration and whether it results in a positive complaint culture. | Evaluated annually, about the number of corruption cases and outcomes. | The number of cases handled, resolution rate, response time, and resulting innovations.  
Transparency index, national competitiveness, country’s attractiveness to foreign investors  
It would be helpful to adopt an independent commission for assessment. | In progress, as it still lacks relevant legislation  
Whether more financial support and technical assistance could be better facilitated by various donor agencies.  
Outreach and stakeholder awareness of the ombudsman institution  
Demand for ombudsman institution services  
Compliance with ombudsman institution decisions  
Capacity, productivity, dispute resolution, diversification of input, transparency. | Outreach and stakeholder awareness of the ombudsman institution  
Demand for ombudsman institution services  
Compliance with ombudsman institution decisions  
Capacity, productivity, dispute resolution, diversification of input, transparency. | A model to assess the participation and contribution of stakeholders  
May have to set key performance index for further use. | No specific evaluation system, but will hold meeting to discuss it.  
Some departments changed attitudes from resistance to acceptance, and are more likely to follow advice; in this way the ombudsman institution can better achieve preventive goals. |
## 6.1 Current Practices of Stakeholder Engagement

**Area**  | **Institution 1** | **Institution 2** | **Institution 3** | **Institution 4** | **Institution 5** | **Institution 6** | **Institution 7** | **Institution 8** | **Institution 9**
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**Conferences on complaints held at headquarters and at the branch level** | Conferecnes on complaints held at headquarters and at the branch level At the grassroots level, counselors collect and convey information, and give advice | All parties are kept on board during an investigation Once lodged, the complaint is sent to the agency concerned for rebuttal, with comments sent back for rejoinder All parties are summoned for an in-person hearing to help us reach a conclusion | Evolved over the years | Receive complaints, collect evidence, seek support from superior offices Produce relevant records, examine materials, and reach conclusions Issue notice to parties complained about and give them opportunity to explain | Reports directly to, or is further addressed by, superior departments Tabled monthly in meetings A smart partnership with other agencies Cooperation between the ombudsman institution and the highest local authority | Various partnerships or alliances through agreements on anticorruption initiatives such as training and workshops Public assistance, project monitoring Public watchdog units help public become aware of social ills | Personal contact with the taxpayers’ association, trade bodies, the tax bar, media, and the society in general | Invite concerned parties to contribute information and documents to investigations Public relations through mass media and regular seminars | Education, monitoring, and prevention Periodic meetings with social groups; seminars for stakeholders so that they can better know and monitor the ombudsman institution Asked to give seminars Follow-up actions on recommendations

### (a) Sources of Ideas
- Principles of law and judicial procedures
- International rules of ombudsman institution system and related legislation

### (b) Objectives
- Redress the aggrieved person in a fair and just manner and undo the injustice done to them
- Find the truth about allegations of malpractice Suggest development and redesign procedure to remove the source of mal-administration
- Serve as effective mechanism for coordinating stakeholders Strengthen anticorruption commitments Achieve greater public support and investor confidence
- Provide optimal benefit to taxpayers and administrators by redressing mal-administration Recommend systemic improvements to avoid recurrence of mal-administration
- Ensure participation of all parties concerned and leave no voices left unheard, as far as possible
- Let businesses know that cooperation with the ombudsman is for their good Aim for mutual rather than one-way communication

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### (c) Structure and Arrangements Adopted

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<td></td>
<td>Exchange information in periodic conferences</td>
<td>Functional office and specialized working positions</td>
<td>Management of complaints at the ministry or agency level is monitored by at least the second most senior person in the organization</td>
<td>Headed by a governing board with leaders of concerned sector as representatives</td>
<td>Advisory committee</td>
<td>Frequent interaction with stakeholders</td>
<td>Meetings, seminars, conferences, signing of memoranda of understanding, thorough investigation process, networking</td>
<td>Meetings, letters, and phone calls</td>
<td>Engage at policy and system level besides case</td>
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<td></td>
<td>5,000 frontline counselors should not receive extra pay beyond their salaries</td>
<td>Police agency to investigate complaints constituting criminal offenses</td>
<td>Assisted by a technical working committee</td>
<td>Assisted by a technical working committee</td>
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### (d) Results and Performance

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<td></td>
<td>For the agency, the results lie in the true interpretation of rule or law, while the complainant gets a settlement that relieves him from the maladministration</td>
<td>Reflected in annual outputs</td>
<td>Progressing toward the 2009–2011 goals</td>
<td>Service delivery greatly improved, both qualitatively and quantitatively</td>
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<td></td>
<td>On average, 75 persons are prosecuted for corruption</td>
<td>Public confidence in anticorruption efforts</td>
<td>Accountable and transparent performance</td>
<td>Accountability of tax officials made effective</td>
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<td></td>
<td>Action taken against about 100 officials</td>
<td>Accountable and transparent performance</td>
<td>Institutional competence on anticorruption</td>
<td>Acceptance of decisions of ombudsman institution increasing</td>
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<td>Increased transparency</td>
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### (e) Gap Analysis

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<tr>
<td></td>
<td>Stakeholder engagement mechanism is limited and insufficient</td>
<td>Better stakeholder engagement requires more means both in terms of work force and of financial availability</td>
<td>Lack of: Salient provisions in several areas, international cooperation, and technical assistance</td>
<td>Lack of technical assistance</td>
<td>Lack of internal coordination</td>
<td>Insufficient presence at subnational level and limited outreach</td>
<td>Fine in term of &quot;stay&quot; and &quot;say,&quot; but not much for &quot;strives&quot;</td>
<td>Need time for further stakeholder engagement</td>
<td>Ombudsman institution proactively investigates frequently targeted industries, but subjects did not cooperate</td>
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<td>Ombudsman institution’s functions and powers are legally restricted</td>
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### 6.2 Strengths and Weaknesses of Individual Stakeholder Engagement Practices and Programs

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<tr>
<td>(f) Future Development</td>
<td>Further legislation on empowerment of ombudsman institution</td>
<td>Bring about full integration of stakeholders on various levels</td>
<td>Information technology enablement</td>
<td>More work on public relations and recruitment for volunteers</td>
<td>Stakeholder engagement improved considerably compared to 5 and 10 years ago</td>
<td>Information technology enablement</td>
<td>Establishment of facilitation centers in major cities</td>
<td>Open more channels for public access, e.g., the public watchdog program</td>
<td>National outreach and awareness program</td>
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<td>6.2</td>
<td>Important, but needs systematic assistance to improve</td>
<td>Many flaws: it is not a broad-based engagement and may result in tunnel vision detrimental to the long-term interests of society and of the system</td>
<td>Do not specifically assess it</td>
<td>Helps detect and address malpractice or shortcomings</td>
<td>Personal-benefit-seeking behavior such as blackmailing officials with false complaints, or taking revenge</td>
<td>Information technology enablement needs time to work</td>
<td>Inadequate financial and manpower resources</td>
<td>Create participatory atmosphere</td>
<td>Relationship among stakeholders is complex</td>
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<td>Sometimes the ombudsman institution is not the first choice because complainants perceive the ombudsman institution as unbiased in investigating the two sides</td>
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<td>6.3</td>
<td>Difficult to evaluate since it depends on the complexity of complaints, etc.</td>
<td>Ratio of increase or decrease of lodged complaints</td>
<td>Acceptance rate of ombudsman institution recommendations</td>
<td>Acceptance rate of ombudsman institution recommendations</td>
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<td>Rate of implemented recommendations</td>
<td>Complainants’ feedback</td>
<td>Community served</td>
<td>Media coverage</td>
<td>Final outcome of settled complaints</td>
<td>No explicit examining practices</td>
<td>Stakeholder input and interest in engagement</td>
<td>Participation and provision of recommendations</td>
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<td>Monthly and annual reports</td>
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### Area 7: Popularity and/or Acceptance of Stakeholder Engagement Practices and Programs

#### 7.1 Popularity and/or Acceptance of Stakeholder Engagement Practices and Programs

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<tr>
<td>An important tool when complaints are settled during collaboration</td>
<td>Stakeholder engagement harmonizes the work of the ombudsman institution, and stakeholders’ ideas help achieve the shared goal of improved service delivery</td>
<td>We accept these practices, and often come up with ideas on what stakeholders to engage</td>
<td>Stakeholder engagement is accepted, as it is the main source of information</td>
<td>Was given high attention and strong views</td>
<td>Depends on staff member’s involvement with stakeholders</td>
<td>Generally welcomes and appreciates stakeholder engagement</td>
<td>Support stakeholder engagement program</td>
<td>Ombudsman institution leaves a good impression with stakeholders</td>
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<td><strong>7.2 With Staff Members of the Ombudsman Office</strong></td>
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<td>We accept these practices, and often come up with ideas on what stakeholders to engage</td>
<td>Stakeholder engagement is accepted, as it is the main source of information</td>
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<td><strong>7.3 With the Stakeholders Concerned</strong></td>
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<td>Related stakeholders have own sections dealing with complaints for their own mal-administration</td>
<td>Deem themselves as partners in the work of ombudsman</td>
<td>Stakeholders’ feedback has been favorable and encouraging</td>
<td>Open to their suggestions</td>
<td>Quoted popular as can be seen from the numerous complaints received</td>
<td>Well received by the implementers at the ministry and agency level</td>
<td>Oscillating support of the programs</td>
<td>Increases the stakeholder confidence in the ombudsman institution</td>
<td>Interested in the work of ombudsman institution</td>
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<td>Public has little motive to engage in government work</td>
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<td>Need time to work on public relations</td>
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### Appendix 3 continued

#### 7.4 With Other Stakeholders

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<tr>
<td>Complainants appreciate the ombudsman once settlements are received</td>
<td>Donor agencies: always support anticorruption efforts, but have shifted attention to human rights issues</td>
<td>Happy because of their participation in the ombudsman’s activities and because of improvement in justice-sector institutions</td>
<td>Public relations through various channels is key to success of stakeholder engagement program</td>
<td>Some stakeholders are only interested in issues related to themselves</td>
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<td>8. Major Difficulties in Introducing and Conducting Stakeholder Engagement</td>
<td>Very few currently</td>
<td>Ombudsman institution has to keep itself within the limits of related act</td>
<td>The secrecy provision considerably restricts communication with stakeholders</td>
<td>The possibility of false complaints</td>
<td>Few difficulties currently</td>
<td>Reduced eagerness of general public due to the endemic nature of corruption and the perception that big corrupt politicians are not being punished</td>
<td>Finding suitable professionals</td>
<td>Limited mutual trust and confidence</td>
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<td></td>
<td>Both introducing and ensuring effective operation are crucial</td>
<td>Discretion will impede the introduction of stakeholder engagement</td>
<td>Financial constraints</td>
<td>Challenges: Change people’s mind-set from that “complaints are nuisances”</td>
<td>Move from a top–down to a more collaborative system</td>
<td>A lack of financial support</td>
<td>Financial resources and awareness</td>
<td>Routine problems such as budget and time constraints, as well as the lack of a visionary policy of engaging stakeholders</td>
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<td></td>
<td>Financial constraints</td>
<td>The possibility of false complaints</td>
<td>Financial constraints</td>
<td>Discretion will impede the introduction of stakeholder engagement</td>
<td>The possibility of false complaints</td>
<td>Financial constraints</td>
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9. Advice on the Adoption of Stakeholder Engagement to Improve Ombudsman Service

Stakeholder engagement leads to service improvement of targeted departments; it is also convenient for complainants

Share their views and make things easier for their convenience

Integrate their opinions into the investigation process; this will be very useful in improving service quality of the ombudsman institution

It is a tool to improve the decision quality and service delivery of the ombudsman institution

A word of caution about false complaints

Stakeholder engagement is vital to ensure the effectiveness of the ombudsman’s role

The ombudsman does not have real authority; the weight lent by stakeholder engagement helps to convey the seriousness and the gravity of the matter

Further develop legal framework

Improve transparency and trust

Build databases

Promote gender equity in organizations

Provide space for the voices and concerns of stakeholders

Stakeholder engagement is an effective tool to gauge public opinion about the performance and utility of the ombudsman institution

It helps to monitor quality of the ombudsman’s work

It promotes transparency and provides an alternative source of ideas and practices

Stakeholder engagement strives to create a fair society for all

There will be cooperative ties among stakeholders to improve the service of the ombudsman institution

The ombudsman must build trust and confidence among concerned parties

Develop stakeholder engagement in a more prophylactic way

Welcome stakeholder engagement at different levels only if engaged in good faith

Through meeting with community groups, the ombudsman institution may achieve a better outcome by taking their voices into account

Sources: Completed questionnaires from eight AOA member institutions and interview of one AOA member institution.
“Not everything that counts can be counted, and not everything that can be counted counts.”

— Albert Einstein

Summary

Ombudsman all over the world are looking for ways to measure their own performance, including members of the Asian Ombudsman Association (AOA). Performance measurement plays an important role in ensuring accountability and in demonstrating the value of an agency to its constituents. Traditionally, performance measurement has been process-oriented, often focusing on efficiency in customer service and setting targets for the various stages of the complaint-handling process. The first part of this paper discusses how AOA members and other ombudsman offices around the world measure their performance, identifying 22 broad areas, ranging from the number of complaints received to effectiveness in monitoring the implementation of recommendations. The advantages and pitfalls of their approaches are also discussed. In the second part of the paper, the authors advance a set of six performance measurement principles that have proven successful in Ontario and have been adopted and adapted by other ombudsman jurisdictions. The principles focus on measuring the overall effectiveness of an ombudsman office in meeting its primary goal of improving good governance and tackling maladministration.
“Methods for measuring the effectiveness of an ombudsman’s office... do not exist.”¹

Introduction

Ombudsmen are in the business of fighting administrative injustice and helping to shape good, sound public policy. Simply put, the goal of any ombudsman is to be an important proponent of good governance. An ombudsman has to identify injustices and then resolve them. In most cases, he or she cannot impose a decision or prosecute a wrongdoer. An ombudsman has to persuade, sometimes by dangling a carrot, sometimes by using a big stick or even knocking a few heads together. An ombudsman often works behind the scenes, forging consensus and encouraging resolution, frequently at the very highest levels of government. Sometimes he or she may issue a special report in order to exert moral suasion via the public. Ultimately, an ombudsman will be judged on his or her effectiveness as an agent of change toward better governance. As a senior Malaysian official expressed it, ombudsmen exist to help transform stakeholders’ “woes to wows” when dealing with the machinery of government.²

But how does one assess that effectiveness? Measuring the performance of an ombudsman office has in many ways been the Holy Grail of ombudsmanship since 1809. It is not an easy thing to do. Ombudsmen do not make widgets. Instead, they deal with issues of administrative fairness that, given the evolution of government, have become increasingly complex and nuanced. They have a vital function to play, and must give themselves the latitude and the flexibility to do the job. They face great challenges in their role as agents of change—not least of which is demonstrating their value. Professor Gilles Paquet, Dean Emeritus of the Telfer School of Management, University of Ottawa, pointed out in our 2009/10 annual report that an ombudsman must now “scheme virtuously,” not only to succeed, but in some cases to survive.³ An ombudsman “must avoid being crippled by a mesh of rules that would limit his interventions unduly.” Using the words of Isaiah Berlin, Professor Paquet went on to say that ombudsmen must be like foxes, with many ideas and employing different strategies in different situations, rather than like hedgehogs, with just one big idea to be defended at all costs. The primary function of an ombudsman is to make “robust inquiries” designed to “improve organizations and institutions so that future mishaps can be avoided.” In this paper, we have set out some tools by which ombudsmen can measure to what extent they are achieving that goal.

Quantifying the value of an ombudsman’s work is not simple, particularly when much of that value involves preventing future injustices as well as resolving current ones. How do you show, in a bar graph or a pie chart, a diagram or a spreadsheet, how expensive and lengthy litigation has been obviated by the timely intervention of an ombudsman? How does an ombudsman quantify, in ways that are clear to those who pay the bills, the systemic issues that have been resolved, the maladministration that has been nipped in the bud, the taxpayers’ money that has been saved, and the potential injustices that have been avoided?

Traditionally, ombudsmen have measured their performance by focusing on two areas. First, some ombudsmen have attempted to measure their contribution in “big picture” terms: in other words, in terms of the impact they have. In addition to explaining, usually in their annual reports, how they have resolved complaints from individuals, they also highlight how their work has contributed to better overall governance, how it has improved the lives of citizens who may never have heard of an “ombudsman,” let alone know how to pronounce the word. They generally attempt to frame their contributions in terms of their overall effectiveness in dealing with the issues that they were hired to tackle, be it administrative unfairness or—for some members of the Asian Ombudsman Association (AOA)—corruption. Some periodically issue special reports explaining how they have dealt with specific issues that often have a systemic component.

The second way that ombudsmen tend to measure their performance is by setting standards for customer service and productivity, though both of these are, of course, intimately interwoven. Ombudsmen often assess the time they take to respond to, process, and dispose of complaints. They often set targets, and those who are brave enough let their constituents know to what extent they have actually met them. Efficiency of process is very important, not least because most ombudsmen are quick to critique inordinate delays and inefficiency on the part of the agencies they oversee. If, as the Malaysian official quoted above also said, the public wants “fast, efficient, and quality service in a conducive environment when dealing with the government, regardless of time or place,” then it would be dangerous for an ombudsman not to strive to provide service that meets that standard. “Do what I say, not what I do” is not a reputation any ombudsman wants to acquire.

Identifying performance standards and indicators for AOA members is particularly challenging. AOA includes a broad range of agencies, from those focused on traditional ombudsman activities to others pinpointing specific areas such as corruption and human rights. Some agencies report to their country’s legislatures, others to administrative agencies. Mandate matters, obviously. Measuring the effectiveness of a hard-core anticorruption agency that has the capacity to conduct criminal investigations and prosecute involves far different criteria than evaluating an agency responsible for ensuring administrative fairness from government agencies.

It is not only mandate that colors the picture. AOA members face differing challenges posed by geography, resources, availability of technology, language, culture, communications and transport infrastructure, literacy levels, political considerations and, in some cases, political instability. It would be foolhardy to attempt to create one set of performance indicators that could apply to all of them equally. Such indicators would be too vague or too specific, too impractical or just too plainly irrelevant to be of any concrete use.

This paper is divided into two parts. In Part 1, we document how AOA and other ombudsman agencies across the world typically measure their performance. Many have established indicators that focus on process. Some, like the Office of The Ombudsman in Hong Kong, China, have also developed “bigger picture” indicators that focus more on overall impact. We briefly look at the use of surveys, and we examine some of the perils of performance indicators and standards that focus only on process.

In Part 2, we set out six performance-measurement principles centered on impact, rather than on process. They are rooted in measurably solid investigative methods, unassailable findings, and bulletproof recommendations; and they will enable ombudsman agencies to let their stakeholders know that they are providing a necessary and valuable service. These principles include efficiency and effectiveness checklists. They are based on a simple underlying premise: if an ombudsman office does not add value to the process of improving governance, and then show how it has done so, it may wither and die. The principles are

4 The Hong Kong Ombudsman performance measures are speed of case work, complainants’ level of satisfaction with case handling, redress obtained, recommended improvement measures committed to and/or implemented, and non-repetition of complaints.
• exist,
• measure the quality of investigations,
• measure what else matters,
• structure the operation to ensure value at every level,
• direct one’s efforts to maximizing moral suasion, and
• broadcast the results.

These are the principles we use to gauge our own performance at the Office of the Ombudsman of Ontario. We believe that they have worked well for us. In fact, they have undoubtedly saved our office from elimination.

We also believe that these principles can be adapted to an Asian context.

In saying that, we naturally defer to those who have a far more extensive and intimate knowledge of Asia and Asian ombudsmanship than we could ever hope to acquire in the very limited time we had available to research this paper. It is a given that the approach to performance measurement proposed in this paper will have to be adapted to organizations with differing mandates in different geographic areas. That said, we are very confident that our approach is relevant to, and resonates with, those on the front lines in Asia, not least because some of those who work there have told us so. A total of 39 senior investigators, from 21 AOA member organizations in 12 Asian countries, attended the 4-day training course, Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs, which the authors of this paper conducted in Bangkok in February 2010. In the course, we set out our methodology, which is based on the premise that all ombudsman investigations should be of the highest caliber possible and that ombudsmen must be able to demonstrate their value. The course also focused heavily on systemic investigations and the use of traditional and social media. In essence, the course was a distillation of Ombudsman Ontario’s approach to ombudsmanship over the last 5 years. According to the Asian Development Bank (ADB) summary of the evaluations completed by those who attended, participants gave very high ratings for the “usefulness of the training experience in their work” and for “the helpfulness and information-content of the materials.”

To summarize, the use of impact as a measurement of performance has proven extremely effective for us and for others. We have no doubt that our performance principles can be customized to meet the unique requirements of individual agencies, including member organizations of AOA. Indeed, a number of ombudsman and other oversight agencies across the world have reviewed our approach, adopted and then adapted those bits that worked for them, and successfully incorporated them into their own operations.

**Methodology**

Everyone in the investigative field knows that gathering evidence is key. We have taken the same approach for this paper.

First, we conducted a comprehensive literature review of AOA members, including legislation, policies, procedures, and annual and special reports to determine what, if any, performance standards and indicators were already in place.

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5 The ADB summary also noted that, “Except for one, all the participants agreed or strongly agreed that they now have a better understanding of their task and how to become more effective as a result of the seminar. It is probably for this reason that almost all the participants considered the training as amongst the best trainings on investigative techniques they have ever attended and which makes them ‘very satisfied with all aspects of this training event.’” (G. Carmona. 2010. ADB Training Evaluation Report. 18 February.)
As noted in the Introduction, at the invitation of AOA, and with funding provided by ADB, we conducted the Sharpening Your Teeth (SYT) program in Bangkok in February 2010. The participants were kind enough to complete questionnaires regarding the performance indicators and standards that their own organizations already had in place, and they provided many insights on the topic in informal discussions during and after the training. Further research was conducted with AOA participants by e-mail as this paper was being written. The authors received some valuable feedback, though the overall response rate was not stratospherically high.

Second, we studied how non-AOA ombudsman agencies measure their own performance. As in any major systemic investigation, one of the focal points was determining how other jurisdictions tackle the same or similar issues. After all, why bother reinventing the wheel? If somebody somewhere has a system in place that is effective and efficient, why not borrow bits of it—or even co-opt it wholesale?

We gathered this information in a number of ways. We obtained annual reports and internal procedures from ombudsman offices around the world, contacting several of these offices for clarification when necessary. Our focus was the United Kingdom (UK), where several ombudsman schemes have devoted significant effort to creating fairly sophisticated methodologies for measuring their performance.

We tapped into our own contacts, as well. Every year Ombudsman Ontario hosts a 3-day SYT course in Toronto, with attendees from ombudsman and other oversight offices around the world. At the December 2009 event, we surveyed attendees on how their organizations measured performance. We also contacted alumni from previous SYT sessions, asking them the same questions.

We had earlier delivered customized versions of the SYT training course to oversight agencies on virtually every continent, including United Nations organizations, and so we canvassed many of them about their performance measures.

We are particularly grateful to Javed Sadiq Malik, the president of the AOA, for his generous and very thoughtful response to our queries about the issues we review in this paper. The Office of the Ombudsman of Thailand was also very helpful, with particular thanks owed to Paweena Kuvanonda, who provided detailed and extremely useful responses to our request for information. We were also fortunate to receive significant input from the European Ombudsman, the Public Protector of South Africa and, in the UK, the Local Government Ombudsman and the Public Services Ombudsman for Wales.

Finally, we looked at ourselves. The Office of the Ombudsman of Ontario is the second largest ombudsman office in North America. Outsiders have described it as being on the cutting edge of the profession, particularly in its methods of processing complaints, conducting investigations (especially systemic ones), and getting its message out. Presumably, we must be doing something right. Hence, we reviewed how our office has tackled the challenge of measuring our own performance.

As implied in the Introduction, we make no apologies for showcasing our own approach, particularly in Part 2 of this paper. We looked for examples from AOA members to illustrate the points we make, and have canvassed some of them for specific information. Unfortunately, we did not find as much as we had hoped, though that may have been due to inadequacies in our research or to the fact that adequate data are not readily available via the Internet. As the ADB reviewer noted, “For the present, the lesson is driven home sharply that insufficient material is available by way of illustrative examples” (Appendix). So we were left, by and large, to rely on our own experience, secure in the knowledge that our approach has actually worked. And, as noted, we genuinely believe that many aspects of our approach to performance measurement can be adapted to meet the unique needs of every Asian ombudsman office.
Part 1

Typical Performance Measures

As we went through the material, themes and patterns emerged, including a broad range of criteria that ombudsman offices have developed or adopted as measures of performance. Of course, not all criteria are used by every organization. Many overlap, as will become obvious. These criteria are (in no particular order)

- number of complaints received,
- target times for initial responses to complaints,
- target times for assessing complaints,
- number of cases resolved informally,
- target times for disposing of complaints,
- targets for the number of cases to be disposed of by staff members in a given period,
- target times for completing investigations,
- effectiveness in keeping complainants updated about progress in dealing with their cases,
- effectiveness in advising complainants of the result of an investigation,
- effectiveness in dealing with root causes and systemic issues,
- number of systemic investigations,
- acceptance of recommendations,
- conviction rates,
- number of complaints received about how a case was handled,
- number of complaints about the conclusion reached,
- number of judicial reviews,
- number of outreach activities,
- awareness of the existence of the office among its constituents,
- composition of staff,
- staff training,
- impact of annual and special reports, and
- effectiveness in monitoring the implementation of recommendations.

Number of Complaints Received

All annual reports include a segment outlining the number of complaints received during that year. Most also identify trends over a period of years. For example, the Hong Kong Ombudsman has a comprehensive table in its 2009 report that covers the number of complaints received over the previous 5 years. In its 2008 report, the Provincial Ombudsman of Balochistan, Pakistan, lists the total number of complaints instituted over a 7-year period up to March 2008. The Ombudsman of Thailand listed the number of complaints received under its jurisdiction from 2001 to 2009, broken down by year. In fact, and to no one’s great surprise, we did not find any ombudsman office anywhere that did not provide the numbers of complaints received per year.

Many ombudsman offices seem to set significant store by the number of complaints they receive as an indicator of how they are doing. Even if the number of complaints is not specifically identified as a measure of performance, there appears to be an implicit consensus among ombudsmen that it bears a direct relationship to stakeholder faith in and awareness of a given office. The Wafaqi Mohtasib—the Ombudsman of Pakistan—notes in his 2008 annual report that the number of complaints received is a key indicator of the office’s effectiveness in addressing citizen concerns.

6 Not only did it cover the number of inquiries and complaints received, it also broke them down into categories based on how they were handled and concluded, including how many were pursued, how many were fully investigated, and how many were mediated. The table also showed the number of direct or systemic investigations the office conducted, as well as the number of cases it had assessed to determine whether a direct investigation was warranted.
report that one of the key performance indicators (KPI) he has created is the building of public confidence in the office. One of the ways the Wafaqi Mohtasib measures this is by the number of complaints received.\(^7\)

In other words, there is a fairly broad consensus that the more complaints an office receives, the better, if only because it means that the office is on the map. A logical and reasonable conclusion? Yes, certainly, in the vast majority of cases. But a climb in the number of complaints is not always a foolproof indicator of improved performance. In fact, as we shall argue later in this paper, in a few cases a decline in the number of complaints can be an indicator of effectiveness. In general, though, increased uptake equals increased awareness and, likely, increased confidence among complainants that an ombudsman office will actually be able to do something. Certainly, a steep decline in the number of complaints may be worrisome, absent a reasonable explanation, not least when the bean counters come calling.

**Target Times for Initial Responses to Complaints**

Some AOA offices have developed sophisticated standards for initiating action on complaints within a given time frame. For example, the Hong Kong Ombudsman has a target of completing the acknowledgment and initial assessment of 80% of complaints within 5 days, and the remainder within 10 days.\(^8\) The Public Complaints Bureau in Malaysia commits to “attending to every walk-in complainant within 5 minutes of their arrival.” Other AOA offices have imposed strict response times for acknowledging receipt of a complaint—in one case on the day it is received. The Hong Kong Ombudsman has instituted a pledge to respond to phone calls and walk-in enquiries “immediately” and to written inquiries within 5 days.

Ombudsmen across the globe have developed similar policies. It may be a target for acknowledging receipt of a complaint or for giving a full reply—for example, 7 days and 20 days respectively in the case of the Office of the Ombudsman of Ireland. It may be a target for answering the phone. The Local Government Ombudsman in England notes that it answers the 40,000-plus telephone calls it receives each year within 33 seconds, on average. The Public Services Ombudsman for Wales has a goal of answering 95% of all calls within 30 seconds. The Office of the Ombudsman for the City of Toronto has introduced a policy of answering the phone within three rings.

Ombudsman Services, in the UK, is a private nonprofit agency that provides complaint resolution services for the energy and telecommunication industries, among others. It is governed by a council that oversees operations and sets standards for the complaint-handling process. It has also created KPIs for initial responses to contacts from complainants. More than 80% of calls are to be answered by a staff member within 2 minutes, and more than 95% of calls are to be answered by a staff member within 5 minutes.

**Target Times for Assessing Complaints**

Normally, the first thing an ombudsman office does upon receipt of a complaint is assess what should be done. That process usually involves answering several questions, including:

- Does the complaint fall within the ombudsman office’s mandate or jurisdiction?
- Is it premature? Most ombudsman offices are intended to be the last resort, meaning that they do not normally

\(^7\) Overall complaint numbers also factor into the equation when budget time comes around. Caseloads impact on resources. Receiving, documenting, and disposing of complaints cost money, even if the end result is a simple referral to another agency better suited to dealing with an issue. Increased demand for service equals increased requirement for resources, as the Wafaqi Mohtasib noted in the information he provided to the authors on his office.

\(^8\) Office of The Ombudsman, Hong Kong, China. 2009. *Annual Report of The Ombudsman Hong Kong 2009: 20 Years On.* According to this document, the Hong Kong Ombudsman processes 99.8% of cases within 5 days.
deal with a complaint until other existing resolution mechanisms have been exhausted. For example, if the agency complained about has its own complaints process, complainants should avail themselves of it first.

- Is this a case of personal interest to the complainant? Some offices have taken the position that the complainant must have some kind of personal interest in pursuing a complaint. The definition of “personal interest” seems to be up for grabs, however. One could make the argument that all citizens have a personal interest in administrative fairness by their government(s), whether or not the issue directly affects them. Others may interpret the term less broadly.

- Is the complaint vexatious, malicious, or frivolous?

Assessing cases is not always a clear-cut process, particularly when they involve complex issues concerning administrative fairness. It can also be debatable whether a specific complaint even falls within the ombudsman's mandate. Are there cross-jurisdictional issues? While one aspect of a complaint may fall clearly within someone’s bailiwick, another aspect may not. Are other complaint resolution mechanisms currently dealing with the complaint in good faith? Is it in the public interest to investigate? Would referral to another organization be appropriate in a particular case? Are there compelling circumstances—such as undue hardship or urgent systemic issues that no one else is addressing—that may encourage an ombudsman to get involved?

The permutations can be endless. The process by which an ombudsman office decides what it is going to do with a given complaint can be time-consuming. It may require research, scouring case management systems for similar cases or precedents, obtaining a legal opinion, and finding out precisely what other agencies are doing.

Some ombudsman offices have developed deadlines for completing assessment processes and advising complainants. As mentioned above, the Hong Kong Ombudsman has established the target for concluding initial assessments within 5 working days for 80% of the complaints it receives. The Public Complaints Bureau of Malaysia promises to “initiate an investigation within 10 working days,” should it decide one is necessary. The Public Services Ombudsman for Wales informs complainants within 4 weeks of receipt of a complaint if the office will take up their cases.

**Number of Cases Resolved Informally**

Most ombudsman offices spend a lot of time attempting to resolve cases informally. It is the bread and butter of many ombudsmen’s work. Informal resolution can often be far quicker, cheaper, and more effective than a full investigation. For this reason, ombudsmen actively seek ways to encourage informal resolution, often acting as a go-between, facilitator, negotiator, banging-heads-together agent, or, as the Inspector General of the Dutch military puts it, “a horsefly.” Alternative dispute resolution is a tool that many ombudsmen are using more frequently.

A few ombudsman offices have set goals for increasing the number of cases that go this route. For example, the Public Services Ombudsman for Wales has introduced targets for increasing the number of complaints that are resolved informally. The number of complaints it has resolved informally increased by 6% in 2009–2010, and it hopes for an increase of another 5% in 2010–2011.

**Target Times for Disposing of Complaints**

Generally speaking, the faster an ombudsman can dispose of a complaint one way or the other, the better. Some AOA members have created standards for resolving complaints within a given time frame. The targets vary from office to office, depending on their mandates and the complexity of the complaints. Some standards are very general. For instance, one office notes its intention “to dispose of the maximum number of complaints and...reduce the time taken finalizing investigations.” Others are more specific. The Pakistan Banking Mohtasib anticipates resolving simple issues within 4–6 weeks and more complex ones within 120 days. The Hong Kong

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Ombudsman has set a goal of processing 60% of cases falling within its jurisdiction within 3 months, and the remainder within 6 months. The Federal Tax Ombudsman of Pakistan has a target of handling at least 60% of complaints within 60 days of receipt and all complaints within 90 days. The Ministry of Supervision of the People’s Republic of China (PRC) generally handles cases within 60 days of receipt, though supervisors may grant an extension of another 30 days.

Other ombudsman offices do not set specific targets, but they monitor disposal times closely. In his 2008 annual report, the Wafaqi Mohtasib, in Pakistan, noted a “vast improvement over the performance of past years” in disposing of complaints. The Provincial Ombudsman of Balochistan pointed out in the executive summary of his 2008 annual report that the rate of disposal of complaints was the highest “compared to previous years.” He also noted his “sense of satisfaction” at the fact that only 98 complaints were pending at the end of the reporting period.

The Anti-Corruption & Civil Rights Commission of the Republic of Korea has introduced streamlined case handling and investigation processes that have enabled it—according to the commission’s statistics—to reduce the average time spent processing cases from 81.6 days to 68.1 days, though it is unclear whether this was a targeted goal.

Other offices across the globe have created targets for the disposing of complaints. Ombudsman Services in the UK has developed performance indicators that include a target of over 90% of provisional conclusions issued within 6 weeks, with less than 1% issued after more than 8 weeks.

**Targets for the Number of Cases to Be Disposed of by Staff Members in a Given Period**

Some AOA member offices set goals for the number of complaints that individual staffers should dispose of in a given period. In some offices, such as the Office of the Ombudsman Punjab, investigators are expected to dispose of a specified number of complaints each month. The Wafaqi Mohtasib has set a target of 40 cases to be finalized per month by each of his 47 investigators. Other offices set targets in consultation with investigative staff.

Productivity is a factor for many ombudsman offices outside Asia. Ombudsman Services in the UK indicates that one of its KPIs is to “strive to deliver productivity improvement of 5% in contact and case handling (volume per head) by the year end.”

**Target Times for Completion of Investigations**

Investigations are the lifeblood of an ombudsman office, notwithstanding the fact that referrals and informal resolutions also play very important roles. Naturally, many offices have created specific target deadlines for completing investigations.

The Wafaqi Mohtasib has a comprehensive seven-step process that provides a time frame for each stage of a case, from the point the complaint is registered to the day it is “consigned to records.” The investigation segment of the process is given clearly defined time frames, and there is a designated period for the implementation of recommendations.

The Ombudsman of Thailand has developed admirably strict targets for processing and investigating complaints. All complaints are screened within 1 day after receipt to determine jurisdiction. The Secretariat or Deputy Secretariat then assigns the case within 1 day of receipt to the relevant director of investigations or specialist, who then assigns it to a responsible officer within 1 day of receipt. The responsible officer undertakes a secondary screening process. If an investigation is required, the investigation plan should be completed in 14 days. The responsible officer then

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10 Ombudsman Services, UK. *Key Performance Indicators (KPIs).* http://www.tosl.org.uk/pages/4performance.php
writes to the government agency involved requesting its side of the story, to be provided within 30 days. Upon receipt of the government agency’s account, the responsible officer completes a summary report within 15 days.\(^{11}\)

The Public Services Ombudsman for Wales strives to complete 98% of its investigations within 12 months from the time the decision is made to investigate a complaint.

Some offices have developed target deadlines that combine all of the above, from receipt through assessment and investigation to disposal. The Scottish Public Services Ombudsman has created one of the more detailed policies we came across during our research. It has developed three KPIs for timeliness in handling complaints, one for each stage of the process:

- **1st KPI: Initial Consideration.** This phase begins with the receipt of a complaint and ends when the complaint is sent to an ombudsman who will determine if it falls within the office’s jurisdiction, if it is something the ombudsman “may be able to investigate.” The target is to complete this phase within 2 weeks of receipt of the complaint in 95% of cases.

- **2nd KPI: Examination.** During this phase, the ombudsman assesses the complaint to determine whether it should be investigated. The KPI at this stage is that the examination of the complaint should be completed within 14 weeks in 80% of cases.

- **3rd KPI: Investigation.** The phase is the conclusion of the investigation. The KPI at this stage is that 60% of ombudsmen’s investigations should report conclusions within 52 weeks after the complaints were registered.

**Effectiveness in Keeping Complainants Updated about Progress in Dealing with Their Cases**

Good customer service dictates that complainants should be updated about what is happening with their cases as often as possible. For that matter, so should anyone else with an interest in the outcome, provided, of course, that giving updates does not adversely affect the integrity of the complaint-handling process. The Public Complaints Bureau of Malaysia informs the complainant about the progress of his or her case “at least once a month until the case is resolved.” As we spoke with more AOA members, it became clear that other offices have similar targets, though many focus on keeping complainants updated “regularly,” as opposed to setting out specific intervals. The National Defence and Canadian Forces Ombudsman developed a policy of contacting complainants every 2 weeks to update them on developments, with mixed results.\(^{12}\)

**Effectiveness in Advising Complainants of the Result of an Investigation**

Again, customer service and procedural fairness dictate that complainants should be advised of the outcome of their complaints. It would be astounding if they were not. At least one agency sets a target for communicating results within a specified period: the Public Complaints Bureau of Malaysia informs the complainant of the result of an investigation within 5 working days after a decision has been made.

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\(^{11}\) In the event that the government agency does not respond within 30 days, the Ombudsman of Thailand may take the request to higher levels of the bureaucracy, even up to the ministerial level. Each of these levels of the bureaucracy is given 15 days to respond before the Ombudsman notifies the next level.

\(^{12}\) The National Defence and Canadian Forces Ombudsman experimented with a policy of contacting complainants every 2 weeks to keep them informed of their cases’ progress. It didn’t work for several reasons. First, some complainants did not want to be contacted until something had actually happened. Others just wanted to know the outcome. In some cases, particularly the more complex ones, there were significant stretches of time during which there was little news to report, so automatically calling every 2 weeks was an exercise in futility. It created false expectations, and there was also a danger that staff would expend valuable time making calls to complainants instead of working to get the actual complaints resolved.

The office’s solution was to have the staff conducting complaint intake, as well as the investigators, contact complainants at intervals that made sense given the particular circumstances of each case. It could be every week or every month. The staff member made that decision, with input from a supervisor and the complainant. It worked. But it is not a process that is easily translated into numbers and percentages.
Effectiveness in Dealing with Root Causes and Systemic Issues

Systemic investigations certainly seem to be the way of the future, for reasons cited in the Introduction—and discussed later in this paper in a depth we hope you do not find too stultifying. AOA members increasingly seek to demonstrate their value by conducting investigations with a systemic component. Some have made conducting systemic investigations a strategic goal. For example, one of the key objectives of the Ombudsman Punjab is “to diagnose systemic problems in governance with a view to making recommendations for change.”13 The Ombudsman of Thailand touted its successful investigation and special report on polluted water in Nakhon Pathom Province as its first systemic investigation.14

The AOA added a category to the most recent (April 2010) iteration of the Fact Sheets describing the role of each of its members, which is posted on its website. The new category, “Addressing Systemic Issues,” covers the conduct of systemic investigations. It replaces the “Research and Analysis Wing” segment, which appeared in earlier editions of the Fact Sheets and touched on systemic and “own motion” issues (in which the ombudsman has the authority to investigate an issue regardless of whether a complaint exists). In the past, not all AOA members contributed information to the “Research and Analysis Wing” segment, whereas the vast majority of AOA members have clearly described their approaches to systemic investigations in the updated version of the Fact Sheets.15

Systemic investigations tend to be the “jewel in the crown” of ombudsman annual reports, and in some cases of high-profile special reports. Some ombudsman offices have set up special units to conduct them: the Hong Kong Ombudsman has two direct investigation teams. The Ombudsman of Indonesia has assessment teams to investigate systemic problems that may emerge from what it describes as, “media analysis or statistics of citizen complaints,” and it issues “thematic assessment” reports. The Public Complaints Bureau of Malaysia has created a Planning and Research Unit with a mandate, among other things, to analyze data on public complaints and propose holistic solutions for resolving complaints at the systemic level.

Even AOA agencies that focus primarily on anticorruption issues are developing prevention strategies that take root causes into account. For example, the Office of the Ombudsman of the Philippines has initiated its Integrity Development Review Program, which assesses government organizations for systemic causes that make them vulnerable to corruption. The Commission Against Corruption of Macao, China, notes that it tackles systemic issues on two fronts. First it carries out studies “to identify loopholes, deficiencies, contradictions or obsolescence in the existing legal system.” Second, the Commission conducts “in-depth research and analysis” regarding the machinery of government so as to make recommendations to “improve administrative procedures, prevent corruption and ensure administrative legality.” The Ministry of Supervision of the PRC has a department responsible for performing research and analysis “in terms of anticorruption strategy and policy.” The Commission for Human Rights of Azerbaijan has something similar, though obviously with a focus on human rights issues.

15 Only the Lokayukt Organization in Madhya Pradesh, the Administrative Evaluation Bureau (AEB) in Japan, and the Hong Kong Ombudsman do not have substantive entries under the “Addressing Systemic Issues” category. That may be somewhat misleading, however, as it is clear from elsewhere in the Fact Sheet that Hong Kong, China, has a very well-developed and robust approach to systemic investigations. Along the same lines, the AEB conducted what appears to be a systemic investigation into Japan’s National Pension scheme (Kokumin Nenkin) in 2004. Indeed, the report on the investigation specified one of the AEB’s duties as follows: “...the AEB is able to scrutinize the legitimacy, appropriateness and efficiency of operations and their management by the ministry or agency concerned in order to promote resolution of important administrative issues and ensure the implementation of administrative reforms.” It seems to us like the classic definition of a systemic investigative function. www.aoa.org.pk/Researchstudy/Japan-GoodGovernance.pdf
The trend is abundantly clear. Many AOA member offices see the conduct of systemic investigations as a vital part of their function. Speaking informally with many AOA staffers at all levels, we have found that there is an eagerness to do them. These member offices are training staff to conduct systemic investigations, as evidenced by the Sharpening Your Teeth (SYT) training in Bangkok. How effective these AOA members are, or will become, at conducting such investigations may prove to be an important measure of their performance—perhaps even the major measure, as we shall argue in Part 2 of this paper.

**Number of Systemic Investigations**

It follows, then, that the number of systemic investigations conducted in a given period may be a useful performance measure. Some ombudsman offices have set targets for the number of systemic investigations to be conducted in a given year. Several AOA institutions refer to the number of systemic investigations they have completed. For example, the Hong Kong Ombudsman sets out figures for direct investigations, and has a segment in its 2009 annual report devoted to them. The Public Protector of South Africa undertook to conduct one systemic investigation per province and one per investigative unit in the 2007–2008 fiscal year, a target that he achieved. Other ombudsmen and oversight officials have incorporated systemic investigations into their business plans, or have had their mandates amended so they could conduct them.

At the Office of the Ombudsman of Ontario, we aim to conduct between five and six systemic investigations every year. This is not a “cast-in-stone” target. How many systemic investigations can be completed depends on a whole host of variables, including the

- complexity of the issues to be investigated;
- other issues that may be worthy of investigation that come to light during the investigation;\(^\text{17}\)
- quantity of evidence that must be gathered;
- availability of sufficient resources, including investigative and support staff;
- status of other ongoing investigations;
- other priorities that might emerge during the investigation; and
- levels of cooperation from all parties.

Some variables are foreseeable, particularly with an effective selection and planning process, but others are not. Setting a number may have its downside. Given all the variables, an exact number as a target could create expectations that cannot be met, as we shall discuss at the end of Part 1.

**Acceptance of Recommendations**

The percentage of recommendations accepted is often advanced as a useful measure of how an ombudsman is doing. It may be an indication of the strength of the investigative process, the effectiveness of strategies to exert moral suasion, and the credibility of the ombudsman office. On the other hand, it could mean that the recommendations were so insipid or nebulous that they were happily accepted by whomever they were directed to. One would have to analyze each case before being able to determine which scenario applies.

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\(^{16}\) A “direct investigation” is defined by the Hong Kong Ombudsman as an investigation that “is initiated by the Ombudsman, often in the absence of complaints, to look into issues of wide public concern and suspected systemic maladministration.” AOA Fact Sheet.

\(^{17}\) This is a phenomenon known as “issue creep,” and it can be fatal to good investigative practice.
Conviction Rates

Putting bad guys in jail was not, perhaps, a function envisaged for ombudsmen in the back rooms of Stockholm some 200 years ago. But several AOA members have an anticorruption or quasi-criminal mandate, at least in part, among them the offices in the Republic of Korea; Macao, China; the Philippines; Viet Nam; and Yemen, as well as the Lokayukta Organization in Madhya Pradesh, India. The Ombudsman of Indonesia has been given “a strategic role in the eradication of corruption and preventing corrupt behavior.” The Office of the Ombudsman of the Philippines describes itself as “the lead agency of government in fighting corruption in the public service.” It has a prosecutorial and an adjudicative function, features not normally seen in the world of classic ombudsmanship, at least in the Western nations.18 The office bills itself as a watchdog and as “a dispenser of justice—which imposes administrative sanctions and prosecutes erring government officials.”19 Its annual report is one of the very few that we have reviewed that, in lieu of the happy, smiley people you normally see strewn across the pages, has a prominent picture of a gentleman in handcuffs.

When they investigate corruption, these organizations are conducting what are, in essence, criminal investigations. But performance standards for law enforcement agencies are not the same as those for classic ombudsman or human rights organizations. KPIs for criminal investigative agencies tend to include clear-up rates (i.e., when a case has been solved, even though no one may have been charged) and—the sine qua non for cops across the world—the number of convictions.

It is hardly surprising, then, that these AOA members refer repeatedly to conviction rates in their annual reports. For example, the Commission Against Corruption of Macao, China, boasted an 87% conviction rate in its 2008 annual report. The Philippines Ombudsman proudly announced that its conviction rate in 2008 was 73.42%, “the highest rate in the 21-year history of the Ombudsman.”20 How many of the rest of us can say that? In its 2008 annual report, the Philippines Ombudsman included a graph setting out conviction rates over the previous 7 years.21 The report also mentioned targets for the following year for both conviction rates (an increase of 40%) and the number of successfully mediated cases (an increase to 450).22

Interestingly, the Commission Against Corruption of Macao, China, implicitly measured its performance by referring to Macao, China’s ranking in studies by independent agencies of the levels of corruption in Asian states. This is an impact rather than a process approach to performance measurement, which we mentioned in the Introduction and which we shall discuss further in Part 2. In its 2008 annual report, the Commission noted that Macao, China, ranked in 4th place, as it had in the previous year, in an annual study by the Political and Economic Risk Consultancy entitled Trend of Corruption in Asia 2008, but it also noted that this time it had achieved a better overall score.23

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18 It identifies its five “major functions and duties” as follows: to investigate anomalies and inefficiency, to prosecute cases before courts of law, to conduct administrative adjudication, to render public assistance, and to prevent graft and corruption.


20 Philippines Ombudsman, Marketing Milestones, p. 33.

21 Philippines Ombudsman, Marketing Milestones, p. 34.

22 Philippines Ombudsman, Marketing Milestones, p. 76. However, the annual report also emphasized the office’s mediation function for cases that did not involve graft. It gave the number of cases resolved through mediation, though it is unclear whether there are targets for the number of cases that go that route. The annual report also highlighted the office’s role in educating citizens about the evils of corruption as well as its role in tackling the root causes, as is mentioned a little later in the paper.

The Anti-Corruption & Civil Rights Commission of the Republic of Korea introduced a raft of measures designed to tackle corruption and lack of transparency in recent years. They include

- integrity assessments to gauge the extent of transparency in an organization,
- more robust codes of conduct for public officials,
- clarified criteria for “work proceedings and detailed punishment” for abuses by public servants, and
- a protection and reward system for whistle-blowers.\(^{24}\)

How do they measure success? At least in part, the same way the Commission Against Corruption of Macao, China, does. The acting chair of the Anti-Corruption & Civil Rights Commission noted that the Republic of Korea had moved up three places in the Transparency International index since the previous year, and that the work of his office had contributed to “raising the national brand value.”\(^{25}\) What better performance indicator could there be?

**Number of Complaints Received about How a Case Was Handled**

An old adage among police officers is that “if you are doing your job properly, someone will complain about you.” On the other hand, ombudsmen can learn from their mistakes. And they undoubtedly will make mistakes, however hard they may try to be perfect. Complaints about the way an ombudsman has dealt with a case are as inevitable as the sun rising in the east.

Some offices track the number of complaints about them, though it is unclear whether the purpose is transparency or to measure performance. The Hong Kong Ombudsman differentiates between complaints concerning the conduct of staff members and complaints about work systems and procedures, the latter covering such issues as the time taken to conduct investigations.

Some offices—not AOA ones, we hasten to add—appear to have a fixation on dealing with complaints about themselves. In some of the annual reports we reviewed, there was a heavy emphasis on how many complaints were received and what the process was for dealing with them. In one annual report, a full-page segment on “Complaints About Us” was the first substantive section, placed immediately after a description of how the office was structured. The actual work the ombudsmen had done that year was relegated to a section farther back in the report.

As an aside, we fully acknowledge the importance of having an effective and fair process for dealing with the inevitable complaints that will arise, whether an ombudsman is doing his or her job well or badly. Given that, hopefully, complaints about what ombudsmen may have done (or not done) will form a miniscule part of an office’s workload, then such complaints should not, at least in our view, be given undue prominence. By all means be open, acknowledge the concerns of complainants, and provide suitable redress in cases where ombudsmen have made mistakes. Of course, offices can learn from their errors, or, as the Hong Kong Ombudsman aptly put it, “we treasure the lessons learned for streamlining our practices for more efficient and effective service delivery.” But it should not be job one.

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\(^{24}\) In 2008, whistle-blowers received $260,000. Payouts may be used as a performance indicator in the future, though perhaps a better measure would be the number of individuals coming forward and the quality of the information they provide. That would perhaps reflect the faith that people have in the system’s ability to protect them should they provide information; but there are, of course, many variables.

Number of Complaints about Conclusions Reached

Closely related to complaints about how a case was handled is the number of complainants who take issue with the conclusion the ombudsman reaches, with the implication that

- the fewer of these complaints received, the better, presumably, as a reflection of the quality of the ombudsman’s initial decision; and
- the fewer decisions reversed upon review, the better.

Some ombudsman offices have developed formal review processes to deal with complaints about conclusions. In 2009, the Hong Kong Ombudsman received 246 requests to review its decisions. The decisions were changed in seven cases.

Number of Judicial Reviews

Most ombudsman offices are not only avenues of last resort, their decisions are considered final. That does not mean, at least in many jurisdictions, that ombudsmen are not subject to judicial review. Some offices refer to the number of court applications challenging their decisions in their annual reports and on their websites, though not necessarily as an indicator of their performance. For example, in its 2009 annual report, the Hong Kong Ombudsman noted that during the year three complainants had applied for judicial review, “but none obtained leave from the High Court.” The NSW Ombudsman (of New South Wales, Australia) apparently uses the number of requests for reviews of conclusions as a performance indicator.26 The Parliamentary and Health Service Ombudsman in the UK also includes in its annual reports the number (and outcomes) of judicial reviews of its decisions.

Number of Outreach Activities

If an ombudsman office is going to be of value, its constituents have to know about it. Most AOA members make considerable efforts to enhance public awareness by a variety of means. The Administrative Evaluation Bureau in Japan holds an “administrative counseling week” biannually and publicizes it with a media campaign, including a poster distribution blitz. Others produce newsletters, including the Ombudsman of Iran. The Ministry of Supervision of the PRC has a musical contest on the theme of integrity. It also holds a public competition for advertisements promoting integrity and “clean government,” which are then broadcast on television (TV), both locally and nationwide. The Government Inspectorate of Viet Nam conducts monthly press conferences to keep the public up to date on its activities.

Many other AOA members note that they conduct extensive public consultations, meetings, and workshops, including the Provincial Ombudsman of Sindh and the Federal Tax Ombudsman, both in Pakistan, and the Ombudsman of Indonesia. Some have sophisticated outreach programs, such as the Public Complaints Bureau of Malaysia. Outreach challenges are compounded by geography, lack of access to communications (including the Internet), and the unavailability of funding in some jurisdictions.

Nevertheless, many ombudsmen appear to see the quantity of outreach activities as a de facto performance indicator, on the apparent premise of the more, the better. The NSW Ombudsman noted in its 2008 annual report that it had undertaken 200 community and education activities, including 117 workshops and training sessions, reaching over 2,700 people.27 In 2007–2008, the office of the Public Protector of South Africa set a target of 5 information sessions per province, which it easily achieved, conducting a total of 320, plus 23 workshops with sister oversight agencies.

Awareness of the Existence of the Office among Its Constituents

One of the primary goals of outreach is, of course, to increase the level of awareness among the public and other stakeholders (including bureaucrats) of the existence of an ombudsman office and what it does. All the outreach in the world counts for naught if it does not achieve that goal. We discuss strategies for getting the message out in Part 2 of the paper.

So how does one measure the effectiveness of outreach? It may be by noting if there are increases in the number of calls or complaints, more traffic on the website, or more frequent mentions in the media or legislature. Or it could be by conducting a survey, as discussed a little later in the paper.

Composition of Staff

Having a staff that reflects the community it serves in terms of gender, race, language, sexual orientation, and so on has been a goal of many organizations for a long time. Progressive police forces, particularly in North America and the UK, have made gargantuan efforts to create and meet targets to achieve this objective.

So have some ombudsman offices. The NSW Ombudsman has developed performance indicators showing how well it is doing in relation to government-wide equal employment opportunity targets for hiring people from various groups, including women, aboriginals, people whose native language is not English, and those with disabilities. The progress made in meeting those targets is set out in some detail in the annual reports, as well as the average salary levels and employment status of those groups.

Staff Training

Arguably, the quality and quantity staff training could be considered a valid performance indicator, particularly if one accepts the premise that training (or lack of it) will affect the quality of service. The better the training, the better the outcome, at least in theory.

A few AOA members provide information about training, with the implication that training is a key performance indicator (KPI). In its 2008 annual report, the Public Complaints Bureau of Malaysia included an impressively detailed list of the courses attended by its officers, including specifics regarding the content and objective of each course. The Anti-Corruption & Civil Rights Commission of the Republic of Korea has sent staff abroad for training, including lengthy secondments to the Iowa Ombudsman, a leading United States office. The AOA/ADB initiative to provide the Sharpening Your Teeth (SYT) training course is indicative of the desire to expose staffers to advanced investigation techniques in an ombudsman context. Many ombudsmen elsewhere refer to staff training, though not usually defining it as a performance indicator. But if the whole idea is to build public confidence in the capability and professionalism of an office, then perhaps it should be considered one.

Impact of Annual and Special Reports

The annual report is generally a labor of love. It is one of the main tools that an office can use to demonstrate its value, accountability, and transparency, and to raise public awareness of its existence. Much time and effort often goes into compiling, producing, and distributing these reports. Some of the reports we reviewed from around the world border on lavish in terms of production quality.

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So is it worth it? As an office develops its strategy for distributing its report, it should pose the following questions: Who is the target audience? Who actually reads it? Whom do we want to read it? What will the impact be? And, finally, once the report is released, how do we measure its impact? Measurement options could include tracking:

- how much media coverage the report received, along with the tone of the coverage;
- the trends in the number of calls (or other forms of contact) the office received in the immediate aftermath of the release; and
- the number of hits on the office’s website.

We shall return to this topic in Part 2.

**Effectiveness in Monitoring the Implementation of Recommendations**

As discussed above, an ombudsman office can make countless recommendations, but if those recommendations are impractical or not based on solid evidence, they will be about as much use as a chocolate teapot. They will only erode the credibility of the office—or even destroy it in the very worst cases, as we talk about a little later. We looked at how ombudsman offices measure if and how their recommendations are implemented. Aside from general statements that offices will “monitor implementation,” we found relatively little in the way of specifics.

Of course, the task is a little easier for those AOA member offices that have an adjudicative function. The Ministry of Supervision of the PRC for instance, is not a recommendatory body, but rather deals primarily with complaints from civil servants. It has robust investigative powers and holds hearings in which binding decisions are issued. Once the ministry makes a decision, the organization has 30 days to implement it.

**Meeting Targets**

Not only do some ombudsman offices set targets in various areas, several very brave ones even publish accounts of how successful they were in meeting them. The Wafaqi Mohtasib of Pakistan is one of them, as is the Hong Kong Ombudsman, which noted that it outperformed all its targets in 2009 in the three areas that it measured:

- response times for acknowledgments and assessments,
- processing times for cases outside its jurisdiction or under restriction, and
- processing times for other cases concluded.

Some UK ombudsman offices that have developed fairly sophisticated targets also tell the world how they have measured up to the standards they have set for themselves. We have already referred to the Scottish Public Services Ombudsman’s targets for processing complaints through disposal. That office also publishes how successful it is in achieving those targets, with monthly reports on its website that include detailed statistics on its performance regarding its KPIs for three of the areas in which it provides services: telecommunications, energy, and surveyors. These reports indicate whether the office was on target, below target but expected to reach the target within the next month, or below target and not expected to reach the target within a month.

**Surveys**

Some ombudsman offices commission surveys to assess how well they are performing. These surveys may be directed at the public—often to gauge the level of awareness or perceptions of the office’s effectiveness—or to stakeholders who have used the ombudsman office before, usually as complainants.

Several AOA members use surveys and questionnaires extensively. The Commission Against Corruption of Macao, China issues an annual questionnaire seeking input regarding its performance and integrity. In 2009, it received...
1,071 responses, with 86% of the respondents supporting the commission’s work, and 80% supporting the expansion of the commission’s jurisdiction into the private sector. Overall, the Commission got a grade of 65, which was an improvement over the 2 previous years.

In its 2008 annual report, the Public Complaints Bureau of Malaysia provided data on the level of customer satisfaction with its services. Overall, it stated that 92% of people who contacted the bureau found their services to be excellent or good. The data included several sub-categories, including promptness, politeness of staff, and, interestingly, “confidence and faith in PCB to resolve problems,” which, at a whopping 87%, is something they should be very proud of.31

The Ombudsman of Thailand conducts extensive surveys, including one in 2009 by a research team to determine complainant satisfaction. In December 2003, a state agency in Thailand conducted research on public awareness of several institutions, including the Election Commission (89.2%), the Auditor General (69.6%), the Human Rights Commission (65.8%), and the Court of Justice (91.6%). The results revealed that 71.7% of those surveyed were aware of the ombudsman office.

The Local Government Ombudsman for England investigates complaints of maladministration by local authorities there. In 2008–2009, the office handled over 21,000 complaints, and it has developed a set of business goals against which it measures its performance. They are

• making decisions that are sound and justified;
• providing customers with service that meets their needs and reasonable expectations;
• promoting awareness, understanding, and use of ombudsman services;
• helping to improve local government through guidance and advice; and
• increasing the efficient use of resources.

The Local Government Ombudsman uses surveys of complainants as one of its tools for measuring how effective it has been at achieving those goals. It commissioned a customer satisfaction survey in 2007 and also conducted its own survey of people who had contacted it, asking them four questions:

• whether calls were answered promptly;
• whether staff dealt with the caller in a polite, helpful, and sensitive way;
• whether the caller knew how to proceed with the complaint by the end of the call; and
• whether the caller’s expectations of service were met.32

Perhaps not surprisingly, levels of complainant satisfaction tend to correspond to whether or not the ombudsman has found in the complainant’s favor. As one very experienced and well-respected ombudsman at the office told us during our research:

Most of the UK public sector ombudsmen do periodic opinion surveys of citizens who’ve made complaints…Our last one shows that if someone is happy with the decision made on their complaint, it is almost impossible to make them dissatisfied with their overall experience.

We suspect that the opposite may also be true, though we have no evidence for saying so.

The Office of the Telecommunications Ombudsman, run by Ombudsman Services, is the ombudsman office for the telecommunication providers in the UK. It regularly conducts surveys to determine levels of satisfaction with

its service. In 2008, it commissioned an outside firm to conduct a survey in which roughly 800 inquirers and complainants were contacted by mail and asked to complete a written survey. A third of the inquirers and half of the complainants responded. The survey covered such areas as how they had heard about the service, their treatment by frontline staff, ease of access, speed of written and telephone responses, frequency of updates on the progress of their complaints, and many other factors, including the complainants’ willingness to recommend the office and, of course, overall satisfaction with the process. The office then reviewed the findings and used them to craft updated performance standards.

Surveys do have their downside. They can be expensive and time-consuming, particularly if they cast a broad enough net to come up with meaningful information. Levels of response may vary, and the data may have varying degrees of reliability. Much depends on how the questions are framed. Surveys can be difficult to conduct, particularly where geography and access to communications are problematic, as may be the case with some AOA members.

Case Study: Office of the Ombudsman of Ontario

We looked at how we used to measure performance at the Office of the Ombudsman of Ontario. Prior to 2005, the office had a very thick complaints resolution manual that set out performance standards. These standards were pretty much along the lines of much of what we have just discussed: process-oriented, with a focus on customer service and productivity. They included the following:

- Telephone messages would be returned in 24 hours.
- Complaints from prisoners in the provincial correctional system would be handled within 2 weeks.
- Informal inquiries to resolve complaints should be done in 3 weeks.
- Investigations that only involved reviewing documents should take no more than 3 months.
- Straightforward investigations would be completed in 6 months.
- Complex, systemic, or system-wide investigations would be completed in 9 months.

The office had also developed “optimal caseload” standards, with targets for the disposal of cases within a set time frame. Those conducting the intake of complaints from prisoners were expected to complete 20 files in 2 weeks. Investigators had to carry 15 cases at any one time, unless they specialized in corrections, for which the optimal caseload was 2. Similar to some ombudsman offices discussed in this report, Ombudsman Ontario’s ability to meet its service standards was also sometimes discussed in annual reports. In 2000, the office had an external consultant conduct a telephone survey of complainants to assess their satisfaction and to help evaluate the service standards then in effect.33

Case Study: Office of the Public Protector of South Africa

In our view, among the most comprehensive methodologies for assessing ombudsman office performance is the one created by the office of the Public Protector of South Africa and reported in its 2007–2008 annual report.

The Public Protector’s office clearly spent a lot of time and effort conducting detailed assessments of its performance as measured against a set of strategic objectives. These are divided into four categories:

- investigations and reporting;
- executive management, including efficient and effective service delivery;

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• an outreach program focused on enhancing the public visibility of the Public Protector’s office; and
• corporate support services concerning recruitment, retention, training, and knowledge and change management.

The strategic objectives within these four categories range from identifying and conducting systemic investigations to increasing the public’s access to the office’s services. All in all, there are 48 strategic objectives, and each strategic objective, in turn, has four segments, which are set out in an easy-to-follow grid form:

• output,
• measure,
• target, and
• assessment of whether a target was achieved.

For example, one of the strategic objectives is to “develop investigative techniques, processes and training.” The output in this case is a process manual covering investigation techniques, remedial action guidelines, checklists, and report-writing procedures. The measure is the percentage of the manual completed by the end of the reporting period. The target is to complete 100% of the manual. The target was not achieved because, although the manual had been drafted, it had yet to be approved by senior management.

The question, of course, is whether or not it is worth all the obvious effort it takes to create, promulgate, police, and assess the success of these objectives. Only the Public Protector can answer that question. Which leads us nicely to...

The Perils of Performance Measures

Ombudsmen should ask themselves the following questions when they consider developing performance indicators or standards: What actual value do these indicators and standards have? What is the point of a target? What does it mean? What benefit does it bring to constituents? Does that benefit outweigh the effort required? Does anyone really care about targets, or whether an office has met them or not? Performance measures may indicate how well an office is doing on paper, but do they reflect reality?

There is a very real danger, in our view, that the time, effort, and energy devoted to formulating, refining, promoting, and then endlessly auditing performance standards and indicators may not always be worth the effort, particularly if they distract or take resources away from core functions. The process may quickly become an exercise in navel gazing and introspection, with little practical purpose. At the end of the day, what, exactly, will have been achieved?

There is also a real danger that, by creating standards and targets, ombudsman offices will generate expectations they may not be able to meet. They will need to buy a crystal ball that can accurately predict their workload and resources, not to mention a magic wand to make the unforeseen (and often unforeseeable) variables that affect their work instantly disappear. In short, they could be setting themselves up for a fall, eventually finding themselves in the dock explaining why they did not meet their own self-imposed targets. They may be hoisted by their own petards—and often unfairly. The media, the public, and the government may ask why these ombudsman offices are, on the face of it, self-defined failures.

And just because a case has been handled within a self-imposed time frame does not mean that it has been handled well. Or vice versa. Or that the time frame is, or is perceived to be, reasonable. For example, creating a target for completing investigations in 6 months may seem ridiculous to a member of the public who is used to watching complex cases solved within an hour on TV, or to a complainant who only wants your help in resolving a fairly simple issue. If an ombudsman office creates such targets, it may need to explain the context in which it
has come up with whatever numbers it has selected. That explanation could include such considerations as the
complexity of cases, the amount of evidence that has to be gathered, levels of cooperation, and all the other
variables that go into many ombudsman investigations. But it is context that can be most difficult to describe, at
least without a lot of time and effort. Is it worth it?

Or an ombudsman office can build enough wriggle room or vagueness into its indicators or standards to bail itself
out when things do not go as planned. The Office of the Ombudsman of Ontario did that to an extent: its now
discarded Complaints Resolution Manual, right on page 1, notes that standards “will be monitored and adjusted as
required.” The manual talks of “unforeseen complications” and the fact that the standards apply “unless there are
extenuating circumstances.”

Which begs the question: if indicators and standards are to be so fluid, why bother having them in the first
place?

That is not to say that performance measurement is never a good thing, to be dismissed out of hand as impractical
or unnecessary. Ombudsmen must be accountable. Creating goals and targets based on customer service and
productivity can be a useful exercise. But this may not be the whole story. What we would like to propose is an
approach to performance measurement that focuses on the ombudsman’s overall impact.

Part Two

Creating Performance Principles

What we set out below are not traditional performance indicators, though they do incorporate some of what
we have already discussed. Rather, they comprise a set of performance principles. While some deal with process,
the focus is on what we consider to be the ultimate performance measurement: how well an ombudsman can
demonstrate that he or she is indeed an effective agent of positive change.

In that vein, below is a list of our principles of performance measurement based on an office’s impact, followed
by an explanation of each principle in succeeding sections. An ombudsman office should

- exist,
- measure the quality of investigations,
- measure what else matters,
- structure the operation to ensure value at every level,
- direct one’s efforts to maximizing moral suasion, and
- broadcast the results.

Principle 1: Exist

Being in existence is a pretty good performance indicator, by any definition. The Office of the Ombudsman of
Ontario nearly did not. In the fall of 2004, the very top level of the Ontario Public Service, the Deputy Ministers’
Council, recommended the elimination of the ombudsman office, thereby saving the taxpayer $9.5 million. How
could that be? The office had been doing stellar work over the prior 30 years. It had resolved tens of thousands of
individual complaints, and it was well known and respected in the international ombudsman community. The
problem was that very few Ontarians knew what it did and how it could help them. We doubt that there would
have been much, if any, public outcry had the plan to eliminate the office gone ahead. Other government
watchdogs had been similarly targeted in previous years and had disappeared without a ripple or trace.
Ombudsman Ontario had to reinvent itself very, very quickly if it wanted to survive. While it had always enjoyed a good reputation as a place to turn to for resolving administrative misdemeanors—such as late birth certificates, alleged rude treatment by uncaring public servants, or unjust denial of driving privileges—it was clearly operating at the fringe of problems instead of getting to their root causes. Ombudsman Ontario was not demonstrating its value by confronting the hard-core, systemic issues that were fueling endless complaints. In government, when you are not demonstrating your value, you end up on the chopping block, particularly in times of eroding public finances and ballooning deficits. As we write, the new government in the UK has alluded to a “bonfire of the quangos,”\(^{34}\) from which no one will apparently be immune. And that’s where we were: awaiting the executioner’s axe.

Our transformation was not an easy one. One of the first things we looked at was what we were doing and how we were doing it. That was when we first came across our volumes of policies and procedures. The cost of drafting, reviewing, and updating our policies and procedures had been very significant. It was not merely the considerable amount of money forked out to consultants that left us scratching our heads, but also the incredible amount of staff time and effort that had been expended on developing them, including the organizing of focus groups from all levels of the organization that met regularly (and, so we are told, at considerable length) while the manuals, policies, and procedures were being developed. Yet very few people were actually using them.

Among the binders gathering layers of dust was the Complaints Resolution Manual, which we mentioned above. It made for fascinating reading, replete with response-time targets for answering complaints and timelines for conducting investigations. It contained quite complex formulas for assessing how to prioritize complaints, based on such criteria as “degree of marginalization” and “adverse impact discrimination.” It also set out definitions of such terms as “attitudinal openness” and “proactive inclusivity.”

Arguably, much of what was included in this manual was basic common sense, with a generous larding of buzzwords. The problem was that relatively few staffers actually found this information useful in their day-to-day work. Nor were the standards that were set out necessarily being followed. The manual was of little practical value, either internally or to anyone who wanted to know how the office was actually doing. Nor, quite frankly, was there any evidence that very many of our constituents gave a hoot about them. Creating them had consumed resources that could have been put to far better use if channeled into what we were supposed to be doing: resolving and, where necessary, investigating complaints. Clearly, the targets, timelines, and formulas were not working. The office was on the verge of being eliminated and, in all likelihood, only a very few people would have cared if it had been. So the manual, policies, and procedures were unceremoniously junked.

In their place, we created a culture that focused on our core function. We identified and cut areas that were not central to what we were supposed to be: a last resort for Ontarians who believed they had been treated unfairly by any one of the myriad government agencies that had some impact on their lives. We disbanded a team of 15 staffers that had spent most of its time trying to resolve trivial complaints from prisoners in the provincial correctional system, and redeployed them to where they could be more effective. We also streamlined the outreach and communication processes to get more bang for the public’s buck, as we will discuss a little later.

Above all, we put the office on the public and political map by identifying, investigating, and resolving systemic issues. It was a policy that Gilles Paquet—the University of Ottawa business professor quoted in the introduction to this paper—mentioned during his keynote address at a joint conference of the International Ombudsman Association, Association of Canadian College and University Ombudspersons, and the Forum of Canadian Ombudsman, held in Montreal in April 2009. Professor Paquet was clearly deeply concerned about the future of ombudsmanship. He mentioned that, when he was a very young boy, his grandfather took him to a blacksmith’s

\(^{34}\) Quasi-autonomous nongovernment organization.
shop near Quebec City. His grandfather told him to look carefully and remember what he had seen because, “by the time you grow up, there will be no more blacksmiths.”

Professor Paquet cautioned that the same fate may well await ombudsmen unless they refocus their efforts from “obtaining reparation, case by case, through meek interventions” to becoming valued producers of good governance. The way to do that, in his view, was by concentrating on systemic issues:

> The only way out of this quandary is greater depth in the inquiry process: accepting the need to tackle the issues revealed by the cases head-on with an explicit intention to unearth and expose the source of the problem, and to become the architect of better governance arrangements capable of eradicating the causes of the difficulties.³⁵

We had actually taken that approach back in 2005, creating the Special Ombudsman Response Team (SORT) to tackle systemic issues using investigation and planning techniques borrowed, in part, from the criminal investigative world. Above all, SORT completed investigations quickly, while the issues it was looking at were still relevant. Within 2 months of the elimination letter from the Deputy Ministers’ Council, we released our first special report, *Between a Rock and a Hard Place*. The report described an investigation that confronted and ultimately resolved the long-standing problem of parents being forced to find pretexts to place their severely disabled children in the custody of the state as the only way of getting them quality care. After our recommendations were immediately accepted and embraced by the public and parliamentarians alike, the office was back on the path to demonstrating its value, and has never looked back. There is no more talk of abolishing the office nor, we suspect, will there be, as long as we continue to demonstrate our value.

**Principle 2: Measure the Quality of Investigations**

The mandates of AOA members may vary considerably, as we have discussed, but there is one constant that is common to virtually every oversight agency across the world: the duty to conduct investigations. In many cases, it is a duty enshrined in their constituting legislation. The Ombudsman of Indonesia is required by law “to conduct a substantial investigation of the grievance.”³⁶ The Ombudsman of Thailand “shall consider and investigate complaints.” The governing legislation of the Wafaqi Mohtasib of Pakistan requires it to “diagnose, investigate, redress and rectify any injustice done to a person through maladministration.” The Public Complaints Bureau of Malaysia undertakes to “investigate every complaint received fairly and justly.”³⁷

Investigating is at the very heart of what ombudsmen do. Oversight offices around the world acknowledge the critical importance of a credible and effective review and investigation process. It is one of the four pillars of classic ombudsmanship, the other three being independence, confidentiality, and impartiality.

Keeping track of the number of investigations completed by an ombudsman office may be helpful, but it may not show the whole picture. As a senior official from the Madhya Pradesh Special Police Establishment (India) succinctly put it, “We must remember that [investigations] are of an intangible nature, so it is not always possible to measure success in terms of numbers only!”³⁸ The mere number of investigations conducted by an office does

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³⁶ AOA. Article 7 of Law 37/2008.


not necessarily mean that they were done well. And numbers rarely matter most to our stakeholders, including complainants and those being investigated. The true measure of success is the quality of the investigations.

Ombudsmen frequently conduct investigations that involve a level of complexity not often found in other types of fact finding. They can be far more challenging, in our experience, than many criminal or regulatory investigations. Probing into an alleged crime is relatively straightforward. Either a crime as been committed or not. If it has, the only remaining issue is to determine who is culpable. The investigation may be resource-intensive and require painstaking evidence gathering and sifting, but the analysis portion—have we got sufficient, reliable, and relevant evidence to nail the bad guy—is usually relatively simple. Measuring success is also relatively easy: conviction and clear-up rates being number one.39

Ombudsman investigations are different, at least in our experience. They often involve complex issues of fairness, competing interests, public policy, limited resources, and any number of other factors. They are not “whodunits” but rather “whydunits.” The fact finding not only has to be meticulous, it has to identify and analyze the reasons why people—usually officials of some kind—made certain decisions. The key questions tend to begin with the word “why.” Why was a policy created, why was it administered this way, and so on. Far from the black-and-white analysis of criminal investigations, ombudsman investigations often involve many shades of grey. It can take painstaking fact finding and extraordinary investigative skill to adduce all the relevant evidence fairly and thoroughly.

That is perhaps one of the reasons why ombudsman offices have traditionally been provided with very robust powers of investigation. AOA members are generally no exception. Many can subpoena witnesses, enter government premises, conduct on-site inspections, and seize documents. Those that engage in anticorruption activities may have the power to order the examination of the bank accounts of individuals they are investigating or to conduct surveillance or even participate in sting operations.40 Some have powers that may go even further, such as being able to punish for contempt or to prosecute, as noted above. With that kind of power comes an overriding responsibility: to ensure that all investigations an agency conducts are of the highest possible standard.

Ombudsmen stand or fall based on the quality of their investigations. An ombudsman’s power to influence change will evaporate as quickly as his or her reputation unless the investigation underlying the ombudsman’s recommendations was impartial and exhaustive. One missed witness, one skewed fact, one overlooked document may give those who do not welcome the ombudsman with open arms all the ammunition they need to convince stakeholders that the investigation was flawed and the conclusions unsound. If just one investigation is shown to be shoddy, biased, or cursory, it will be very difficult for an ombudsman office to reclaim its credibility. It can take years to build a reputation for investigative excellence, and a lot less time to destroy it.

So how does Ombudsman Ontario measure the quality of its investigations?

First, we tell the world what we have done to gather the evidence. For example, take any one of Ombudsman Ontario’s systemic investigations. Invariably, the first part of the report is an overview of the investigative process and methodology followed during the course of the investigation. This is crucial to establishing credibility. We present an overview not only to inform the reader of the route that led to our conclusions, but also to offer a fully transparent response. This provides those who are investigated an opportunity to scrutinize our process.

Opening the book on our investigations has its risks. The reader is free to challenge our methodology. It is important to note, however, that since we have adopted this approach, we have never been criticized on how

39 Law enforcement agencies may also measure the success of crime prevention strategies by trends in the numbers of offences reported, though of course many other factors are involved.

40 Philippine Ombudsman, Marking Milestones, p. 76.
we go about our fact finding. Some may not like our conclusions, but no one has ever successfully argued that they were based on a flawed fact-finding process. The detailing of our investigative process has itself become a performance measurement tool.

Second, we assess how we select, plan, and execute investigations by using a set of criteria that apply to each phase. That can be tricky. Investigations, especially those done by ombudsmen, are by their very nature not particularly amenable to neat quantification. It is very rare that two are exactly the same, even when they share the same underlying systemic issue. The variables are huge, possibly including the nature of the issues involved, the impact of the alleged injustice on groups and individuals, the availability and number of witnesses, the securing and reviewing of documents, the involvement of whistle-blowers, legal ramifications, possible physical evidence, availability of resources to conduct the investigations, other priorities, cooperation, and the crafting of doable recommendations. The permutations are potentially endless, even for specialist ombudsmen who have relatively narrow mandates.

Selecting Our Investigations

Many ombudsmen are vested with considerable powers of discretion when deciding whether or not to investigate a complaint. Many also have the power to conduct “own motion” investigations. How ombudsmen choose to exercise their discretion is, perhaps, another potential measure of their performance. Is the process they use to decide whether or not to launch an investigation reasonably consistent, transparent, and evidence-based? Of course, a subjective decision is an ombudsman’s prerogative, but it must be demonstrably based on as much objective evidence as possible.

We have developed case assessment and systemic investigation identification tools that are used by our intake staff and investigators in every case for which an investigation is being contemplated. They are by no means unique. Many ombudsmen have developed similar tools. They may or may not also use them as a measure of their performance. We do—and it works.

Among the criteria for individual complaints are:

- jurisdiction;
- significant personal consequences for the complainant;
- the age of the complaint;
- the amount of time that has passed between the issue’s emergence and the making of the complaint;
- the extent of the connection between the issue raised in the complaint and the complainant;
- whether the complaint is a candidate for informal resolution;
- whether existing mechanisms are already dealing with the complaint in good faith;
- whether the complaint is malicious, frivolous, or vexatious;
- whether the material facts are in dispute; and
- the likelihood that the ombudsman will have to come to an express conclusion that someone has or has not been treated unfairly.

Our tool for assessing whether or not to launch a systemic investigation is, once again, evidence-based. Some of the factors we consider include:

- How many complaints are there on broadly similar issues?
- Are a large number of individuals potentially affected?

Some are not. For example, the Privacy Commissioner of Canada must investigate all complaints save those that are “frivolous, vexatious or malicious.” As we all know, it often requires as much investigation to demonstrate that a complaint falls into one of these categories as it does to investigate the substance of the complaint itself.
• Does the case encompass a range of policies and/or processes?
• Is the issue high-profile or sensitive?
• Is it in the public interest to investigate?
• Is the alleged injustice so egregious on the face of it that an investigation is clearly necessary?
• Will the case likely result in significant recommendations if the complaint is substantiated in whole or in part?
• Are the facts in dispute?
• Would an in-depth field investigation be necessary to ascertain the facts?
• Is the complaint likely to be resolved informally and, even if it is, would such a resolution deal with the underlying systemic issue?
• Would a systemic investigation be a judicious use of resources?

How do we measure how successful this selection process is?

• By internal review: Managers carefully monitor the process to ensure that the criteria are being followed. As no two cases are absolutely identical, at least in our office, this is a very important part of the quality control process.
• By the merits of any complaint we receive as a result of a decision we have made to conduct—or, more often, decline to conduct—an investigation. To state the obvious, someone will be unhappy when an ombudsman decides he or she is or is not going to investigate a complaint. That is the nature of the job. Usually, it is a decision not to investigate that generates complaints, particularly in cases where complainants feel they have identified an important systemic issue. If, upon review, we find that we have erred, that our decision was not based on the totality of the evidence, we will of course reconsider our position.

Planning Our Investigations

We find that a very accurate measure of the ultimate quality of any investigation will be how well it was planned. Meticulous planning keeps the investigation on track, on time, and on target. It helps us to stay focused on the issues, anticipate roadblocks, use resources effectively and efficiently and, most important, to set firm milestones and a completion date.

We have created an investigation plan template that has been adopted and adapted by many investigative agencies around the world. We use the template for every investigation we undertake, be it large or small. It may be a simple single issue—a complaint about an unreasonable delay in obtaining a birth certificate, for example—or a major systemic case. The plan may be 50 lines or 50 pages long, depending on the issue(s) being investigated.

The investigation plan template is organized according to the following 11 categories:

• allegations and issues to be investigated;
• investigative strategy;
• sources of evidence, including
  (i) applicable laws, regulations, policies, and/or procedures,
  (ii) documentary evidence,
  (iii) physical evidence, and
  (iv) witnesses;
• special considerations;42

42 These may include such issues as whether there is potential roadblocks, for example an anticipated lack of cooperation; whether the office may have to use its legislated powers, such as summoning witnesses or conducting surprise visits; whether fear of reprisal and retaliation is a factor, as in the case of whistle-blowers; or whether extraordinary investigation techniques, such as integrity testing, will be used.
required personnel;
estimated resource requirements;
other information;
communications considerations;
start date;
milestones and timelines; and
completion date.

How do we measure compliance? Internally, investigation plans are reviewed by managers before any green light is given. In the case of Special Ombudsman Response Team (SORT) investigations, the investigation plan will be reviewed and approved by the Ombudsman himself. We also assess the quality of the plan in hindsight, during the “lessons learned” exercise that follows the conclusion of every major investigation, addressing such questions as whether the investigation had met the timelines set out in the plan. Failure to meet them without a valid reason may become a performance management issue.

The true measure of an investigation plan, however, is the quality of the investigation that is based on it.

Assessing the Quality of Our Investigations

We continually assess the quality of our investigations against a clear set of eight principles of excellence developed by one of the authors of this paper that underpin any fact-finding process. They are:

- The investigators must be as independent as possible.
- The investigators must be trained and experienced.
- All potentially relevant issues must be identified and, where appropriate, pursued.
- The investigation must have sufficient resources.
- All relevant physical evidence must be identified, collected, preserved, and examined as necessary.
- All relevant documentation must be secured and reviewed.
- All relevant witnesses must be identified, segregated where practical, and thoroughly interviewed.
- The analysis of all the materials gathered in the investigation must be objective and based solely on the facts.

We apply these principles both during the investigation and afterwards, as part of the lessons learned exercise. We also use them to assess the quality of investigations done by other bodies.

Principle 3: Measure What Else Matters

Develop an Effectiveness Checklist

When an ombudsman’s work results in dramatic change, it is obvious and easy to document. But many cases are complex, and the benefits are not always tangible. Most changes are incremental. A case here, a policy there. And mere statistics don’t always tell the story. For instance, effective ombudsmanship may drive complaints up or down, depending on a number of factors. Increased public awareness may increase complaint volume, but complaint numbers may also go down as a result of broad systemic reforms or even internal improvements in complaint intake. The best way to monitor and articulate the value achieved by an effective ombudsman office is not through arbitrary measurement, but through the answers to key questions: an effectiveness checklist, if you will.

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What Does the Number of Complaints Actually Mean?

Are the numbers such that, if put under scrutiny, they could leave an office open to accusations of massaging them to give an inaccurate picture of what is actually happening? For example, does an office differentiate between the number of calls it receives and the number of actual complaints? That may mean assessing such factors as: whether non-jurisdictional issues should be included, whether a petition from a hundred people on a single issue should count as one complaint or a hundred, and whether requests for information should be categorized separately. Most ombudsman offices quantify how many investigations they have conducted or concluded in a given period, as we have already seen. But how do they define an investigation? Is it only when a formal process is begun? Or could it also be when any informal fact finding takes place, perhaps as little as reviewing a few documents or speaking to one or two people by phone to flesh out the facts, and then drafting a closing letter?

As discussed earlier in the paper, many ombudsman offices set great store by the numbers of complaints they receive, at least by implication. The assumption is that, the more complaints an office receives, the better. It is seen as an indicator of public awareness of the office and a measure of trust in its ability to do something about complaints. That may well be true in many cases. But is the corollary also true? Does a declining number of complaints mean a declining faith in or awareness of the ombudsman office?

Not necessarily. If an office has resolved a significant systemic issue, one of the consequences, hopefully, is that the number of complaints will drop once the recommendations are implemented. That is what happened in an investigation regarding the Municipal Property Assessment Corporation (MPAC), the government agency that assesses current market values of approximately 4.4 million residential and commercial properties in Ontario, worth over Can$1 trillion. The property owner is taxed based on that valuation.

In late 2005, we announced a systemic investigation into the fairness of the way MPAC did its work. We received almost 4,000 complaints from irate property owners in the weeks that followed. In the spring of 2006, we released Getting It Right, our systemic investigation report, in which we made 24 recommendations on how to improve the system. The government immediately introduced a 2-year moratorium on property taxes so that the system could be overhauled based on our recommendations. The result: a much fairer and more transparent assessment process.

The happy consequence was a record of far fewer complaints about MPAC to our office. In fact, the number fell to a mere 177 in 2009–2010. That is a good news story, an excellent example of an ombudsman office demonstrating its value. Looking at mere numbers alone, we had 3,833 fewer complaints to our office in 2009–2010, a big chunk of our usual total of about 18,000 a year. Some who may not welcome oversight would, perhaps, try and spin the numbers negatively. If an office has fewer complaints it would, therefore, need fewer resources. Based on this logic, a process of emasculation by budget cuts could begin.

Something similar happened with the Office of the Registrar General, which is responsible for providing Ontarians with birth, death, and marriage certificates, among other things. By the middle of the decade ending in 2010, the Registrar General’s office was a mess, with citizens facing lengthy delays in getting the documents they needed. In 2004, it took 49 weeks to register a change of name and 23 weeks to register a birth. That year alone, we received over 1,200 complaints about the Registrar General. We began to work closely with the organization to streamline their system to reduce backlogs and inordinate delays. It worked. By 2010, change-of-name certificates were being delivered in 7 weeks and birth certificates in less than 2 weeks. The number of complaints about the Registrar General plummeted to just over 100. The improvement that we had helped foster had led, as had been hoped, to reduced complaints. That is a positive, not a negative.
Does the Source of Complaints Indicate Anything about Performance?

It may be that who the complainants are, or who is referring them to an ombudsman office, may give some indication of the credibility of the office. For example, the legislative branch of the Ontario government has tapped our office to an unprecedented degree over the last few years. Many members of the provincial parliament tell us that we have established a reputation of being the “go-to guys” when they cannot resolve a constituent’s problem themselves. Their problems become our problems. In the current fiscal year alone, we have received a record 437 referrals from provincial parliament members of all political stripes, and we have received very complimentary feedback.

We have also seen an increase in complaints from doctors, social workers, law enforcement officials, and lawyers, who contact us for help on systemic issues they have identified or to see if we can assist their patients, clients, or constituents with individual issues. Even relatively senior bureaucrats have come to us because they know that we can change things far more quickly than they, lone voices within the system, ever could. Many told us that they had done so based on our track record of effecting change.

Did an Ombudsman Office Resolve a Long-Festering Case That No One Else Was Able to Resolve Internally?

Arlene Brock, the Ombudsman for Bermuda, has an office of four people. The first ombudsman appointed to the post, she has embraced with a passion the approach we set out in this paper. Her first systemic investigation involved a case that touched on one of the most politically sensitive and potentially divisive issues on the island: allegations of racism against black doctors at the nation’s only hospital. The issue had been festering for years. She had the courage to step up to the plate and conduct a meticulous, methodical investigation that, when it was published, lanced the boil, so to speak. Her recommendations led to improvements in the system that addressed and remedied a very serious problem.44

The special report Between a Rock and a Hard Place, mentioned earlier, was about parents in Ontario who were left with no alternative but to manufacture protection issues and give up their special-needs children to the custody of the local Children’s Aid Society to get them the care they needed. That had been going on for several years. Previous ombudsmen had intervened, at one point with a limited investigation, in an attempt to resolve the matter informally. All without success. We took a different approach, conducting a SORT investigation that involved eight investigators over an 18-day period. The report was released at a press conference at the provincial legislature and garnered a lot of media attention. The government accepted the vast majority of our recommendations, and the children were returned to their parents’ legal custody.

Did an Ombudsman Office Recommend a Course of Action That Will Save the Taxpayer Money?

As posited at the beginning of this paper, it can be difficult to establish how much taxpayer money is saved by the intervention of an ombudsman office. How do you quantify the value of increased confidence in government created by an effective anticorruption agency, or the number of lawsuits rendered redundant by a problem nipped in the bud?

As a result of our MPAC investigation, there is now far more transparency in the system for property owners, who can now easily access the information MPAC uses to establish the value of their homes. If they disagree with MPAC’s valuation, a two-stage process kicks in. The first stage is a request for a reconsideration by MPAC itself.

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If the property owner is not happy with the result, he or she can appeal to a body called the Assessment Review Board (ARB), which is an independent quasi-judicial tribunal. The ARB can then hold a hearing.

Hearings cost money, however, including pay for adjudicators and clerical staff, along with administrative, travel, and infrastructure costs. Since our office’s recommendations have been put in place, the number of appeals from the owners of residential properties to ARB has decreased from 30,000 to 14,000. The savings to the taxpayer, at least on paper, are considerable.

Another case: In 2002, the National Defence and Canadian Military Ombudsman conducted a systemic investigation into how the Canadian forces dealt with operational stress injuries, which include such conditions as post-traumatic stress disorder. We found that there existed a culture of victimization, stigma, and ostracism against members who had been exposed to some pretty horrific things and left emotionally damaged. There was very little in place to assist them, nor any significant training or education about operational stress injuries. And there was a pervasive attitude that anyone identified as having an operational stress injury should be booted out of the military as quickly as possible. That resulted in soldiers, sailors, airmen, and airwomen not coming forward to get the treatment they needed. Ironically, our investigation found that the vast majority of those diagnosed were excellent members of the military. We also found that it cost upwards of Can$300,000 to recruit and train just one soldier to the point where he or she was deployable. Yet the system was such that highly trained, highly motivated personnel were being thrown out of the military in considerable numbers, at a huge cost to the taxpayer.

We made 31 recommendations, many of them focusing on measures to retain people with operational stress injuries in the military, if possible. The result? Increased awareness; a change of culture; and more military personnel having the confidence to come forward for treatment, being diagnosed earlier, and therefore remaining as productive members of the military. Everybody won, including the taxpayer.

Did an Ombudsman Office Provide an Alternative to an Expensive Dispute Resolution Mechanism?

Until 2006, approximately 25 babies died in Ontario each year, and another 25 were severely disabled for the rest of their lives—all for want of a simple blood test given at birth to determine susceptibility to a range of metabolic diseases. The government had known about the issue for years, but little progress had been made. A class action lawsuit was in the works. The Office of the Chief Coroner was on the verge of calling an inquest. But inquests can be notoriously adversarial, and when everyone gets lawyered-up, as almost invariably happens with high-profile issues like this, they can be very expensive as well. We investigated, producing the special report Right to be Impatient in 41 days. Our intervention led directly to the government’s increasing the number of tests for the 130,000 babies born in Ontario each year from 2 to 29, eliminating the need for litigation or for an inquest.

Did an Investigation of One Matter Uncover an Even Larger Issue?

The investigation of the Ontario Newborn Screening Program came about not because of a complaint or a media report, but rather because an investigator looking into how the government decided which drugs to fund for rare diseases uncovered an e-mail from one senior official to another. It read, “let’s hope the ombudsman doesn’t start looking into screening for metabolic diseases,” or words to that effect. That’s what we in the investigation business call a “clue.”

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45 The investigation took place when the authors were at the National Defence and Canadian Forces Ombudsman’s office, as the Ombudsman and the Director of SORT, respectively, hence the use of the word “we.”
Did an Investigation Uncover a Cultural Problem Causing Deep Administrative Malaise?

The Ontario Lottery and Gaming Corporation (OLG) is a government agency responsible for running Ontario’s lucrative lottery system. It pumps billions of dollars every year into government coffers. Yet it had developed a deep-rooted culture of indifference to Ontarians who were ripped off by unscrupulous lottery retailers who actually sold the tickets. It wasn’t necessarily a small problem, either: retailers had claimed over Can$200 million in prizes for themselves over recent years, and there was a strong suspicion that some of that money had been stolen from legitimate winners through manipulations of the system.

OLG took the position that this was not its problem, reasoning that it had no duty toward the public in general. Any fraud was a matter between the customer and the retailer, and it would continue to pay out on dodgy wins even if, as the chief executive officer put it, “sometimes you hold your nose.” In fact, OLG spent hundreds of thousands of dollars in court fighting off innocent victims of retailer fraud.

Our SORT investigation, resulting in a report entitled A Game of Trust, exposed the culture for what it was: the antithesis of what an organization set up to help the public should be. Our recommendations resulted in a sea change in how OLG perceived its duty to the ticket-buying public, led to the introduction of measures designed to protect the public, and vastly improved the way OLG investigated allegations of retailer wrongdoing.

Did Ombudsman Recommendations Have a Significant Impact?

Can an ombudsman office look back and show how its recommendations have led to positive change? If it can, it should tell the world.

In our case, we can point to the increase in the number of tests for newborn babies, the moratorium on property tax increases, renewed efficiencies at the agency responsible for enforcing the child support obligations of divorced parents, and a whole host of other tangible improvements in the quality of life of many Ontarians, as a measure of our effectiveness.

While we do not evaluate our success solely on the impact of our work on the traditionally disadvantaged members of society, some of our SORT investigations have inevitably focused on resolving intractable problems facing the vulnerable. The SORT approach is particularly helpful in addressing systemic problems of citizens who—as a result of poverty, disability, or other circumstances—have difficulty voicing their concerns. Instead of waiting for individuals to come forward, and attempting to solve problems on a one-off basis, we use the SORT method as a catalyst for broad-based systemic change for the disadvantaged. For example, in 2006 our office investigated delays in the processing of applications filed by impoverished individuals with substantial disabilities, who were entitled under our provincial law to government financial support. At the time, the system was penalizing these citizens for bureaucratic processing delays by failing to pay applicants the benefits to which they were entitled retroactively back to the date they had actually applied for them. Delays of up to a year meant that many destitute and disabled individuals were forced to endure great hardship without any recompense. Fortunately, our investigation and recommendations resulted in full retroactive entitlement to benefits being restored for many thousands of vulnerable citizens, as well as improvements in the processing of their disability benefit applications.

What Do Ombudsman Peers Think?

Peer review is the process of subjecting one’s work to the scrutiny of others who are experts in the same area. The work we have conducted in Ontario has not only caught the eye of the international community, it has been identified by some as a new model for how ombudsmen should do their jobs. The president of the International Ombudsman Institute has called our SORT systemic investigations “the gold standard” for the profession. Other senior members of the global ombudsman community have noted Ombudsman Ontario’s very significant contribution to the ombudsman profession and institution, as the impacts our work has resonated at home and abroad.
As mentioned earlier, our investigative modus operandi is now being adopted and adapted not just by other ombudsmen, but also by other types of investigative agencies. In response to the intense demand from our peers, we developed the Sharpening Your Teeth (SYT) training course, which has been conducted in Toronto and around the world, on a full cost-recovery basis. The organizations that have sought our training come from across Canada and all over the world, and have at times been funded by the United Nations. We must be doing something right, intentionally or otherwise.

**What Is an Ombudsman’s Overall Impact?**

The value and effectiveness of the ombudsman as a catalyst for change regarding systemic issues is pretty clear. But how do you assess if an ombudsman is having an impact across the board, including through the everyday bread-and-butter work of resolving individual complaints? Very little academic work has been done to assess the impact of an ombudsman office, at least as far as we are aware, perhaps because it is so hard to quantify.

Nevertheless, some research has been done. One recent paper, previously discussed, examined the impact of the Scottish Public Services Ombudsman (SPSO) on routine decision making by local housing authority administrators. The author, himself an SPSO investigator, found that awareness of the Scottish Ombudsman was low among frontline workers, including “a complete lack of knowledge about the SPSO below management level.” He recommended solutions to improve the situation, including “a shift in operational focus” to complaints that “appear to involve systemic failures,” and improved communications targeted, in part, at frontline staff.

When we attempt to assess our overall impact, we look at the obvious, such as media coverage and recommendations accepted. We also look at the levels of awareness and cooperation we receive in our day-to-day work. When one of our early resolution officers contacts a junior government official to try to resolve a complaint, does that official know what the ombudsman office is? Would that official be willing to work with the early resolution officer on the case? How eager are those further up the food chain to get potentially systemic issues sorted out before SORT appears, so to speak?

There is anecdotal evidence that the levels of awareness and cooperation among government officials have shot up since the office started focusing on systemic issues. There appears, at least to us, to be a desire to resolve virtually every case in which we are involved more quickly—which is good for everybody. One could argue that, based on the media coverage alone, awareness of our office must have gone up among the public. How much? Who knows? Would it really be worthwhile to conduct an expensive survey to possibly find out? Or would our efforts be better spent using our funds to plan and launch another SORT investigation?

**Principle 4: Structure the Operation to Ensure Value at Every Level**

Ombudsmen are often called upon to diagnose problems in administrative culture and efficiency but, as we have mentioned, they should rigorously apply the same scrutiny to their own offices, on an ongoing basis. There is a danger, however, in ombudsmen getting too bogged down in internal exercises of “setting benchmarks” and measuring processes, to the detriment of their actual work. Efforts should therefore be directed at achieving meaningful results as efficiently as possible, and exercises that waste time and resources should be jettisoned.

On the next page is an efficiency checklist to help gauge if an ombudsman office is using its resources in an optimal manner.

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Are an Office’s Resources Efficiently Deployed?

No ombudsman office has unlimited resources. No office can afford to make everything a priority. Once an office decides what its priorities are, it can then ensure that its resources are deployed accordingly. The first question should be: what is an office’s core function?

We have already given the example of what happened when a team of 15 Ombudsman Ontario staff were dealing exclusively with trivial complaints from prisoners in provincial correctional facilities. Once we made it clear to prison officials that they had to have a process for dealing with complaints on the front line, we were able to free up resources for more important tasks, including investigating prisoner complaints that involved serious or systemic issues. The money that we saved from this and other unnecessary or nonperforming areas was reallocated to priorities such as SORT.

Can Ombudsmen “Work Smarter” through Technology?

How efficient is an ombudsman office’s intake and case management system? Does it meet the office’s needs? Is it designed to make life easier for those who want to make complaints or get advice, channeling them toward the appropriate avenue? Is it designed to improve efficiency and timeliness in processing complaints? Can it help identify trends and patterns that could become the subject of systemic investigations? Is it a bespoke model, especially designed for a particular office, an off-the-shelf package, or the equivalent of a quill and parchment?

Several AOA members have sophisticated and efficient complaint handling systems, including the Hong Kong Ombudsman and the Public Complaints Bureau of Malaysia. One of the best examples of harnessing technology is the e-People system used by the Anti-Corruption & Civil Rights Commission of the Republic of Korea, which has received attention and awards from around the world.

The European Ombudsman has had great success developing an interactive guide on its website, designed to steer potential complainants to the right problem-solving mechanism. The guide is available in 23 European Union languages. There have been over 5,000 users since January 2009, resulting in increased efficiency because complaints more appropriately addressed elsewhere are weeded out at an early stage, without intensive use of ombudsman resources.

Is an Ombudsman Office Frugal?

As already mentioned, oversight tends to be an easy target in times of fiscal restraint, particularly if the public does not know who ombudsmen are and what they do. One countermeasure is to demonstrate how internal reforms have resulted in more cost-effective processes. Ombudsman Ontario has not received an extra penny from the government, other than cost of living increments, since the creation of SORT in 2005. Everything that we have achieved since then has been done by reallocating resources internally. In fact, during the past 4 fiscal years we have operated under budget, returning an unprecedented total of Can$345,100 to provincial coffers, even though our jurisdiction was growing.

Principle 5: Direct One’s Efforts to Maximizing Moral Suasion

A constant theme throughout this paper is that an ombudsman achieves the greatest value for citizens by bringing about reforms that improve governance for all. With no power to enforce recommendations—at least in traditional models—the ombudsman relies on moral suasion to effect change. It makes sense, then, to ensure standards that maximize moral suasion are built into every step of an office’s process. Resources should be directed to ensuring these standards and articulating the value achieved, rather than to producing statistics and meaningless measurements.
Moral suasion depends on three key factors:

- credibility of the office’s operations and investigations,
- strength of the ombudsman’s arguments and his or her effectiveness as an advocate, and
- public awareness and support.

Below are four strategies for maximizing moral suasion:

**Choose Battles Wisely**

It does no one any good if an ombudsman spends his or her time tilting at windmills. We look for issues that are “big enough to matter but small enough to win.” Virtually all our systemic investigations concern fairly high-profile issues that have a significant public impact. However, we do not venture into areas of overarching public policy that are more properly decided by elected officials.

The Avastin investigation is a case in point. Avastin is a drug used to treat colorectal cancer. We received complaints from patients and doctors that the government had imposed an arbitrary cap on the number of treatments that would be funded, regardless of whether the drug was working or not. SORT conducted an investigation, and found that Ontario was the only province to halt treatment at a certain point without considering the progress of the patient and contrary to standard medical practice. Patients were then forced to spend thousands of dollars if they wanted to continue using Avastin.

What we looked at was the process—specifically, at whether the decision to cap at a certain point was transparent and reasonable. What we deliberately did not investigate were the decisions regarding which drugs should be funded for which diseases and what the priorities should be. That is a matter of broad public policy, particularly given the huge cost of cancer drugs to the public purse. In the Avastin case, however, the government had already decided to fund the drug for colorectal cancer. Our investigation focused on whether the duration of such funding for each patient should be consistent with prevailing medical practice.47

**Make Sensible, Achievable Recommendations**

Telling government that it must eradicate child poverty immediately will make you a laughing stock. After all, if government could have accomplished this task, it presumably would have. Recommendations should be purely evidence-based. At Ombudsman Ontario, they are the product of an extremely thorough fact-gathering process. No stone has been left unturned, no piece of evidence ignored or overlooked. We take great pride in that, while those who receive our recommendations may be less than thrilled to get them, nobody has yet challenged the facts that underpin them.

We are very careful in how we craft our recommendations. Making recommendations in the right way is crucial. They are designed to redress a wrong, make improvements, and minimize the chance of mistakes happening again. We have developed three principles that guide us in formulating recommendations:

- They must be doable.
- Those responsible for implementing them must be given enough latitude to make them work.
- They must be directed at those who can implement them.

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As mentioned earlier, there is naturally a danger in using the rate of acceptance of recommendations as a performance indicator. It may become tempting to make recommendations palatable to those to whom they are directed, in other words, watering them down or making them so vague that they border on the useless or completely impractical.

**Write a Persuasive Report**

If the evidence has been gathered in accordance with the eight principles of excellence set out earlier, the analysis tends to write itself. If the facts are right, it is difficult to argue against them.

However, that is just half the battle. A report has to persuade those capable of making the changes that an ombudsman’s recommendations are the right thing to do. The key is to decide who the audience is and what is the best approach to persuade that audience. An ombudsman office may decide that it would be more fruitful to address decision makers directly, using a tone and language in its report that will resonate with them. The report may never see the light of day, but by appealing to the audience in this manner, it may ensure that the changes will be implemented. If the audience is intransigent, it may be advisable to use stronger language and try to exert moral suasion via public pressure, which tends to involve the media, as we shall discuss below.

**Follow Up Rigorously on the Implementation of Reforms: Reinvestigate if Necessary**

Does an ombudsman office have a process in place to follow up on the implementation of recommendations? Are agencies required to report to the office at specific intervals on their progress in implementing recommendations? Will the office verify independently what is said in those reports? Is the office prepared to conduct a follow-up investigation if necessary?

At Ombudsman Ontario, we ask agencies who have accepted our recommendations to report back to us on the implementation process at specified intervals. In some cases it could be every 30 days, in others every 6 months. We continue to request updates for as long as we feel it necessary. We also closely monitor whether implementation is actually producing the results we hoped for. One of the ways we do that is by keeping a close eye on the number of complaints we receive on this same issue. Hopefully, the number will decrease. If not, we may decide to conduct a follow-up investigation.

**Principle 6: Broadcast the Results**

Shy and retiring may mean retiring early, shy of a pension. Like justice in a democracy, an ombudsman’s work must not only be done, it must be seen to be done. It cannot exist in a vacuum. An overarching theme of this paper has been that value is only achieved when citizens know about an ombudsman office and the work it does. A robust communication strategy is therefore crucial to articulating the value of an office directly to the citizens who pay for it and to the politicians they elect. Whether it is through traditional news outlets, personal outreach, or interactive social media, communication with the public is essential to any ombudsman’s work. Ombudsman offices often use the media as an investigative tool (as we explain below) to demonstrate their value. Many AOA members have sophisticated media strategies, including the Public Complaints Bureau of Malaysia and the Hong Kong Ombudsman. The Public Complaints Bureau posts bulletins on its website. The Hong Kong Ombudsman publishes a quarterly bulletin, *OmbudNews*, which includes digests of direct investigations it has completed. In fact, many AOA members we looked at have websites that they use to showcase their work. Below are strategies that an ombudsman office can use to maximize its public profile.
Announce Investigations and Reports Publicly

Announcing an investigation can serve a dual purpose. It may assist in the evidence-gathering process by requesting that those with information relevant to the investigation contact the ombudsman office. It also reminds citizens that the ombudsman exists and is actually doing something. The Hong Kong Ombudsman regularly announces direct investigations, describing the case under investigation and requesting public input.48

Use All Media Tools Available—Traditional and New

Facebook is a cheap and effective way of getting a message across. The Federal Tax Ombudsman in Pakistan has an excellent and very active Facebook page. The Ombudsman regularly posts case updates on it, recently announcing the disposition of a complaint against the non-issuance of income tax refunds amounting to some 685 million Pakistan rupees (PRs).49

Twitter is another emerging tool, one that Ombudsman Ontario has been assiduous in developing. It is not only free, but tremendously effective. The Ombudsman normally “tweets” himself, and his tweets are often re-tweeted, thereby increasing exponentially the number of people who receive them. Twitter is used for all sorts of purposes—giving the office a human face, letting the world know what we are up to, and even providing live coverage of press conferences.

Report Newsworthy Results in a Timely Fashion

Pakistan’s Federal Tax Ombudsman issued a press release on 2 April 2010 providing an update on his achievements during the first quarter of 2010. He noted that his office had cleared 200 complaints and returned nearly PRs100 million to taxpayers. He posted the press release on his Facebook page. The Philippines Ombudsman has a dynamic website that is constantly updated with news about events and investigations, along with podcasts and links to related TV and radio programs.

Our take? Great stuff, worth emulating. We know that some AOA members have constraints that do not apply in other jurisdictions, especially in Western nations. But getting the message out there is relatively cheap and easy, at least in many jurisdictions. Ombudsmen should not hide their light under a bushel.

Use Plain Language

The Hong Kong Ombudsman did not beat around the bush in describing what it found in its direct investigation in 2008 into Hong Kong, China’s Social Welfare Department: “…an abandonment of common sense and lack of practical judgment among some in the Social Welfare Department. Haphazard processing of applications.”50

As we have already mentioned, the tone and language an ombudsman office uses, be it in a special report or at a press conference, must be tailored to the target audience, whoever that may be. Each office has to take local considerations into account when selecting the words to deliver its message. Will you get more bees with honey, perhaps by focusing on areas where credit is due OR will it be necessary to convince the public of the egregiousness

48 For example, in January 2010 the Hong Kong Ombudsman issued a press release, Ombudsman Probes Transport Department Actions for Safe Operation of Public Light Buses, which announced an investigation into the high incidence of traffic accidents involving Public Light Bus operations. The press release also invited responses from the public, providing street and e-mail addresses and a fax number. http://www.ombudsman.gov.hk/whats_new.shtml


of the injustice the office has uncovered and the need for a swift remedy? Should an appeal be directed to those who have the power to implement the recommendations or more broadly to those who elected them?

**Emphasize the Human Interest Angle**

The unfairness that ombudsmen attempt to remedy affects citizens, either individually or as part of a group. These citizens have their own stories of what has happened to them, and some of those stories are horrendous. We deliberately tell the stories of those who have been affected. Why? Because it puts a human face on whatever maladministration we have uncovered. Virtually every SORT report begins with the story of someone who has been the victim of bureaucratic inertia or incompetence, or policies and processes that are unjust, illegal, or just plain wrong. The stories resonate with the public, the media and, yes, the government, adding impetus to the achievement of positive change. They have thus proven to be a very effective tool.

We are not alone. Many AOA members detail the impact of injustice on individuals and groups when they have found such cases. The Hong Kong Ombudsman, for instance, uses specific cases to paint a picture. In its Social Welfare Department investigation, mentioned above, it used two cases to show where the system worked and three to illustrate where it had abjectly failed, along with the consequences to those who had been adversely impacted. Other offices around the world are taking a similar tack.

**Engage the Media and the Public Directly**

At Ombudsman Ontario, we are very conscious of the need to demonstrate our value and justify our existence continually. One way of ensuring that we do not fall off the public radar is to keep the media and the public informed about our major investigative work and other significant issues of interest. We achieve this through strategic use of our website and social media, and through our press releases, briefing materials, and press conferences following the public release of our reports. Maintaining a presence in the public eye enhances our credibility and is critical to generating the moral suasion necessary to move reluctant or recalcitrant decision makers to embrace our recommendations.

**Measure the Effectiveness of the Outreach Strategy**

Finally, how can an ombudsman office determine if all the above is working, that it’s getting the message out effectively, and demonstrating its value?

There are several ways to do that. One can, for example, conduct surveys, use media monitoring services, and monitor traffic on the website. The European Ombudsman uses a combination of all those tools, including:

- using a press clipping service;
- doing a monthly review of the media, using search systems such as Factiva;
- doing an annual in-depth analysis of the media, including coverage of any topic in any member state; and
- measuring the number of complaints in relation to media coverage to determine any linkages.

At Ombudsman Ontario, focusing on an effective communications strategy has enabled us to reach millions of people and interact directly with thousands. We have enthusiastically embraced and combined traditional and social media, using Facebook, YouTube, and Twitter to establish direct links to our constituents. Everything is posted on our website, including press conferences and media releases. The website includes a “Newsroom” section that facilitates the sharing of information and comments. Like several AOA members, we have developed an e-newsletter that has attracted hundreds of subscribers.

Twitter, in particular, has become an effective tool for receiving feedback and answering questions from followers. As mentioned earlier, the 2,600-plus followers of our Twitter account are “force-multipliers” in the
sense that many of them re-tweet our messages, thereby reaching potentially tens of thousands of people. Harnessing social media is working. We are getting complaints, investigative leads, evidence, and publicity through channels we never previously envisaged. Our office has received public attention and praise for our innovative use of social media, especially Twitter and Facebook. Plus, as a senior official from the Federal Tax Ombudsman of Pakistan reminded us, it is all for free. This is not an inconsiderable advantage.

Obviously, the website has a wealth of information about how well we are getting our message out. It goes beyond merely counting the number of times a special report was downloaded, how many friends the office has on Facebook, or the number of followers on Twitter. Using Google Analytics, we can determine the number of people visiting each part of our site and for how long. In 2009–2010, for example, our site had 68,786 unique visitors, an increase of 54% over the previous year, and 108,933 total visits, an increase of 59% over the previous year. Visitors came from 170 countries overall.

We also quantify media coverage, including print articles, their readership, and what it would have cost us to buy the equivalent ad space in newspapers. In 2009–2010, there were 1,177 print articles published about Ombudsman Ontario—mostly in daily newspapers—reaching an aggregate audience of more than 73 million people. The estimated advertising value of these articles was Can$2.1 million.51

We also keep track of broadcast media coverage. In 2009–2010, there were 576 stories about Ombudsman Ontario on radio or TV (locally, provincially, and nationally).52

**Conclusion**

Clearly, the notion of an institution designed to help citizens in their dealings with the machinery of government has taken root in many places across Asia, and will doubtlessly continue to grow. We think that AOA members have a wonderful opportunity to expand the impact of ombudsmanship in their countries, notwithstanding the challenges they face. They are on the cutting edge, having to confront corruption, administrative injustice, and human rights abuses in very difficult environments.

AOA institutions, like most other agencies, are wise to develop performance measures. As Part 1 of this paper has shown, many AOA members have sophisticated process-oriented performance standards and indicators

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51 Over the past 5 years, Ombudsman Ontario’s print media coverage has consistently been in this range. The peak occurred in 2006–2007, the year of our investigation into the Ontario Lottery and Gaming Corporation’s “insider win” problem. This was the single largest topic of media coverage in our office’s history.

52 The table below shows the breakdown of media coverage of Ombudsman Ontario from 2005 to 2010, and indicates audience reach as well as the equivalent value in advertising.

<table>
<thead>
<tr>
<th>Year</th>
<th>Print Articles</th>
<th>Radio/TV Items</th>
<th>Audience Reach (million)</th>
<th>Advertising Value ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005–2006</td>
<td>467</td>
<td>436</td>
<td>49</td>
<td>1.7</td>
</tr>
<tr>
<td>2006–2007</td>
<td>1,706</td>
<td>1,338</td>
<td>132</td>
<td>3.4</td>
</tr>
<tr>
<td>2007–2008</td>
<td>1,081</td>
<td>600</td>
<td>92</td>
<td>2.8</td>
</tr>
<tr>
<td>2008–2009</td>
<td>1,100</td>
<td>675</td>
<td>78</td>
<td>1.9</td>
</tr>
<tr>
<td>2009–2010</td>
<td>1,177</td>
<td>576</td>
<td>73</td>
<td>2.1</td>
</tr>
</tbody>
</table>

already in place. These are, of course, valuable tools in many respects, encouraging quality customer service and enhancing productivity. But they are not the be all and end all.

In this paper, we have described strategies for measuring performance that revolve around impact, and that have actually worked in the real world. We are encouraged by the fact that some AOA members are already concentrating on the bigger picture, developing an appetite for conducting systemic investigations. During our interactions with senior investigators at our Sharpening Your Teeth (SYT) training course, we were struck by how many agreed that the overall impact of an office is crucial in measuring actual performance. That said, and as we have stressed throughout this paper, we do not expect Asian ombudsman offices—or anybody else—to adopt our formula for performance measurement lock, stock, and barrel. All we are suggesting is that they may want to adapt those aspects of our methodology that work for them.

Ombudsmen around the world—including Asia—know that they will earn little public support if, when someone inevitably asks why they are worth their rations, they cannot come up with a convincing answer. There is not a lot of public or political sympathy for pouring public funds or, in some cases, international donor aid, into organizations that cannot show that they are actually useful, particularly when resources are limited.

We have argued that continuously striving to demonstrate an office’s value, not its processes and procedures, is key to winning political support. Ombudsmen can develop frameworks, manuals, outputs, targets, and procedures until the cows come home, but these will rarely trump the delivery of concrete results that effect positive change. In our view, what it all boils down to when measuring ombudsman performance is this: impact first, process second. If investigations done by ombudsmen are solid and the fact finding unassailable, if ombudsmen act judiciously in the deployment of their resources and target the root causes of systemic dysfunction, if they produce concrete results that positively affect the constituencies they serve, and if they are not timid about letting people know what they have accomplished, then the true measure of their performance will be readily apparent.

And they will survive to help those who have nobody else to help them.

That is the ultimate performance standard.
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The Role of the Ombudsman in Improving Public Service Delivery in Pakistan

Tariq Husain

Summary

Scope and Methodology of the Paper

There are seven ombudsman institutions in Pakistan, three provincial and four federal. The federal ones are the Federal Ombudsman (Wafaqi Mohtasib), the Federal Tax Ombudsman, the Banking Mohtasib (Ombudsman), and the Federal Insurance Ombudsman; the last three of these are referred to as single-mandate institutions. Provincial ombudsmen exist in three provinces: Balochistan, Punjab, and Sindh. On 27 September 2010, the Khyber Pakhtunkhwa Assembly passed Provincial Ombudsman Bill 2010, which provides for the establishment of an ombudsman office in the province.

The central theme of this paper is the role of the ombudsman in improving public service delivery. For the purposes of this paper, "services" mean services provided by the line agencies, public sector utilities, and other organizations that are within the purview of the Federal Ombudsman and the three provincial ombudsmen.

The context of service delivery described in this paper includes user satisfaction with services, perceptions of corruption, and outcomes associated with the Millennium Development Goals (MDGs).

Decentralized approaches mean decentralization from federal to provincial government or from provinces to local government. The process initiated by the military government in 2001 devolved authority from provinces to the local government. But now, however, attention is focused on enhancing the authority of provincial governments, as envisaged in the Constitution of Pakistan. Local government was already a provincial...

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3 The three single-mandate ombudsmen are introduced but not analyzed in the paper because they are not concerned with the delivery of public services.

responsibility. With the recent passage of the 18th constitutional amendment, a much larger number of policy areas have become the exclusive responsibility of provincial governments.

The methodology of this paper is evaluative and focuses on three evaluation criteria: relevance, efficiency, and effectiveness. The analysis also addresses key questions identified in consultation with the Asian Development Bank (ADB). It should be emphasized that time, information, and other resources were not available for answering impact-level questions (“Has the ombudsman helped improve public service delivery?”) or assessing the ombudsman in terms of intermediate and final outcomes.

Trends in Service Delivery and Corruption

There is a common perception that public services have been deteriorating in Pakistan in the face of a rapidly growing population (particularly in urban areas), pervasive resource constraints, institutional breakdown, and other factors. An independent analysis (2008) concluded that the country was lagging on 25 of its 34 MDG targets. This analysis also pointed out that pervasive inequalities are manifested through powerful elite groups that often use local government to serve their personal interests.

A somewhat different point of view comes from social audits commissioned by the Devolution Trust for Community Empowerment (DTCE), which suggest improvements in service delivery during the period of devolution. Based on a large countrywide sample of households, the 2010 social audit found that “in comparison to estimates obtained in 2001/02 and 2004/05, satisfaction levels in 2009/10 improved in roads, sewerage and sanitation, garbage disposal, water supply, health and education.”

The 2010 social audit also reported high levels of user dissatisfaction with all government services: 60% for roads, 65% for health, 42% for education, 88% for garbage disposal, 75% for sewerage and sanitation, 61% for water supply, 96% for agricultural services, 67% for electricity, and 79% for gas supply. The 2010 corruption perceptions survey by Transparency International reported that people considered the police and power supply companies to be the most corrupt services throughout the decade. In 2010, they are followed by land administration, education, local government, and the judiciary.

Ombudsmen, Accountability, and Service Delivery—A Conceptual Framework

A framework for accountability in service delivery was presented in the World Development Report 2004: Making Services Work for Poor People, published by the World Bank, which discusses relationships of power among policy makers, service providers, and customers. In market-based services, people hold the service provider accountable by paying the provider directly. For services provided by the government, however, there is a long route of accountability: Citizens try to use their voice to reach the policy makers and elected representatives who, in turn, can influence service providers through a compact that assigns responsibilities for outputs or outcomes to public organizations.

The ombudsman enters the picture as an actor in the long route of accountability in two important ways. First, by attending to complaints, the ombudsman gives voice to individual clients. This voice is aimed, in the first instance, at service providers instead of at policy makers and politicians. The second way in which the ombudsman matters is by influencing the compact between the state and the service providers. Clearly, the ombudsman’s potential to

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5 United Nations Development Programme (UNDP) and DTCE. 2010. Social Audit of Local Governance and Delivery of Public Services. Islamabad

6 World Bank, What is Decentralization? http://www.ciesin.org/decentralization/English/General/Different_forms.html
contribute to accountability is enhanced if he works in cooperation with other instruments of accountability, including the legislatures, the judiciary, the mass media, and social coalitions. As discussed later, these connections are not well developed for most of the ombudsman institutions in Pakistan, and the ombudsman is not a parliamentary institution.

Ombudsman Institutions of Pakistan

The seven ombudsman institutions in Pakistan were established between 1983 and 2000; four of them (including the Federal Ombudsman, the first ombudsman of the country) were established by military governments. Except for the Banking Ombudsman, the stated rationale for the existence of all ombudsmen is to address maladministration, which is defined comprehensively in the statutes. The jurisdiction of single-mandate institutions is limited to a single government department (taxation) or economic sector (banking or insurance); there is no overlap between the single-mandate and other ombudsmen. The jurisdictions of the Federal Ombudsman and provincial ombudsmen are also distinct from each other.

There is, however, overlap between the Federal Ombudsman and certain regulatory bodies. Judging by the number of complaints, there is some overlap between the Ombudsman and the Pakistan Telecommunication Authority, and much more with the National Electric Power Regulatory Authority (NEPRA), which regulates the nine power distribution companies in the country, and the Oil and Gas Regulatory Authority (OGRA) which, among other things, has responsibility for regulating the gas distribution companies. The regulatory bodies are not as well equipped as the Federal Ombudsman to investigate and redress complaints. In addition, nobody has the authority to resolve conflicts between the decisions of the Federal Ombudsman and a regulatory body, and citizens could be left in limbo while a disagreement persists. Moreover, regulatory bodies, in general, are not supposed to redress individual grievances.

The Supreme Court, the Supreme Judicial Council, the Federal Shariat Court, and the high courts are excluded from the jurisdiction of ombudsmen. Other than this, there are no apparent gaps in the ombudsman’s coverage at the provincial level, and only one notable omission at the federal level: the telephone operator Pakistan Telecommunication Company Limited (PTCL), which is 74% owned by the federal government and 26% owned by a strategic investor. The President of Pakistan recently decided that it should not be treated as a government corporation, thus removing Federal Ombudsman’s jurisdiction over the PTCL. This move ran counter to the worldwide practice of bringing public services within the purview of the ombudsman.

There is no explicit reference in the law to the notion that the ombudsman may recommend systemic changes in relevant agencies. There is, however, a provision in the statutes that makes it clear that the ombudsman is obliged to address the root causes (including, presumably, the systemic causes) of corruption and injustice. In practice, ombudsmen in Pakistan have adopted a number of ways of addressing systemic issues, including the following:

- In addressing an individual complaint, the ombudsman may find that a particular rule of a certain agency amounts to maladministration and may recommend that it should be changed.
- The ombudsman may find that a group of citizens is being treated unfairly by a number of agencies and may ask the agencies to take steps to alleviate the situation of this group.
- The ombudsman may commission special studies focusing on certain agencies to analyze problems and work out solutions in consultation with them.

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Main Findings

The country’s seven ombudsmen signal Pakistan’s presence among countries committed to the pursuit of ombudsmanism as a wide-ranging instrument of good governance. The replication by successive civilian and military governments of an institution first established by a military government may be seen as a sign of continuing relevance. Attention to awareness-raising, efforts at institutionalization and strengthening, innovation, and healthy debate among stakeholders indicate an encouraging degree of entrenchment in the public consciousness. It would be fair to conclude that the ombudsman is as an institution of enduring relevance in Pakistan.

As far as the relevance of mandates is concerned, it would be hard to argue that the definition of maladministration adopted in the country’s statutes could be made either more precise or significantly broader. At the same time, ombudsmen have been invited through their respective statutes to study the root causes of corruption and injustice, and propose how to eradicate them, even though they are not explicitly allowed to go beyond studies, research, and recommendations in this direction. It may be timely to consider how to further capacitate Pakistan’s ombudsmen for addressing systemic change. The following additional issues need to be addressed by revisiting the mandates: removing the overlap between the Federal Ombudsman and the regulatory bodies; considering alternatives, including (specialized) industry ombudsmen; and weighing the options for imparting a greater degree of independence to ombudsmen through the laws and practices governing them.

An assessment of the relevance of implementation approaches adopted by ombudsmen suggests that outreach is being achieved largely through expansion of offices across the country, with Sindh leading in this approach, seeking to establish an office in every district of the province. This familiar policy—bureaucratic expansion—cannot be applied nationwide, given the well-known limitations of budgets, motivation, and trained human resources that afflict the public sector; especially if it is acknowledged that large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services and cannot access and engage government offices even at the district level. Alternative approaches that are potentially more efficient than outreach (such as networking with government agencies and civil society organizations [CSOs]) have not been pursued, except recently and to a limited extent by the Federal Ombudsman.

In terms of effectiveness, the ombudsman institution has proved to be resilient and has lived up to its reputation in the eyes of many people in the country. In addressing maladministration, which is the primary objective of ombudsmen in Pakistan according to the statutes, the Federal Ombudsman and most other ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability. There is also now, at the federal and provincial levels, a special focus on children, although a similar attention to women’s issues is not yet evident. Relatively little effort has been devoted to corruption compared with other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption through due process.

The secondary objective of ombudsmen in Pakistan is to address the root causes of injustice and corruption, and this is an invitation to look into systemic issues. Available evidence suggests that there have been some highly relevant initiatives taken very recently to address systemic issues, but the energy of ombudsman institutions has been mainly directed at individual complaints instead of systemic change. This is in spite of the fact that donor assistance has capacitated the Federal Ombudsman to focus much more on systemic issues than its own resources would have allowed, and has enabled the federal and provincial ombudsmen to launch initiatives in support of children’s rights. It is surprising to find, however, that ombudsmen have been reluctant to recommend means of eradicating the root causes of corruption, even though research and recommendations for this purpose already exist in the literature.

There are a number of signs, particularly when comparing ombudsmen offices with each other, that indicate that more could be done to achieve the potential of the institution. It is clear that the Federal Ombudsman
has worked with a vision in recent years to improve the performance of his office. The Federal Ombudsman’s methods and achievements may well provide food for thought to other ombudsmen, more so because the Federal Ombudsman is an older institution, and provincial ombudsmen have not found it possible to forge ahead with equal rapidity. The following findings illustrate this statement:

- The number of complaints received by provincial ombudsmen each year was more or less steady during 2000–2009. Moreover, fewer complaints are received by all of the provincial ombudsmen combined than by the Federal Ombudsman, even though the jurisdictions of the former extends to a much larger number of agencies.
- The implementation of ombudsman recommendations by government agencies, which had been problematic in the past, has improved remarkably for the Federal Ombudsman and for the ombudsmen of Punjab (2009) and Balochistan (2008), but not for the ombudsman of Sindh.
- Service standards and key performance indicators have not been articulated, except by the Federal Ombudsman for some aspects of the business process.
- Problems with staffing and budgets have remained largely unresolved over time, with the exception of some progress made by the Federal Ombudsman.
- The Federal Ombudsman has started to institutionalize linkages to civil society. However, outreach through civil society does not appear to be of concern to other ombudsmen.
- Based on research, the Federal Ombudsman has initiated collaboration with government organizations to understand and address the root causes of maladministration. The Punjab ombudsman has also submitted general recommendations that focus on specific groups of citizens and apply to all agencies; other provincial ombudsmen have not yet moved in these directions. Moreover, the root causes of corruption have not yet been studied or addressed by any ombudsman.
- Only recently has attention been given to one of the most vulnerable groups in society: children. To date, however, nothing significant has been done to focus systematically on women (except for reporting on complaints made by women to the Federal Ombudsman), the rural poor, and other vulnerable groups (except the disabled in Punjab).
- The statutes seem to have been revised in only two cases (the Federal Ombudsman and Punjab ombudsman) and only in limited ways. Other than these cases, there has been no systematic attempt to review and change statutes that are based essentially on a 27-year-old ordinance issued by a military government.

The ombudsman institution in Pakistan is not a parliamentary institution, but it operates within a legal framework that tends to encourage independence, except in matters of staffing, budget, and the appointment of the ombudsman and his deputy (see Table 5 for a complete summary of the analysis of independence). These are highly significant aspects of independence. The inability of the ombudsman to allocate resources within the budget and manage human resources in view of his priorities are serious constraints on the alignment of resources with the priorities of the ombudsman, and, therefore, on the effectiveness of the office. Moreover, the authority responsible for appointing the ombudsman is an individual who is not obliged to follow any prescribed process or to consult anyone, and who is usually associated with a political party. Thus, opposition parties, the media, civil society, and the general public cannot be assured that the ombudsman’s selection and performance will be conducted strictly in the public interest, and this is bound to affect the credibility and effectiveness of the institution. The absence of a fully empowered deputy ombudsman who could head the office when the permanent position is vacant also affects the effectiveness and credibility of the institution.

**Food for Thought—Revisiting the Legal Framework**

As matters stand, the ombudsman has no influence among elected representatives. Thus, it is not surprising that ministers do not take their agencies to task for ignoring the recommendations of the ombudsman, and that the national and provincial assemblies have shown little inclination to empower the ombudsman beyond the limits set by a military government 27 years ago.
One option is to convert the ombudsman into a parliamentary institution, selected by and reporting either to an assembly or a bipartisan committee of the assembly. In terms of the political economy of service delivery, this would bring the ombudsman closer to elected representatives and policy makers, who shape the work with service providers, and would give the ombudsman a better position along the long route of accountability through which citizens must travel to hold service providers accountable. The selection of the ombudsman and deputy ombudsman through a transparent, credible, and consultative process is an integral part of this option. Similar arrangements can be envisaged for appointing metropolitan ombudsmen in large population centers such as Karachi and Lahore, with jurisdiction over either provincial and local or provincial, local, and federal agencies.

Given its importance, the question of independence may be considered both within and outside the context of parliamentary ownership of the institution. For example, nothing would be gained by waiting for the parliamentary ombudsman, while important staffing and budget issues, particularly the demand for professional cadres and one-line budgets, remains unresolved. Whether it is a matter of these issues or those concerning the ombudsman’s and deputy ombudsman’s appointment process, elements enhancing independence could be introduced in a step-by-step manner while discussion continues on the matter of a parliamentary ombudsman. The findings provided in Table 5, when reviewed and prioritized collectively by the ombudsmen of Pakistan, could form the basis for a step-by-step approach to change.

Systemic issues, including the root causes of injustice and corruption, also deserve greater emphasis in the ombudsman’s legal framework. As matters stand, the ombudsman is limited in the statutes to conducting research and giving recommendations based on analyses of root causes. This may be taken to mean that instruments other than research and recommendation are not available to the ombudsman. Other instruments could include free access to an agency’s records, provision of technical assistance, coordinating information technology–based solutions, authority to call meetings on subjects of common interest, and so on. More could be said in the statutes to allow the ombudsman a more effective role in addressing systemic issues and promoting reform.

In addition, the problematic overlap between the Federal Ombudsman and regulatory bodies with authority over electricity and gas distribution companies needs to be resolved at the level of the respective legal frameworks. One option, justified by the expertise available to the Federal Ombudsman and the need to avoid duplication, is to put these utilities exclusively under the jurisdiction of the Federal Ombudsman, and remove individual grievance redress from the functions of NEPRA and OGRA. Another option, which would be costlier, is to establish a specialized industry ombudsman for one or both of these sectors. Both options are consistent with the observation that regulatory bodies are generally not meant to address individual complaints. Widespread dissatisfaction with electricity and gas suppliers, and the large number of complaints aimed at these agencies, support the case for the second option.

**Food for Thought—Strategic and Operational Directions**

There are compelling reasons for Pakistan’s ombudsmen to consider new strategic and operational directions: the national experience with ombudsman institutions, the good practices that are in place, the 18th constitutional amendment, urgency of improving the provision of services to a poor and rapidly expanding population, and the need to ensure outcomes associated with Pakistan’s Millennium Development Goal (MDG) commitments.

At the strategic level, one possibility for change is to further develop the twin focus on human rights and vulnerable groups that the ombudsmen have adopted recently in relation to children. Proceeding in this direction, the ombudsman strategy could
focus more emphatically on specific target groups, particularly groups of vulnerable people such as children, women, the rural poor, the disabled, and so on, to whatever extent is considered feasible by an ombudsman office; and

- adopt a rights-based approach that could provide a powerful internationally accepted framework through which the ombudsmen could address injustice and corruption, and help improve service delivery.

In terms of the high-level elements of the strategy, this could imply, for example, modifying the ombudsmen’s mission statements to include something along the following lines: capacitate the ombudsman and his partners to eradicate injustice to women, children, and the poor and vulnerable. It could also imply the articulation of some new objectives such as the following: support Pakistan’s human rights commitments as laid down in its international obligations and in its Constitution and laws, and support Pakistan’s commitment to achieve the MDGs.

Although the MDG targets are not as comprehensive as some of those in the rights-based agenda, they are actionable through specific development interventions in a wide range of key sectors. In addition, taken together the MDG targets represent probably the broadest commitment to development that the government has ever given to the citizens of this country (short of the rights and principles enshrined in the Constitution of Pakistan). Thus, the government’s commitment to the MDGs provides a strong foundation for ombudsmen to pursue a rights-based approach and, in the process, highlight the institution’s huge mainstream role and raise its profile as a result.

At the operational level, one of the most important issues is the need for a realistic implementation approach to make an ombudsman more accessible to the public than is the present case. Although regional and district offices have an important role to play in extending the ombudsman’s outreach, networking with CSOs as well as local organizations could also be useful. This might be different from engaging CSOs in an advisory capacity at the ombudsman’s head office: it could mean engaging CSOs to facilitate citizens’ access to the nearest ombudsman office or (after adequate training and testing) having them act as conciliators between complainants and district or regional offices of government agencies on behalf of the ombudsman.

In addition to CSOs and local organizations, there is a large group of individuals who could also play the above-mentioned roles, especially where distances are large and CSO presence is weak. They are social workers and community activists who are present at the district level, as well as union councils and village councils throughout the country. Communities trust them because of their proven integrity and impartiality. Not only CSOs but also government projects engage them for various purposes, related mainly to development activities and awareness raising. Volunteers such as those at the union council level have played a highly positive role in the area of governance. One example is the United Nations Development Programme (UNDP)-assisted program to help operationalize the alternative dispute resolution mechanism called Musalihat Anjuman in 20 districts across the country.

Additional improvements that could help improve ombudsman operations and effectiveness include the following:

- Introduce and monitor service standards and key performance indicators, as the Federal Ombudsman has done;
- introduce a comprehensive complaint management information system and create an implementation wing, along the lines of the Federal Ombudsman; and
- analyze systemic factors that generate widespread corruption, starting modestly, if need be, drawing on the ombudsmen’s considerable knowledge and insight and on the literature on combating corruption.
Introduction and Methodology

Scope of the Paper

There are seven ombudsman institutions in Pakistan, three provincial and four federal. The federal ones are the Federal Ombudsman (Wafaqi Mohtasib), the Federal Tax Ombudsman, the Banking Ombudsman, and the Federal Insurance Ombudsman; the last three of these are referred to as single-mandate institutions. Provincial ombudsmen exist in three provinces: Balochistan, Punjab, and Sindh. On 27 September 2010, the Khyber Pakhtunkhwa Assembly passed Provincial Ombudsman Bill 2010, which provides for the establishment of ombudsman office in the province. The seven institutions are introduced briefly in the next section.

The institutional landscape is large, as is the possible scope of any paper that seeks to address service delivery as well as public grievance redress mechanisms in a decentralized environment. Thus, a scoping exercise was undertaken as part of the regional technical assistance project to define the scope of the paper in a manageable way. Three main points were clarified in the process. The first of these concerns the public services—and thus the specific institutions—that should be included in this paper. The second point revolves around what is understood by a decentralized environment in the context of Pakistan. The third is about methodology. All three points are discussed in the following sections.

The central theme of this paper is the role of the ombudsman in improving public service delivery. In a broad sense, much can be construed as service delivery, including utilities (such as electricity, gas, and telephones) in the public or private sector, services provided by the state for security and justice, and services provided by the private sector for basic needs. For the purposes of this paper, however, “services” mean services provided by the line agencies, public sector utilities, and other organizations that are within the purview of the Federal Ombudsman and the three provincial ombudsmen (as discussed in the next section). The three single-mandate ombudsmen are introduced but not analyzed in the paper because they are concerned with taxation, which is not about service delivery, and banking and insurance, which are for-profit industries rather than public institutions for service delivery.

To provide some idea of the service delivery environment in which the country’s ombudsmen operate, available data on user satisfaction with services and outcomes associated with the MDGs are summarized later in this section; and additional information on specific services, including health and education, is provided in the appendixes. At the same time, it is important to understand the role an ombudsman can play in improving service delivery. This is also outlined later in this section, with the help of a conceptual framework that describes the political economy of service delivery and ways in which institutions of the state and institutions of accountability (including the ombudsman) enter the picture.

Next, the paper discusses the possibility that decentralization could lead to at least two levels of analysis in Pakistan, noting that the country is a federation constituted by its provinces in which there are three tiers of government: federal, provincial, and local. Thus, the term “decentralized approaches” could be construed to mean decentralization from federal to provincial government or decentralization from the provincial to the local level. The process of devolution initiated by the military government in 2001 focused on devolving authority from the provincial to the local level. That process has run its course, and attention is now focused on enhancing the authority of provincial governments, as envisaged in the 1973 Constitution of Pakistan. Although the Constitution

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8 See Footnote 1.
9 Hassnain, KP Assembly Passes Ombudsman Bill.
recognizes three tiers of government, local government, as in some other countries, comes under provincial authority according to the Constitution. How each province decides to deal with it in the future remains to be seen.

For the time being, the attention of the elected leaders of the country is concentrated on the division of responsibilities between the federal and provincial governments. The 1973 Constitution divided responsibilities between the federal and provincial governments by means of the Federal and Concurrent Legislative Lists, leaving the remaining subjects to the federating units. With the recent passage of the 18th constitutional amendment, the Concurrent Legislative List has been deleted, and “the process of devolution” of the matters mentioned in the said List to the Provinces shall be completed by the thirtieth day of June, two thousand and eleven.” The Concurrent List included more than 40 subjects. Its omission means that an even larger number of subjects of day-to-day interest for the public will soon be the responsibility of provincial governments.

Except for the next section, which is mainly descriptive, the analysis conducted in this section is evaluative in terms of methodology. Thus, sections “Assessment of Relevance,” and “Issues in Effectiveness and Efficiency” of the paper revolve around selected evaluation criteria that are used internationally in the evaluation of development assistance. Development agencies tend to use five main criteria for evaluation: relevance, efficiency, effectiveness, impact, and sustainability. These and related terms are defined in the evaluation guidelines adopted by bilateral and multilateral development organizations, as well as by the Development Assistance Committee (DAC) Working Party on Aid Evaluation of the Organisation for Economic Co-operation and Development (OECD).

Due to limitations of time and resources relative to the number of institutions and sectors that had to be covered, this paper focuses on the first three of these evaluation criteria: relevance, efficiency, and effectiveness. Wherever possible, however, an attempt is also made to discuss results in terms of key outputs and outcomes, noting that outcomes are the likely or achieved short- and medium-term effects of outputs. Time, information, and other resources were not available for answering impact-level questions (“Has the ombudsman helped improve public service delivery?”) or for assessing the ombudsman’s performance in terms of the intermediate and final outcomes illustrated in Figure 1.

Finally, attention is also paid to a basic institutional mapping exercise in view of the interests communicated by ADB’s regional technical assistance team. The aim of this, as reflected in the main body of the paper and an appendix, is to better understand the two sets of institutional relationships:

- one between the federal or provincial ombudsmen and single-mandate ombudsmen; and
- one between the federal or provincial ombudsmen and other complaint-handling mechanisms (the latter based in relevant regulatory bodies and at a lower level, in service delivery [line] agencies).

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10 The term “devolution,” used by the military government for shifting authority to local governments, was used in the 18th amendment to refer exclusively to devolution from the federal to provincial governments: there is no mention here of devolution to local government.

11 [Link](http://www.thenews.com.pk/daily_detail.asp?id=234379) This article gives the full text of the amendment.

12 Even before this change, the Sindh ombudsman has been receiving complaints against 36 provincial departments, and the Punjab ombudsman against 50 departments and institutions, according to their annual reports.


14 The federal and provincial ombudsmen in Pakistan deal with 150–200 public sector service providers. Thus, the question of impact would involve a very large institutional landscape that obviously cannot be covered as part of this project. Even limiting the inquiry to a small number of service providers (e.g., the health and education departments of three provinces) does not help much. First, we would have to agree on the indicators that reflect the access, affordability, and quality of service delivery; next, we would need time series data on the indicators and determinants of service delivery; and we would have to be able to attribute changes in the indicators to the performance of ombudsmen.
### Figure 1  Sample Ombudsman Logic Model for Results-Based Management Accountability Framework

<table>
<thead>
<tr>
<th>Ombudsman Objective</th>
<th>Ensure that the members of the community receive fair and equitable treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Functions</td>
<td>Independent reviewer of facts</td>
</tr>
</tbody>
</table>
| Activities                    | • Receive and investigate complaints  
• Make referrals  
• Use best practices  
• Conduct outreach to raise awareness  
• Develop communication tools |
| Immediate Outcomes            | Members of the community can make complaints                                  |
| Outputs                       | • Ombudsman website  
• Online complaint forms  
• Ombudsman framework  
• Ombudsman RMAF          |
| Intermediate Outcomes         | • Raising of fairness standards and expectations  
• Increased level of trust |
| Final Outcome                 | Stable, fair provision of services                                            |

RAMF = results-based management accountability framework.


### Methodology and Limitations

The limitations of this paper need to be pointed out at the outset. The problem is that each broad question that is tabled for analysis, whether it pertains to evaluation criteria or an insight about an institution, generates several additional questions. Indeed, a specialized guide to evaluation of ombudsman institutions proposes 50 questions for evaluation or self-evaluation,\(^\text{15}\) and this is not an exceptionally large number in the field of evaluation. Finding evidence-based answers to 50 questions for each of the four institutions considered in this paper, and then aggregating them into defensible higher-level generalizations, is a substantial task even in more favorable circumstances.

Institutions that are prepared for self-evaluation make the task manageable in terms of time and resources. Preparation is based on some kind of framework (e.g., Figure 1) that generates evaluation questions and is supported by performance indicators on an ongoing basis. The lack or absence of such an evaluation framework

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and corresponding preparation creates a challenging situation for an external desk reviewer. The result may be varying degrees of satisfaction across questions and institutions, making it difficult to arrive at robust conclusions. What helps in the process is the application of useful methods when they are available, and the use of triangulation for evidence as much as possible. The following examples may illustrate these methods:

- A question about the strength of political will in support of ombudsmen could be answered in a country such as Pakistan in a number of ways, depending on the time frame for assessment, the government (federal or provincial) that is managing affairs within the time frame, and how the concept is defined for purposes of observation. It may be difficult to answer this question definitively for all relevant institutions.
- As in many other developing countries, good reasons can always be found in Pakistan for concluding that human resources, service standards, management systems, and key aspects of capacity need greater attention and resources, and more so perhaps at the lower government level. In general, it would be hard to conclude a lack of capacity would not be a significant constraint.
- Conclusions about the independence of an ombudsman can be reached by applying certain good practice standards proposed in the literature while cross-checking them against standards developed by the Evaluation Cooperation Group of the multilateral development banks, most of which are highly relevant to ombudsman offices.

With this background, the descriptive section of the paper (“Ombudsman Institutions of Pakistan”) introduces the seven ombudsman institutions mentioned previously and then focuses on the four that are the main concern. This review is based on the foundation documents of the institutions; that is, the laws under which they were established, and some sections of the institutions’ annual reports that highlight how they work. Comparisons with other Asian ombudsman institutions can be made with the help of information provided in a capacity assessment paper prepared for this regional technical assistance project in October 2009. Questions such as the following, brought to the author’s attention by the regional technical assistance team, guide much of the discussion that begins in the next section:

- Is there strong political support for the ombudsman?
- How independent is the ombudsman relative to best practices in similar institutions? Independence may be assessed in terms of how the ombudsman is appointed, removed, and sanctioned; the ombudsman’s reporting lines for administrative and other aspects of management; the financial autonomy of the ombudsman; the ombudsman’s independence in managing human resources; the freedom to obtain and disclose information; and other relevant factors present in best practice institutions.
- Does an ombudsman have service standards, performance indicators, standard formats, and appropriate information technology?
- Is it supported by appropriate human resources and professional development?
- Is the ombudsman able to address systemic problems that lead to widespread and recurring problems in service delivery?
- How effectively are the mass media engaged in creating awareness about the ombudsman?
- Is there effective engagement with civil society?

The analysis that follows revolves mainly around two standard evaluation criteria—relevance and effectiveness—and also, in limited ways, covers efficiency and results (outputs and outcomes). In most evaluations, relevance refers to “the extent to which the objectives of a development intervention are consistent with beneficiaries’

16 There is, however, a comprehensive framework for effective implementation, articulated by the Federal Ombudsman (Malik 2007); this is introduced in section “Issues in Effectiveness and Relevance.”

17 This is also indicated in regional technical assistance 2009 in various ways.

requirements, country needs, global priorities and partners’ and donors’ policies.”

It is generally quite easy to establish the relevance of an institution’s objectives to the higher-level context, as evidenced mainly by intentions stated at various levels. The result is that almost all evaluations deem relevance to be exceptionally high.

An exception to this tendency is found in the recently revised evaluation methodology of the International Fund for Agricultural Development (IFAD), in which attention is paid not only to stated intentions but also to specific features aimed at the achievement of those intentions. Thus, in assessing relevance, an evaluation is expected to “review whether appropriate project components and financial allocations” have been put in place, “appropriate synergies were ensured across activities and services,” “implementation arrangements… were suitable,” and so on.

This is a more meaningful way of proceeding, and it is in the same spirit that this paper approaches the issue of relevance.

Next, effectiveness may be defined as the extent to which the development intervention’s objectives were achieved or are expected to be achieved, taking into account their relative importance. Efficiency, in general, is aimed at measuring how economically resource inputs (funds, expertise, time, etc.) are converted to results. In this paper, however, the efficiency analysis is limited to indicators such as the rate and timeliness of action on complaints, for which relevant data are available. Data for assessing effectiveness and efficiency have been obtained from the annual reports of the federal and provincial ombudsmen.

Finally, an attempt is made to outline who does what in the area of complaint-handling in public service delivery institutions. This is simple to describe what the roles and responsibilities of the Federal Ombudsman and provincial ombudsmen are, compared with those of the single-mandate ombudsmen mentioned previously.

The picture is more complicated where a degree of duplication is found between one level of complaint-handling and another or where gaps are found in the coverage of important sectors. Thus, the paper aims to answer the following key questions:

- What sectors and services are covered by the mandates of the ombudsman institutions? Is there any overlap among these institutions?
- Are there any gaps in the coverage of public service delivery?
- Is there overlap or duplication between the ombudsman institutions and the regulatory and service delivery institutions in terms of complaint handling? Are there provisions for coordination or division of authority?

Trends in Service Delivery and Corruption in Pakistan

There is a common perception that public services have been deteriorating in Pakistan in the face of a rapidly growing population (particularly in urban areas), pervasive resource constraints, institutional breakdown, and a variety of other factors. The refrain is heard that large numbers of people are not covered by certain essential services, while others have experienced declining standards of service since the country’s independence in 1947. It would be fair to acknowledge that different perspectives have been presented on the state of services and important outcomes, particularly since the move to devolve additional authority to local government in 2001.

One way to gauge the accuracy of these perceptions is to track the country’s progress in terms of its MDG targets. Pakistan, has 34 MDG indicators on which the government reports annually. Pervaz Tahir, a former chief economist of the Planning Commission of Pakistan, and Mahbub ul Haq, professor of economics,

19 DAC Working Party, Glossary of Key Terms. Unless otherwise stated, the definitions in this section are taken from this source.


21 The term “sectors” is used broadly, and could include the line departments, utilities, police, and local government.
Government College University, Lahore, analyzed the situation independently for an international workshop on decentralization in 2008. They concluded that the country was lagging on 25 of its 34 MDG targets (Table 1).

Table 1  Pakistan’s Millennium Development Goals Scorecard

<table>
<thead>
<tr>
<th>Millennium Development Goal</th>
<th>Number of Indicators</th>
<th>Progress</th>
<th>Ahead</th>
<th>On Track</th>
<th>Lagging</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eradicate extreme poverty and hunger</td>
<td>3</td>
<td></td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Achieve universal primary education</td>
<td>3</td>
<td></td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Promote gender equality and women’s empowerment</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Reduce child mortality</td>
<td>6</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Improve maternal health</td>
<td>5</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combat HIV/AIDS, malaria, and other diseases</td>
<td>5</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure environmental sustainability</td>
<td>8</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>34</strong></td>
<td><strong>3</strong></td>
<td><strong>6</strong></td>
<td><strong>25</strong></td>
<td></td>
</tr>
</tbody>
</table>


According to the workshop report:

Dr. Tahir asked whether the vehicle—decentralization—had failed to deliver, or if there are serious barriers in achieving desired outcomes. He pointed out, first, that there was a large resource gap between what was needed for achieving MDG targets and what was available. Secondly, he drew attention to the inequalities that prevail in society, and how they undermine local institutions. In connection with the latter, he quoted the following conclusion from *Human Development in South Asia 2007*, published by the Mahbub ul Haq Human Development Center.

[T]he main threat to the efficient working of [local government] institutions is the pervasive inequalities that persist in South Asian societies, manifested through powerful elite groups which often use these institutions to serve their personal interests.

A different point of view was presented by three social audits that occurred during 2001–2010. These audits were commissioned by the Devolution Trust for Community Empowerment (DTCE), established in the early stages of devolution to support the community-oriented aspects of the devolution plan. They reported public perceptions rather than government data, including the general public as well as local elected representatives and local heads of service delivery agencies.

The DTCE social audit of 2010 covered 12,000 households and officials from 21 districts across the country. Summaries of focus group discussions held among the users of a number of services are reproduced in Appendix 1. Findings from user satisfaction reports on government health and education services are highlighted in Appendix 2. The 2010 social audit found that “in comparison to estimates obtained in 2001/02 and 2004/05,
satisfaction levels in 2009/10 improved on roads, sewerage and sanitation, garbage disposal, water supply, health, and education.” At the same time, however, the survey still found high levels of user dissatisfaction for all services. Information on user satisfaction over time is summarized in Table 2. Trends in perceptions of corruption over the same time frame, as reported by Transparency International, are summarized in Table 3.

Table 2  Time Trends in User Satisfaction with Services, from the Devolution Trust for Community Empowerment Social Audits during 2001–2010

<table>
<thead>
<tr>
<th>Services</th>
<th>Percentage of Households Satisfied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>31</td>
</tr>
<tr>
<td>Sewerage and sanitation</td>
<td>12</td>
</tr>
<tr>
<td>Garbage disposal</td>
<td>6</td>
</tr>
<tr>
<td>Water supply</td>
<td>18</td>
</tr>
<tr>
<td>Agricultural services</td>
<td>...</td>
</tr>
<tr>
<td>Electricity</td>
<td>63</td>
</tr>
<tr>
<td>Gas supply</td>
<td>19</td>
</tr>
<tr>
<td>Government health services</td>
<td>23</td>
</tr>
<tr>
<td>Government education services</td>
<td>55</td>
</tr>
<tr>
<td>Police (of households that had contact with the police)</td>
<td>31</td>
</tr>
</tbody>
</table>

… = data not available.

The social audit differentiates among four main categories of services: Basic Services, Health, Education, and Police and Courts. Under Basic Services, it lists roads, sewerage and sanitation, garbage disposal, public transport, and water supply as services provided by tehsils (units of local government within a district, except a few cases where districts and tehsils coincide); agricultural services provided by districts; and electricity and gas services provided by the federal government.


Table 3  Time Trends in Perceptions of Corruption, from Transparency International Surveys, 2002–2010

<table>
<thead>
<tr>
<th>Rank</th>
<th>2002</th>
<th>2006</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Police</td>
<td>Police</td>
<td>Police</td>
<td>Police</td>
</tr>
<tr>
<td>2</td>
<td>Power</td>
<td>Power</td>
<td>Power</td>
<td>Power</td>
</tr>
<tr>
<td>3</td>
<td>Taxation</td>
<td>Judiciary</td>
<td>Health</td>
<td>Land administration</td>
</tr>
<tr>
<td>4</td>
<td>Judiciary</td>
<td>Land administration</td>
<td>Land administration</td>
<td>Education</td>
</tr>
<tr>
<td>5</td>
<td>Customs</td>
<td>Taxation</td>
<td>Education</td>
<td>Local government</td>
</tr>
<tr>
<td>6</td>
<td>Health</td>
<td>Customs</td>
<td>Taxation</td>
<td>Judiciary</td>
</tr>
<tr>
<td>7</td>
<td>Land administration</td>
<td>Health</td>
<td>Judiciary</td>
<td>Health</td>
</tr>
<tr>
<td>8</td>
<td>Education</td>
<td>Education</td>
<td>Local government</td>
<td>Taxation</td>
</tr>
<tr>
<td>9</td>
<td>Railways</td>
<td>Railways</td>
<td>Customs</td>
<td>Customs</td>
</tr>
<tr>
<td>10</td>
<td>Banks</td>
<td>Banks</td>
<td>Tendering/contracting</td>
<td>Tendering/contracting</td>
</tr>
</tbody>
</table>

Ombudsmen, Accountability, and Service Delivery—A Conceptual Framework

A useful accountability framework for service delivery was articulated in the *World Development Report 2004: Making Services Work for Poor People* (WDR), published by the World Bank. The report focuses on the social sectors and reviews experiences and alternatives in service delivery from all over the world. In addition to a wide range of empirical information, the report includes an elaboration of a conceptual framework relating to policy makers, service providers, and poor people. Although the primary focus of the WDR is on the poor, the framework it articulates is equally applicable to all service users.

The WDR differentiates between market-based services and public services. In market-based services, people hold the service provider accountable by paying the provider directly. Dissatisfied users have the power to take their business elsewhere or, in case of fraud, to seek redress through social sanctions or legal means. For services provided by the government, however, accountability is not through the market but through the state, which is responsible for service delivery.

Even when the state is responsible for a particular service, the WDR notes, there is sometimes a shortcut to better service delivery: a market-oriented approach that would increase the client’s power over service providers (p. 6). The WDR mentions school voucher schemes, scholarships, grants based on outputs, and so on as examples of client power in relation to service providers. These alternatives have not been explored in Pakistan to the degree observed in some other countries.

The WDR explains that for public services, clients can exercise accountability through a long route (Figure 2): citizens try to raise their voice to reach policy makers and elected representatives who, in turn, can influence service providers through a compact that assigns responsibilities for outputs or outcomes to public organizations. The WDR (p. 1) observes, “there have been spectacular successes and miserable failures. Both point to the need to strengthen accountability in three key relationships in the service delivery chain: between poor people and providers, between poor people and policymakers, and between policymakers and providers.” It describes the circumstances under which (pp. 80–81) that voice will lead to greater accountability:

- Elections can lead to improved services if the promises politicians make before elections are credible.
- There is a framework of citizen rights, the right to information, service design, the media, and administrative procedures for redress and appeal that allows the citizens’ voice to be articulated effectively.
- There is effectiveness in the institutions of accountability, such as parliaments, courts, ombudsmen, and anticorruption commissions.
- There are adequate stocks of social capital that help overcome the collective action problem underlying voice, particularly for poor people.

The WDR observes, however, “Even if poor people can reach the policymaker, services will not improve unless the policy maker can ensure that the service provider will deliver services to them” (p. 6). Often, there are compact failures, when the state fails to communicate responsibilities for outputs or outcomes to public organizations and enforce responsibility, and management failures, when public sector organizations fail to motivate frontline workers. “When the relationships along this long route break down, service delivery fails (absentee teachers, leaking water pipes) and human development outcomes are poor” (p. 6). This is the situation prevailing in Pakistan.

The ombudsman enters the picture as an actor in the long route of accountability in two important ways: First, by attending to complaints, giving recommendations to service providers, and pressing for redress (as illustrated in Figure 2), the ombudsman gives voice to individual clients. This voice is aimed, in the first instance, at service providers rather than policy makers and politicians. Thus, with reference to Figure 2, the ombudsman provides a shortcut in the long route of accountability that ordinarily depends solely on the citizens’ voice reaching policy
makers and politicians. This is an advantage associated with the ombudsman; the disadvantage is that the ombudsman’s intervention is limited to individual cases, and this may not be good enough in a situation such as Pakistan’s, in which services are lacking for tens of millions of people.

The second way in which the ombudsman matters is by influencing the compact between the state and the service providers (Figure 2). This would happen if the ombudsman had the capacity to influence how the state communicates responsibilities for outputs or outcomes to public organizations, enforces responsibility, and addresses management failures; all these may be considered systemic issues. As will be seen later in this chapter, ombudsmen in Pakistan have the freedom to look into systemic issues and recommend improvements, but this aspect of the ombudsman’s role has not been emphasized as much as attention to individual complaints.

Before concluding, it may be emphasized that the ombudsman is just one among a number of actors in the long route of accountability; others include the legislatures, the judiciary, the mass media, and social coalitions. The ombudsman’s potential to contribute to accountability is enhanced if he can work with other instruments of accountability. In other words, the ombudsman is more effective if he works not only directly, addressing individual complainants and agencies, but also indirectly, using the influence, for example, of the media and elected representatives. These connections are not well developed for most of the ombudsman institutions in Pakistan. Indeed, as will be explained, the ombudsman in Pakistan is not a parliamentary institution, and this limits his ability to influence the compact for service delivery through elected representatives and policy makers.

**Figure 2  Key Relationships of Power in Service Delivery and Accountability**

Ombudsman Institutions of Pakistan

Focus on Maladministration in Relevant Agencies

The Federal Ombudsman (Wafaqi Mohtasib) was the first ombudsman in Pakistan. It was established by a military regime in 1983, when there were no elected governments at the federal and provincial levels; party-based political activity was banned; the judiciary was kept on a tight leash; and the mass media was stifled by censorship, self-censorship, and other means of control. Evidently, the military regime considered the ombudsman and local government as instruments for good governance in lieu of representative government and other elements of democracy and justice. Subsequently, three other ombudsman institutions—the Federal Tax Ombudsman, the Federal Insurance Ombudsman, and the Provincial Ombudsman of Balochistan—were also established by the military government in 2000 and 2001. Thus, four of the seven ombudsman institutions of Pakistan were established by military governments that also emphasized devolution of authority to local government.

Five of the seven institutions were established through special stand-alone laws. However, the Banking Mohtasib (Ombudsman) was created by means of an amendment to an existing law (the Banking Companies Amendment Act of 1997), while the Federal Insurance Ombudsman was established through the Insurance Ordinance of 2000. Except for the Banking Ombudsman, the stated rationale for the existence of all ombudsmen was to address maladministration. Except in the case of the Federal Tax Ombudsman, where the definition of maladministration is more comprehensive (but includes the following), all the statutes define maladministration in the following words:

- A decision, process, recommendation, act of omission or commission that
  (i) is contrary to law, rules, or regulations, or is a departure from established practice or procedure, unless it is bona fide and for valid reasons;
  (ii) is perverse, arbitrary, or unreasonable; unjust, biased, oppressive, or discriminatory;
  (iii) is based on irrelevant grounds; and
  (iv) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as bribery, jobbery, favoritism, nepotism, and administrative excesses.
- Neglect, inattention, delay, incompetence, inefficiency, and ineptitude, in the administration or discharge of duties and responsibilities.

The jurisdiction of single-mandate institutions is limited to a single government department (taxation) or economic sector (banking or insurance). Laws establishing the single-mandate ombudsman institutions essentially do not allow the Federal Ombudsman or provincial ombudsmen to exercise jurisdiction in the specialized matters handled by the single-mandate institutions. Thus, there is no overlap between the single-mandate and other ombudsmen.

Similarly, the jurisdictions of the Federal Ombudsman and provincial ombudsmen are also distinct from each other. The Federal Ombudsman’s jurisdiction extends to all such agencies that are classified as “a Ministry, Division, Department, Commission or office of the federal government or statutory body, corporation or other institution established or controlled by the federal government.” For a provincial ombudsman, “agency” means a department, commission, or office of the provincial government, or statutory corporation or other institution established or controlled by the provincial government. The problem of overlap arises between the Federal Ombudsman and certain regulatory bodies with authority over utility companies (discussed later in this section).
The Supreme Court, the Supreme Judicial Council, the Federal Shariat Court, and the high courts are excluded from the jurisdiction of ombudsmen. Also excluded from their jurisdiction are matters that

- are under judicial deliberation before a court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference, or motion by the ombudsman;
- relate to the external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or government; or
- relate to or are connected with the defense of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.

As far as public services are concerned, there are no apparent gaps in the ombudsman’s coverage at the provincial level. There is only one notable omission at the federal level: the telephone operator, Pakistan Telecommunication Company (PTCL) which is 74% owned by the federal government and 26% owned by a strategic investor (Etisalat of the United Arab Emirates). There was disagreement about whether it should be considered a federal government corporation or a private company. The President of Pakistan recently decided that it should not be treated as a government corporation, so the Federal Ombudsman no longer has jurisdiction over the PTCL. This runs counter to the worldwide practice of bringing public services within the purview of ombudsman. Complaints against the PTCL can still be registered with the relevant regulatory authority, but that authority does not have the specialized staff and infrastructure that the Federal Ombudsman has for addressing complaints. This issue is discussed further in the section “Ombudsman Institutions of Pakistan—Overlapping Authority for Public Grievance Redress.”

Ombudsman institutions in Pakistan enjoy wide-ranging powers for discharging their functions. For example, the Federal Ombudsman, provincial ombudsmen, and the Federal Tax Ombudsman have the powers of a civil court under the Code of Civil Procedure, 1908, and the power to conduct searches in accordance with the provisions of the Code of Criminal Procedure, 1898. All executive authorities are required by law to act in aid of these ombudsmen. These ombudsmen also have the powers of a court to punish for contempt.

The law provides a mechanism in case an agency does not comply with the recommendations of the Federal Ombudsman or does not give reasons to the satisfaction of the Federal Ombudsman for noncompliance. This is treated as “defiance of recommendations.” In such cases, the Federal Ombudsman may refer the matter to the President (or the governor or chief minister of a province), who can direct the agency to implement the recommendation and inform the Federal Ombudsman accordingly. At the same time, an affected agency has the right to make a representation to the president (or the governor or chief minister of a province) against the recommendations of the ombudsman.

There is no explicit reference in the law to the notion that the ombudsman may recommend systemic changes in relevant agencies. There is, however, a provision that may be construed to this effect, one that goes clearly and significantly beyond individual grievance redress, making it clear that the ombudsman is obliged to address the root causes of corruption and injustice. More specifically, the 1983 President’s Order establishing the Federal Ombudsman (Wafaqi Mohtasib) includes the following clause in the section on the jurisdiction, functions, and powers of the Ombudsman: “For carrying out the objectives of this order and, in particular, for ascertaining the root causes of corrupt practices and injustices, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.” This clause is also present in the statutes of Balochistan, Punjab, and Sindh.

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23 According to the regional technical assistance 6465 (Assessment Report 2010). “The jurisdiction of ombudsman is traditionally limited to executive agencies and their officials and employees—thus, excluding those from the legislative, judiciary, and the military service.” However, “the Philippines has a deputy ombudsman for the military and other law enforcement organizations. The Philippine Ombudsman can also pursue criminal, but not administrative, action against members of the judiciary and Congress; and the mandate of the General Inspection Organization of Iran includes supervision and inspection of all organizations and institutions affiliated with to the judiciary branch, military and disciplinary forces.”
The scope for action by the ombudsman is limited to studies, research, and recommendations for addressing systemic issues. As elaborated later in this paper, ombudsmen in Pakistan have adopted a number of ways of addressing systemic issues, including the following:

- As illustrated by the Federal Ombudsman, in the course of addressing an individual complaint, the ombudsman may find that a particular rule of a certain agency amounts to maladministration and recommend that it should be changed.
- As illustrated by the Punjab ombudsman, the ombudsman may find that there has been a series of similar complaints that show that a particular group of citizens is being treated unfairly by a number of agencies. He may recommend that all agencies take certain steps to alleviate the situation of this group.
- As illustrated by the Federal Ombudsman, the ombudsman may find that most of the complaints are aimed at certain agencies and commission special studies to analyze the problem in depth and work out solutions in consultation with the agencies concerned.
- Ombudsmen have used assistance from the donors, including ADB, the United Nations Development Programme (UNDP), and the United Nations Children's Fund (UNICEF), to focus on children (a particularly vulnerable group), systemic improvement among agencies with which the public is particularly unhappy, and the further reform of ombudsman institutions and service providers.

**Elements of Independence**

According to a Canadian ombudsman officer, “Independence is often referred to as a hallmark of Ombudsmanship.”\(^{24}\) At a recent conference of the Australian and New Zealand Ombudsman Association, the Western Australian Ombudsman elaborated on the importance of independence as follows:

> [W]ithout independence there can be no confidence that our investigations, either their choice, conduct or conclusions, have not been tainted by influence. This confidence must extend to the Ombudsman being both actually independent and seen to be independent. A lack of confidence in those who exist to keep government to account ultimately results in a weakening of the rule of law and the very system of government that serves us so well.

> [T]he institutionalisation of the rule of law [is] characterised in part by the creation of, and respect for, independent accountability institutions such as the Ombudsman.\(^{25}\)

Various criteria for independence have been proposed by practitioners, and a comprehensive list of these, based on two sources—Canadian practitioner Laura Pettigrew and Australian practitioner Chris Field—is reproduced in Appendix 3. Similar additional criteria have been proposed by the British and Irish Ombudsman Association\(^{26}\) and by Gottehrer and Hostina,\(^{27}\) whose paper includes a list of 12 essential characteristics of ombudsman identified in 1969 by the American Bar Association. According to Field, “eight of these either directly use the word independence or clearly suggest independence.”

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\(^{24}\) Pettigrew, Building the Mosaic.


There is no single internationally accepted approach to the application of independence. Parliamentary ombudsmen, who are “structurally independent of the political process and government administration”\textsuperscript{28} are the norm in developed countries. These ombudsmen “must have a direct relationship with parliament and be subject to their authority and their authority only.”\textsuperscript{29} In Pakistan, the ombudsman is not a parliamentary institution but enjoys a degree of independence from the executive and the support of the President of the country or the governor of the province. The laws establishing five of the seven ombudsmen (the Banking Ombudsman and the Federal Insurance Ombudsman are the exceptions) include a specific reference to independence from the executive in the following provision: the ombudsman “shall, in all matters, perform his functions and exercise his powers fairly, honestly, diligently and independently of the executive.”

To assess the independence of ombudsman institutions in Pakistan, some of the important elements of independence can be identified with the help of sources discussed in Appendix 3, which covers the discussion that took place during the Asian Ombudsman Association Regional Conference in Manila in August 2010. These sources, together with the author’s understanding of the issue, suggest that independence may be assessed with reference to the following 10 factors and related questions:

- **Appointment of the ombudsman.** Is the appointment of the ombudsman made by an individual or by a group of people? Is the appointment controlled by the executive or does it involve Parliament and other stakeholders? Is the selection process transparent, independent, and consultative? Are the selection criteria clear and relevant, and do they ensure avoidance of prior conflict of interest?\textsuperscript{30}
- **Term of office of the ombudsman.** Does the ombudsman have a fixed term of office during which he cannot be removed (except for proven incapacity or misconduct)? Is the term of office adequate for generating improved effectiveness and intermediate outcomes?\textsuperscript{31} Is there an independent process and authority for reviewing the ombudsman’s performance and for recommending a second term?
- **Status, remuneration, and privileges of the ombudsman.** Are these at least equivalent to those of the highest levels of the state (for example, ministers and relevant levels of the superior judiciary) to which the heads of agencies falling within the ombudsman’s mandate are accountable for their performance?
- **Removal of the ombudsman.** Is the ombudsman secure from removal for political reasons or because the results of investigations have offended the executive or those in power? Does he have recourse to an independent authority against orders of removal?
- **Avoidance of ex post conflict of interest of the ombudsman.**\textsuperscript{32} Are there provisions in law for avoidance of ex post conflict of interest.
- **Continuity in exercising the ombudsman’s powers.** Does the law provide for the appointment of a deputy ombudsman or acting ombudsman to ensure that the office of the ombudsman continues to function when the ombudsman is out of the country, ill, or unable to serve for some other reason or when the office is vacant?
- **Ombudsman’s authority over human resources.** Does the ombudsman have the sole power to appoint, remove, promote, and redesignate long- and short-term staff and consultants? Where staff are seconded from other agencies, does the ombudsman have the sole power to decide whom to accept or return to service in the original agency?

\textsuperscript{28} Pettigrew, Building the Mosaic.
\textsuperscript{29} Field, Independence—A Key Principle.
\textsuperscript{30} Prior conflict of interest could arise from a personal, political, or administrative affiliation that might influence the ombudsman’s fairness, honesty, diligence, and independence (these four key words are taken from the statutes under which ombudsmen institutions have been established in Pakistan).
\textsuperscript{31} “Effectiveness” is described in the introduction, and intermediate outcomes are illustrated in Figure 1.
\textsuperscript{32} Ex post conflict of interest could arise when the ombudsman has an incentive to make decisions that will help him gain a position, profit, or influence after leaving office.
• **Ombudsman’s authority over budget.** When it comes to the budget process and financial controls, is the ombudsman treated as an entity independent of the executive or as just another government department?

• **Disclosure of findings and reports.** Does the ombudsman have the authority to disclose information to stakeholders and the general public without anyone’s prior approval?

• **Freedom of federating units to make ombudsman laws.** Do the federating units have the freedom to promulgate and enact their own statutes for establishing ombudsman offices?

Assessment in these terms shows that the degree of independence is not uniform across the seven ombudsmen of Pakistan. In general, some of the most important elements of independence are inadequate. This problem has not gone unrecognized for example, the Provincial Ombudsman of Sindh (in his 2008 annual report) beseeched the authorities “to make the Ombudsman… truly independent of [the] executive as envisaged from the framers of the law.” The Federal Insurance Ombudsman, in particular, seems to be the least independent of all Pakistan’s ombudsmen and severely constrained in performing his functions. The Federal Tax Ombudsman is also in a serious conflict-of-interest position in relation to the executive branch of the government. Specific ways in which lack of independence is affecting the effectiveness of Pakistan’s ombudsmen are discussed in the following sections.

Parliamentary ombudsmen can be appointed or confirmed by legislatures; they can also be appointed by chief executives or governors... of provinces, but they are generally chosen through an independent selection process. “A number of different processes have been successful. The successful result is an ombudsman appointment of a widely respected individual seen by diverse political groups as fair and impartial.” The appointing authority for all ombudsmen in Pakistan lies in the executive branch of the government (Table 4). Moreover, although individuals selected as ombudsmen may be highly respected among knowledgeable circles, the selection process is neither bipartisan nor consultative in a broader sense. Ombudsman appointments in Pakistan are made at the discretion of specific individuals, and the selection process is neither transparent nor manifestly independent of the executive.

In ways that differ somewhat from one ombudsman to another, the integrity of an individual is emphasized in the statutes as a prerequisite for being appointed an ombudsman. In addition, the appointment of the Banking Ombudsman and the Federal Insurance Ombudsman has to ensure the absence of prior conflict of interest, as laid down in the statutes. The statutes for other ombudsmen, however, do not focus explicitly on any prior conflicts of interest (e.g., political or administrative affiliations) that might exist at the time of the appointment. The main qualifications required for appointment as an ombudsman in Pakistan vary.

There is no specific requirement for appointment as the Federal Ombudsman, the Federal Tax Ombudsman, or as the provincial ombudsman of Punjab or Sindh. Retired judges as well as retired civil servants have been appointed to these positions.

The Banking Ombudsman (established in 1997) is required to be a person of “unimpeachable banking or legal credentials.” The Federal Insurance Ombudsman (established in 2000) has to be a person of “unimpeachable insurance or legal credentials.” Judging from past appointments, the term “legal credentials” does not necessarily describe a person who is a judge or a lawyer.

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33 Gottehrer and Hostina, *Essential Characteristics.*

34 In a parliamentary democracy (which is what Pakistan is under its constitution), the president of a country or governor of a province is not generally associated with the executive branch of government. In Pakistan, however, there have been long periods of military rule during which presidents and governors have headed the cabinet. Even during civilian rule, most presidents and governors have been associated closely with the party in control of the federal or provincial government. Moreover, the president and the governor are expected to make decisions on the advice of the prime minister or the chief minister, as the case may be.

35 In some provinces, the people and elected representatives expect a balance in high-level appointments among ethnolinguistic groups, and this can also affect the selection of ombudsman.
Table 4  Ombudsman Institutions of Pakistan: Elements of Independence

<table>
<thead>
<tr>
<th>Ombudsman Institutions</th>
<th>Year Established</th>
<th>Appointment Authority</th>
<th>Term of Office</th>
<th>Recourse Against Removal</th>
<th>Authority for Disclosure of Annual Report</th>
<th>Source of Funding</th>
<th>Appointment and Terms of Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Multisector Mandates</strong></td>
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<tr>
<td>Wafaqi Mohtasib (Federal Ombudsman)</td>
<td>1983</td>
<td>President of Pakistan</td>
<td>4 years</td>
<td>Supreme Judicial Council</td>
<td>President of Pakistan</td>
<td>Federal Consolidated Fund</td>
<td>Decided by Ombudsman^d</td>
</tr>
<tr>
<td>Sindh Ombudsman</td>
<td>1991</td>
<td>Governor of Province</td>
<td>4 years</td>
<td>Supreme Judicial Council</td>
<td>Governor of province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td>Punjab Ombudsman</td>
<td>1997</td>
<td>Chief Minister of Province</td>
<td>4 years</td>
<td>Division Bench of the High Court</td>
<td>Chief minister of province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td>Balochistan Ombudsman</td>
<td>2001</td>
<td>Governor of Province^e</td>
<td>4 years</td>
<td>Supreme Judicial Council</td>
<td>Governor of province</td>
<td>Provincial Consolidated Fund</td>
<td>Decided by Ombudsman</td>
</tr>
<tr>
<td><strong>Single-mandate (Federal) Ombudsmen</strong></td>
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</tr>
<tr>
<td>Banking Ombudsman</td>
<td>1997</td>
<td>President of Pakistan</td>
<td>3 years</td>
<td>Federal Service Tribunal</td>
<td>Governor, State Bank of Pakistan</td>
<td>Shared by banks^g</td>
<td>On deputation^h or on basis of qualifications</td>
</tr>
<tr>
<td>Federal Tax Ombudsman</td>
<td>2000</td>
<td>President of Pakistan</td>
<td>4 years</td>
<td>Supreme Judicial Council</td>
<td>President of Pakistan</td>
<td>Federal Consolidated Fund</td>
<td></td>
</tr>
<tr>
<td>Federal Insurance Ombudsman</td>
<td>2000</td>
<td>Federal Government</td>
<td>4 years</td>
<td></td>
<td>Federal Government</td>
<td>Shared by insurance companies^j</td>
<td>On deputation^j or on basis of qualifications</td>
</tr>
</tbody>
</table>

^a All ombudsmen are appointed for a single nonrenewable term. All of them, except the Banking Ombudsman and the Federal Insurance Ombudsman, are prohibited from taking up government service, elected office, or any political activity for a period of 2 years after the completion of their term.

^b In all cases, an ombudsman can be removed only on the ground of misconduct or inability to perform the duties of his office because of physical or mental incapacity.

^c Article 209: Supreme Judicial Council. www.supremecourt.gov.pk/web/page.asp?id=434. “The Supreme Judicial Council is chaired by the Chief Justice of Pakistan and includes the two most senior Judges of the Supreme Court and the two most senior Chief Justices of High Courts as members. On a reference received from the President or through its own action, the Supreme Judicial Council investigates the matter and presents its finding to the President. If the Council decides that a judge is incapable of performing the duties of office or is guilty of misconduct, and therefore should be removed from office, the President may order the removal of such judge.”

^d In practice, some senior officers are sent by the government to the Federal Ombudsman secretariat on deputation, but subject to his agreement.

^e The requirement is that the ombudsman shall be a person who is or has been qualified to be a judge of the High Court.

^f In consultation with the governor of the State Bank of Pakistan (SBP).

^g In proportions decided by the SBP.

^h From the SBP or other banks, to be appointed in consultation with the SBP.

^i In proportions decided by the Securities and Exchange Commission of Pakistan (SECP).

^j From the SECP or insurance companies, to be appointed after consultation with the SECP.
Balochistan has the most restrictive qualification: the law requires that “the Ombudsman shall be a person who is or has been a Judge of the High Court, or has been District and Sessions Judge qualified to be a Judge of the High Court or any lawyer who is qualified to be a Judge of the High Court.” This requirement limits choices in a province that is the smallest in the country and that suffers the most from a lack of qualified expertise in all services.36

A point of view put forward by the British and Irish Ombudsman Association is that the appointment of an ombudsman “should be either for a minimum of 3 years or until a specified retirement age; if the former, it may be renewable.”37 Another view is that the term of office must be fixed but renewable.38 However, the preference regarding parliamentary ombudsmen in Australia and Canada is an appointment for an extended fixed term that should be at least longer than one full term of government;39 that is, at least 5 years. In Pakistan, six of the seven ombudsmen are appointed for a nonrenewable 5-year term (and one is appointed for a 3-year term; Table 4).

The fact that all ombudsmen can be appointed only for a single nonrenewable term constrains the choice of candidates, for the most part, to individuals who have retired and do not intend to be active in government or politics after serving as ombudsmen. At the same time, a 3- or 4-year position that forces a departure from public service for at least 2 years may not be attractive to officials who are some years from retirement and eminently qualified. These observations suggest that a single nonrenewable term of 3 or 4 years limits the pool from which qualified ombudsmen may be selected without any obvious benefit. Many ombudsmen institutions across the world do not limit the tenure to a single, nonrenewable term.40

The ombudsman’s terms and conditions of service are not generally stipulated in the statutes in Pakistan, except for the statutes stipulating that the Banking Ombudsman and the Federal Insurance Ombudsman must have the same salary and allowances as a judge of the High Court. For other ombudsmen, the matter of remuneration and privileges has been left to the appointing authority. The provincial ombudsmen are generally treated on a par with judges of the High Court. Two federal ombudsmen—the Federal Ombudsman and the Federal Tax Ombudsman—exist in a separate category: in the official Warrant of Precedence that is enforced in all matters of protocol, as well as in more material terms, these two ombudsmen have positions higher than that of the judges of the Supreme Court of Pakistan, but lower than the chief justice of Pakistan.41

The removal of an ombudsman for proven incapacity or misconduct is an internationally accepted practice that is also reflected in relevant laws in Pakistan. Generally speaking, a parliamentary ombudsman can be removed only with the agreement of Parliament.42 Good practice suggests that ombudsmen “will not be removed for political reasons or because the results of investigations have offended those in power.”43 In Pakistan, an ombudsman can be ordered removed by the appointing authority (an individual), but has recourse in such a case to an organ of the superior judiciary (Table 4) before being removed.

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36 Punjab, the largest province, restricted the position to judges and lawyers until 2003, when it changed the law to open up the qualifications for appointment by inserting the words shown here in italics: “An Ombudsman shall be a person who is or has been or is qualified to be a judge of the High Court or any other person of known integrity.”

37 BIOA, Criteria for Recognition by BIOA.

38 Gottehrer and Hostina, Essential Characteristics.

39 Pettigrew, Building the Mosaic; Field, Independence—A Key Principle.

40 A clear-headed ombudsman could, within 3 or 4 years, improve the effectiveness of his office even in the less-than-ideal situation prevailing in Pakistan. It would be more difficult, however, to achieve significant outcomes within this period, especially if they pertain to systemic issues that affect a large number of citizens and or to problems such as corruption.

41 This position and the corresponding benefits in terms of remuneration, allowances, and privileges were negotiated personally by the first Federal Ombudsman with the President of Pakistan in 1983 and subsequently extended to the office of the federal tax ombudsman.

42 Field, Independence—A Key Principle.

43 Gottehrer and Hostina, Essential Characteristics.
Five of the ombudsmen—the Federal Ombudsman, the Federal Tax Ombudsman, and the provincial ombudsmen of Balochistan, Punjab, and Sindh—are restricted in their employment choices and political activities after completing their terms as ombudsmen: they are prohibited by law from taking up government service or any federal, provincial, or local elected office and from participating in any political activity for 2 years after leaving office. The banking and insurance ombudsmen are not restricted in these ways. These two ombudsmen are not subject to any legal safeguards regarding ex post conflict of interest.

One of the least appreciated elements of independence is that someone should always be capable of exercising all the ombudsman’s powers. As explained by Gottehrer and Hostina, “An office without someone to exercise the ombudsman’s powers is paralyzed. Ombudsmen have the authority to name deputies or acting ombudsmen who can always exercise the powers of the office while the ombudsman is out of the country, ill, or unable to serve or when the office is vacant.” In Pakistan, when the appointing authority delays the appointment of a permanent or acting ombudsman, as happens from time to time, the ombudsman office stops functioning, sometimes for months at a time. This would not happen if the ombudsman or the appointing authority were to designate a deputy ombudsman for a fixed tenure to serve as acting ombudsman in the absence of the permanent ombudsman.

An ombudsman’s control over human resources is considered to be a key element of independence. “The ombudsman has the sole power to appoint and remove staff to ensure that staff will have the ombudsman’s full confidence and that the ombudsman will have sole responsibility for administering the office. In Pakistan, the ombudsmen are not required to go through the public service commissions to hire staff, but they usually suffer from a number of constraints on hiring, firing, and promoting personnel.” For example, appointments by the Federal Insurance Ombudsman are subject to consultation with the Securities and Exchange Commission of Pakistan (SECP), and those by the Banking Ombudsman to consultation with the State Bank of Pakistan. This implies a veto power over the two ombudsmen. Indeed, the insurance ombudsman has to run his entire operation with the help of just two junior office assistants. He has to act as his own investigator, typist, coordinator, report writer, and office administrator.

The staffing of ombudsman offices generally consists of three categories of employees: permanent staff of the ombudsman, staff on deputation from other organizations, and advisors and consultants. There is a significant trend of staff being deputed by government departments to the ombudsman. Good practice suggests that “where staff are seconded from other agencies, the choice of whom to accept or to return to service in the original agency is the ombudsman’s alone.” This is also the practice in Pakistan, where the Federal Ombudsman and provincial ombudsmen have the authority to choose whom to accept on deputation from a government agency. More broadly, although ombudsmen are free to propose rules for managing their human resources, the key departments of the government (finance, law, and establishment) that vet these proposals invariably reject anything that is out of line with their own rules. In practice, therefore, ombudsmen are burdened with individuals and personnel policies that could (and do, in some ombudsman offices) seriously undermine their effectiveness.

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44 One former federal tax ombudsman, however, has been appointed to government service less than 2 years after leaving his ombudsman’s office.

45 Gottehrer and Hostina, Essential Characteristics.

46 For example, according to the Punjab ombudsman’s annual report for 2009, “the office of the ombudsman remained vacant for more than 6 months during 2008. As a result, the year 2009 saw an unusual backlog of 6,628 complaints.”

47 According to statute, it is not necessary for the Federal Ombudsman and the provincial ombudsmen to consult the relevant public service commission “for making appointment of the members of the staff or on matters relating to qualifications for such appointment and methods of their recruitment.”

48 Gottehrer and Hostina, Essential Characteristics.
The adequacy of the ombudsman’s budget, the process by which it is approved, and accountability for spending also feature as elements of independence. The literature, however, is not as clear on these points as on some other aspects of independence. Even for parliamentary ombudsmen, it seems that the process for obtaining budget approval may be managed by a parliamentary committee or the Treasury, even though independence from the executive branch implies that budgets should be approved directly by, and accounts rendered directly to, Parliament. Consistent with good practice, expenditures by ombudsmen in Pakistan are subject to accountability through the Public Accounts Committee of the legislature.

For the budget, the practice in Pakistan is that the ombudsman makes a budget request to the Ministry of Finance (or equivalent provincial department), which may approve or reduce the requested amount or place restrictions on certain budget categories. The ombudsman has more flexibility than other heads of department in reappropriating between certain budget categories, but he cannot reappropriate from the other categories, including pay and allowances. Moreover, at least some ombudsmen in Pakistan are subject to rules requiring approval in advance for even small expenditures, even though the budget exists; they are, in this respect, treated no differently from any other government department. The overall result, by and large, is item-by-item budget control by the government, which is not conducive to the ombudsman’s effectiveness. This has evidently led to problems and a high level of frustration among ombudsmen and their staffs,49 and severely constrains the ombudsman in setting competitive salary levels to recruit and retain personnel. Proposals by various ombudsmen for one-line grants (in place of the rigid itemized budgets) have been routinely rejected by authorities responsible for the national or provincial budgets.

The Federal Tax Ombudsman, in particular, is in a position of serious conflict of interest. His decisions on tax matters directly concern the Ministry of Finance, which is also responsible for approving and managing his budget. There is no evidence that the Ministry of Finance has used its financial powers to undermine the ombudsman, but there is no guarantee that this might not happen at some point in the future. The Federal Insurance Ombudsman is in a different kind of quandary: his funds are drawn from the insurance companies on a proportional basis, but controlled tightly by the SECP, which has been unwilling to allocate adequate resources to the ombudsman. As a result of the budget and human resource constraints under which he is operating, the Federal Insurance Ombudsman appears to be the least independent ombudsman in Pakistan.50

Surprisingly, the literature on ombudsman independence does not discuss the authority of the ombudsman to disclose information without the prior approval of the executive branch of the government. Relevant statutes in Pakistan do not explicitly prohibit the ombudsman from disclosing information to the public without prior approval. The practice, as far as can be ascertained, is for ombudsmen to publish annual reports, research findings, conference proceedings, press releases, and so on without the approval of a higher authority.

Provincial governments in Pakistan have the authority to draw up their own legislation, rules, and regulations regarding provincial ombudsmen, independent of the federal government and the Federal Ombudsman. Although the three provincial statutes are almost exact copies of the 1983 Presidential Order establishing the Federal Ombudsman, nothing prevents the provinces from making their statutes different from the others. This is illustrated by differences between Punjab on the one hand, and the other provinces and the Federal Ombudsman on the other: the appointing authority for the Punjab ombudsman is the chief minister rather than the governor or the president, and the ombudsman’s recourse against removal lies with the High Court rather than with the Supreme Judicial Council.

49 In his 2008 annual report, the Sindh ombudsman proposed that the Finance Department should “provide a one-line grant to the Provincial Ombudsman Secretariat, as in the justice sector” (i.e., the judiciary). The Federal Ombudsman has also requested the Ministry of Finance several times for a one-line budget, but with no success.

50 It was discovered during the course of this study that the Insurance Ombudsman handles only 250 complaints per year, compared with the thousands of complaints handled by other ombudsmen.
The main findings that emerge from the preceding analysis of independence are summarized in Table 5.

**Table 5  Empirical Findings on the Independence of Ombudsmen in Pakistan**

<table>
<thead>
<tr>
<th>Item</th>
<th>Elements of Independence</th>
<th>Main Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Appointment of ombudsman</td>
<td>Ombudsmen appointed by specific individuals (the president and governors) at their discretion. Selection criteria open-ended and do not articulate competencies required; they are also unduly restrictive in Balochistan. Appointment of Banking Ombudsman and the Federal Insurance Ombudsman subject to avoidance of prior conflict of interest; other five ombudsmen not put through the same filter for avoiding conflict of interest arising from a personal, political, or administrative affiliation. Selection process not transparent, consultative, or manifestly independent of the executive.</td>
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<tr>
<td>2</td>
<td>Term of office of ombudsman</td>
<td>Fixed nonrenewable term of 3 or 4 years limits the pool from which ombudsmen are selected. It is shorter than the term of ombudsmen in many countries. It is long enough to achieve significant improvements in effectiveness, but not necessarily adequate for achieving important outcomes that affect large numbers of people.</td>
</tr>
<tr>
<td>3</td>
<td>Status, remuneration, and privileges of ombudsman</td>
<td>Federal Ombudsman (Wafaqi Mohtasib) and Federal Tax Ombudsman enjoy status and benefits higher than those of Supreme Court judges (but lower than those of the chief justice of Pakistan). Others are equivalent to High Court judges.</td>
</tr>
<tr>
<td>4</td>
<td>Removal of ombudsman</td>
<td>Removal can be ordered by the appointing authority (an individual). Ombudsman can approach an organ of the superior judiciary before being removed.</td>
</tr>
<tr>
<td>5</td>
<td>Avoidance of ex post conflict of interest of ombudsman</td>
<td>Five ombudsmen prohibited from taking up government service, accepting any elected office, or from participating in political activity for 2 years after leaving office. Banking and insurance ombudsmen not subject to similar legal safeguards regarding ex post conflict of interest.</td>
</tr>
<tr>
<td>6</td>
<td>Continuity in exercising the ombudsman’s powers</td>
<td>No provision for appointment of deputy ombudsman to ensure continuity in absence of ombudsman. Acting ombudsman may be named by appointing authority, but long time lags in appointment have been observed.</td>
</tr>
<tr>
<td>7</td>
<td>Ombudsman’s authority over human resources</td>
<td>Ombudsmen do not have to go through public service commissions for recruiting staff. Also generally free to reject or send back staff deputized from other organizations. Not free, however, to establish rules different from those of other government departments. Across the board, independence and effectiveness are undermined as a result.</td>
</tr>
<tr>
<td>8</td>
<td>Ombudsman’s authority over budget</td>
<td>Ombudsmen budgets are approved by the executive, not directly by the legislature; accountability is to public accounts committees of legislature. Ombudsmen perceive some flexibility in expenditure compared with government departments, but government budget controllers remain by and large in control of financial management, even for small approved items of a budget. Independence and effectiveness are undermined as a result. Federal Tax Ombudsman is in a position of serious conflict of interest with the Ministry of Finance. Federal Insurance Ombudsman has control over his budget and staff.</td>
</tr>
<tr>
<td>9</td>
<td>Disclosure of findings and reports</td>
<td>Ombudsmen are not prohibited from publishing annual reports, research findings, conference proceedings, press releases, and so on without approval of a higher authority. At the same time, the statutes do not explicitly allow this.</td>
</tr>
<tr>
<td>10</td>
<td>Freedom of federating units to make ombudsman laws</td>
<td>Federating units are free to make their own laws; in practice, only two differences evident between these and the 1983 Federal Ombudsman statute.</td>
</tr>
</tbody>
</table>

Source: Author’s analysis.

The ombudsman’s authority over staff and budget is highly inadequate for ensuring independence and continuing effectiveness. The Federal Insurance Ombudsman, in particular, has been rendered almost nonfunctional. A number of ombudsmen have requested changes, but authorities responsible for personnel and financial management have not been receptive to their proposals.
The appointing authority in Pakistan is generally an individual who is not bound to follow any prescribed process or consult anyone, and is associated, in most cases, with a political party. Thus, opposition parties, the media, civil society, and the general public cannot be assured that the ombudsman’s selection and performance will be conducted strictly in the public interest; this is bound to affect the credibility and effectiveness of the institution. The absence of a fully empowered deputy ombudsman who could head the office when the permanent position is vacant also affects the institution’s effectiveness and credibility.

**Structure and Linkages**

Statutes establishing the Federal Ombudsman and the ombudsmen of Balochistan and Sindh allow the ombudsman to set up regional offices, whereas the Punjab ombudsman statute is silent on this matter. In practice, all ombudsmen have regional offices. Balochistan and Punjab have three regional offices each. The Federal Ombudsman has eight regional offices. The Sindh ombudsman has 13 regional offices and aims eventually to have one in each district of the province. Clearly, different models of organization are at work across the country.

However, there are more similarities than differences in the structure of ombudsman head offices and functional units:

- The largest department in each ombudsman office is concerned with investigating complaints.
- A small staff is also devoted to managing complaints and conducting research and analysis.
- There are also units responsible for finance and administration, communication, and information technology.

Outreach depends not only on the size and geographical area of an organization but also on its linkages. As elaborated by the Federal Ombudsman, linkages with government departments and civil society organizations (CSOs) are particularly important for effective implementation. The Federal Ombudsman is pursuing collaboration with government departments to

- help them strengthen their internal redress systems,
- reduce the volume of complaints coming to the ombudsman, and
- free up the ombudsman’s resources to focus more on systemic issues.

The Federal Ombudsman is working with federal ministries and provincial departments to get complaints resolved (in the first instance at the agency level) as promptly as possible. With assistance from the UNDP, an in-depth study of the grievance redress systems of five federal agencies was completed in 2009. These agencies account for the highest number of complaints received by the Federal Ombudsman. They include (in order of the number of complaints received by the Federal Ombudsman): Sui Northern Gas Pipelines, the Pakistan Telecommunication Company, the National Database and Registration Authority, Pakistan Post, and the State Life Insurance Corporation.

The Federal Ombudsman is also reaching out to another set of government agencies, with the assistance of UNICEF. This is the first initiative in the country that focuses ombudsmanship for an important vulnerable group in

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52 This assistance was rendered through the Strengthening Public Grievance Redress Mechanisms Project.

53 With the appointment of an Insurance Ombudsman, complaints against the State Life Insurance Corporation are now handled by the Insurance Ombudsman.

54 This is called the Responsible, Enabling and Accountable Systems for Children’s Rights (REACH) Project.
society. It provides for the establishment of a children’s complaints office (CCO) to receive complaints from and on behalf of children against maladministration by any federal agency, whether a school, hospital, or law enforcement agency. It also assists the federal government in implementing the United Nations Convention on the Rights of the Child, in part by monitoring the compliance of federal agencies with the convention and the progress of the associated National Plan of Action. By working through the Federal Ombudsman’s head office and eight regional offices, and providing additional resources for establishing CCOs in three provincial ombudsmen offices, UNICEF is helping to mainstream children’s concerns in ombudsmen institutions throughout the country.

The Federal Ombudsman’s outreach to civil society has been evolving around the following main initiatives (mentioned in the annual report and other documents):

- A civil society advisory committee with 13 members has been constituted to strengthen the link with CSOs and facilitate feedback and advice on issues of public interest. The CCO has also established linkages with 10 CSOs, and has begun to receive complaints and assistance from some of them.
- A policy dialogue forum has been set up as a platform for regular exchanges of views between various oversight bodies and civil society.
- A survey called the Citizens’ Report Card has been conducted to get a public assessment of the work of the Federal Ombudsman’s office.
- For improving awareness among the public, the services of the Federal Ombudsman were advertised on television and radio and in a number of English-language and Urdu newspapers.

Media coverage of provincial ombudsmen has also been reported from Balochistan, Punjab, and Sindh. Judging from the annual reports, however, there are three important ways in which the provincial ombudsmen differ from the Federal Ombudsman in approaching the question of linkages:

- There are no apparent plans for engaging government departments in a collaborative rather than adversarial mode.
- There is little evidence of attempts at diagnosing the systemic factors behind maladministration.
- There is no recognition of CSOs as potential partners.

In conclusion, it appears that the ombudsman’s outreach is being achieved largely through an expansion of offices across the country, with Sindh leading in this respect, with its aim of having an office in every district of the province. Clearly, this approach is limited by the availability of budget and trained human resources, and it may prove difficult to sustain at a consistent level over time and across the country. Except for the Federal Ombudsman, there is also little evidence that ombudsmen have established cooperative relationships with civil society, volunteers, or government agencies that could reduce the volume of complaints coming to the ombudsman and induce systemic change in government agencies. The issues of implementation and outreach are discussed further in the next section.

**Overlapping Authority for Public Grievance Redress**

As already indicated, there is overlap in the grievance redress functions of the Federal Ombudsman and certain regulatory bodies that have authority over utility companies. The relevant regulatory bodies are

- the National Electric Power Regulatory Authority (NEPRA), which regulates the nine power distribution companies in the country;
- the Oil and Gas Regulatory Authority (OGRA), which has responsibility, among other things, for regulating gas distribution companies: Sui Northern Gas Pipelines and the Sui Southern Gas Company; and
- the Pakistan Telecommunication Authority, which regulates telecommunication companies.
These bodies are authorized to receive and redress individual complaints against the service providers they regulate, and they have developed certain systems for addressing this aspect of their mandate (Appendix 4). The Law and Justice Division of the federal government has ruled, however, that the Federal Ombudsman still has exclusive jurisdiction in matters concerning maladministration. At this time, the Federal Ombudsman receives more complaints against the service providers than do the regulatory bodies. Judging by the number of complaints, however, there is some overlap between the Federal Ombudsman and the Pakistan Telecommunication Authority, and much more with NEPRA and OGRA.

Overlapping mandates for redressing grievances are not only a legal or academic matter but also have significant implications for complainants and for the means available to improve service delivery. The following observations are relevant:

- Is it appropriate in view of good practice for a regulatory body to receive, investigate, and redress individual complaints? Note that the State Bank of Pakistan regulates banks, but individual complaints are handled by the Banking Ombudsman.

- The Federal Ombudsman has a large and experienced staff specializing in receiving and handling complaints, investigating them, and ensuring implementation of recommendations. The regulatory bodies do not have the same capacities, so they cannot respond to complainants as effectively as the Ombudsman. They could, over time, try to develop the required capacities, but the outcomes are not certain given the resource constraints, and the cost of duplication may not be justifiable in all cases (especially where the work load is not large).

- As long as there is overlap, decisions taken by the Federal Ombudsman and a regulatory body could conflict with each other. As nobody has the authority to resolve such conflict, citizens could be left in limbo while a disagreement persists.

- Parties to a complaint can make a representation to the President against the Federal Ombudsman’s recommendations. The only recourse available against a decision taken by a regulatory body is the conventional and expensive option of going to court.

Assessment of Relevance

Signs of Enduring Relevance

The importance of ombudsmen is now universally recognized, and the institution is present in 130 countries. In the words of an experienced ombudsman, “The term Ombudsman has become increasingly popular because it is a unique and trusted brand name, a name that connotes impartiality, fairness, integrity and independence.” More could be done to strengthen the institution in Pakistan, but the brand name has clearly enjoyed growing popularity in the country. The country’s seven ombudsmen signal Pakistan’s place among countries committed to the pursuit of ombudsmanship as a wide-ranging instrument of good governance.

The first ombudsman in Pakistan was established as an instrument of accountability at a time when most other avenues for justice, accountability, and representation had been closed or curtailed. Subsequently, ombudsmen institutions were established not only by military but also by civilian governments. This is similar to the fate of local governments, the other instrument favored by military governments in the past as a substitute for

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55 Institutions such as securities and exchange commissions throughout the world are a special case, in that whistle-blowers are essential to their effective functioning, particularly in unearthing fraud.

56 Field, Independence—A Key Principle.

57 Field, Independence—A Key Principle.
democracy. This may be because respect for provincial autonomy has added to the legitimacy of the institution among the federating units. Thus, the replication by successive civilian and military governments of an institution first established by a military government may be seen as a sign of its continuing relevance.

There have been meaningful and productive attempts not only to create but also to strengthen ombudsman institutions in the country. There are ongoing discussions among civil servants and elected representatives at the federal and provincial levels on how to improve the effectiveness of the institution. The mass media have reported positively on ombudsmen and have been engaged in awareness campaigns. In recent years, the Federal Ombudsman, in particular, has initiated plans for engaging civil society more effectively and for focusing on children as a vulnerable segment of society. Growing donor interest in ombudsmen is also evident. Attention to awareness raising, efforts at institutionalization, and strengthening, innovation, and healthy debate among stakeholders indicate an encouraging degree of rootedness in the public consciousness.

The Relevance of Mandates

Pakistan’s ombudsmen are guided and challenged by a comprehensive notion of maladministration. It would be hard to argue that the definition of maladministration adopted in the country’s statutes could be made either more precise or significantly broader. At the same time, ombudsmen have been invited through their statutes to study the root causes of corruption and injustice, and propose how to eradicate them, even though they are not explicitly allowed to go beyond studies, research, and recommendations in this direction. In effect, the federal and provincial ombudsmen have been handed a mandate for large-scale accountability without the resources needed to address systemic issues. Given the importance of systemic issues in governance, and the growing attention being given to this by ombudsmen in other countries, it may be time to consider how to further enable Pakistan’s ombudsmen to address systemic change.

It is clear from the relevant statutes that national defense and foreign relations have been excluded from ombudsman mandates, but this is not unusual in the region. At this stage, what is perhaps of greater interest to the public is the overlap between the Federal Ombudsman and the regulatory bodies for oil, gas, and electricity. It is not easy for ordinary consumers of utility services to understand the division of responsibility between the Ombudsman and the regulatory bodies. Moreover, the presence of two sets of grievance redress mechanisms is not the most cost-effective method available. There have also been huge increases in the number of complaints against power and gas utilities in the last 5 years, and this trend may continue. It may be questioned whether the prevailing arrangement concerning the gas and power utilities best serves the interests of the public, and whether alternatives such as having specialized industry ombudsmen may be more appropriate.

The question of independence lies at the heart of ombudsman mandates. As many have demonstrated in Pakistan and elsewhere, much can be achieved by ombudsmen even without the independence enjoyed by parliamentary ombudsmen. Three points, however, may be pertinent in this regard: (i) it is not necessary to view independence in an either/or sense, given what it means for independent parliamentary ombudsmen; (ii) it is not possible to ignore the very real difficulties faced by Pakistan’s ombudsmen because of their lack of independence, particularly as it affects budget and human resource issues, which are key to the success or failure of any institution; and (iii) what are essentially 27-year-old laws can seldom be considered relevant for all time.58 It would be timely and appropriate to ask, therefore, how a greater degree of independence could be introduced in the laws and practices governing Pakistan’s ombudsmen.

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58 As far as can be determined, only the Punjab statute and the 1983 statute establishing the Federal Ombudsman have been amended in some ways. No other changes have been made in the original statutes.
Relevance of Implementation Arrangements

It is very difficult for ombudsmen to focus on the neediest in society when resources are limited, large segments of the population are poor and illiterate, and electronic means of communication are largely inaccessible. Ombudsmen in Pakistan have responded with a variety of implementation arrangements in these circumstances. The most common approach has been to expand the organization (geographically, functionally, or both) to achieve outreach and results. A familiar, but less common approach, is to build linkages (or networks) to share the work load. Using technology, particularly for office work and electronic engagement with the public, is also increasingly popular.

And yet, it must be evident (e.g., from Tables 2 and 3) that large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services or recourse to justice through ombudsman institutions.\(^59\) It may be tempting to propose that the best way forward is the one adopted by the Sindh ombudsman: that of establishing an office in every district of the province. It is questionable, however, whether effective operations can be established at the district level, where few, if any, government institutions have succeeded in doing so. Moreover, what has been possible in Sindh may not be possible in Balochistan, in view of the large number of districts, large sizes of the districts, thinly spread population, and ever-present resource and capacity constraints.\(^60\) Even Punjab, with greater resources, has established only three regional offices. As suggested earlier, attempts to expand outreach by expanding ombudsman offices may not prove to be feasible or effective in view of resource constraints.

Networking with government agencies and CSOs is another way of expanding outreach. Important steps have been taken by the Federal Ombudsman to cooperate with government departments and engage with CSOs. This shows the potential for maximizing outreach via networking, but only if efforts are also made to significantly improve access to ombudsmen institutions by rural citizens and by the poor and illiterate, who are often neglected by public services.

Issues in Effectiveness and Efficiency

Systematic Approach to Improving Performance

Since 2007, the Federal Ombudsman has introduced a number of changes in his office, the result of an approach to change management built on three pillars: business process reengineering, institutional repositioning, and improved advocacy and outreach, including improved terms and conditions of service, staff training, and information technology. These changes have apparently led to some significant improvements in performance. This is the result of a systematic approach to improving performance that was outlined in a paper by the Federal Ombudsman\(^61\) presented to the Asian Ombudsman Association. The key elements of performance highlighted in the paper can be summarized as follows:\(^62\)

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59 The Federal Ombudsman has observed that in Pakistan “there exists a fairly wide gap between the number of potential complainants and complaints actually made. This may be generally true, especially in countries where education levels are low” (Malik, Ombudsman Role in Good Governance).

60 According to the 2008 annual report of the Balochistan ombudsman, the three regional offices are in regions that are densely populated.

61 Malik, Ombudsman’s Role in Good Governance.

62 Some of these elements are also mentioned in the annual reports of provincial ombudsmen, but there is little to suggest in these reports that systematic efforts to improve performance have been initiated.
• sufficient legal powers, including the objectives of the ombudsman, jurisdiction, and mechanism for ensuring compliance with ombudsman recommendations;
• collaboration and coordination with other accountability agencies, government agencies that are subject to investigation, and civil society;
• human resources, including specialization and the use of advisory bodies, volunteers, short-term expertise, and outsourcing;
• service standards and key performance indicators that focus on results (outputs and outcomes) rather than inputs and activities;
• modern IT, including technology for management, monitoring, evaluation, research, and communication; and
• awareness raising, including advertising campaigns, partnerships with civil society, and low-cost ways of reaching the public (including messaging to mobile phone owners).

Indicators of Efficiency

In the past, the Federal Ombudsman’s annual report reported the cost per complaint received and disposed of. The cost was reported in rupees, without adjusting for inflation, and rose from PRs700 (about $12) per complaint in the mid-1990s to PRs3,300 (about $55) in 2004. The 2004 annual report explains that increases in cost were due to inflation, increases in gasoline prices and salary levels, and capital investment in office equipment. The methodology for calculating the cost is not explained in the report, and it is not stated how this indicator was interpreted or used. Other ombudsmen have never mentioned any such indicator in their reports.

In recent years, the Federal Ombudsman has instituted efficiency and productivity standards for its personnel and discussed them in the annual reports. (Other ombudsmen have not published such standards). One such standard lays down the time that may be taken to dispose of a complaint. The Federal Ombudsman uses an automated complaint management information system that tracks progress along the seven-step process outlined in Table 6, and identifies bottlenecks where attention is required. In 2009, with the help of this system, more than 80% of the complaints (from a total of about 30,000) were disposed of within 6 months, and almost one-half the total within the 3 months stipulated in the standard. This is a huge improvement over 2004, when only 4% of the complaints were disposed of within 3 months. The Federal Ombudsman has also established a workload target whereby every investigating officer must dispose of 40 cases per month. It reported an average output of 40 cases per month in 2008 and 43 cases in 2009, compared with 28 in 2007 (an improvement of more than 50% in 2 years). In 2009, the office experienced a significant decrease in the number of investigation officers, but nevertheless maintained the 2008 level in terms of the total number cases disposed of. Other ombudsmen in Pakistan have not reported such standards.

The inability, so far, to establish a permanent cadre (e.g., a cadre of investigators) is an important factor undermining the efficiency and effectiveness of the ombudsman. The problem is that most of the ombudsman institutions do not offer career paths. Their staffers gain experience and receive training on the job, then find their prospects limited and leave. The ombudsman then has to train new staff. The Federal Ombudsman is making a case to the government for the creation of a professional cadre with a career path.
Table 6  Investigation Timeline, Federal Ombudsman

<table>
<thead>
<tr>
<th>Day/s</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Complaint registration</td>
</tr>
<tr>
<td>1</td>
<td>Dispatch of complaint by the registrar to the investigating officer</td>
</tr>
<tr>
<td>2–3</td>
<td>Dispatch of complaint to agency concerned with request for its report</td>
</tr>
<tr>
<td>4–33</td>
<td>Receipt of complete report from the agency concerned</td>
</tr>
<tr>
<td>34–72</td>
<td>Conduct of hearings</td>
</tr>
<tr>
<td>73–88</td>
<td>Preparation of draft findings</td>
</tr>
<tr>
<td>89–90</td>
<td>Approval by ombudsman: disposal of complaint</td>
</tr>
<tr>
<td>91–120</td>
<td>Implementation</td>
</tr>
</tbody>
</table>


Understanding the Ombudsman’s Objectives

Effectiveness is the extent to which the objectives (of an intervention) were achieved, or are expected to be achieved, taking into account their relative importance. The primary objective of the Federal Ombudsman, provincial ombudsmen, and the Federal Tax Ombudsman is encapsulated in the opening words of the statutes establishing these institutions: “to diagnose, investigate, redress and rectify any injustice done to a person through maladministration.”\(^{63}\) This objective focuses on individual persons rather than systems. Moreover, from the word “diagnose” onward, this objective has a curative rather than preventive orientation.\(^{64}\)

The statutes may also be construed to have a preventive objective, enabling the ombudsmen, “for ascertaining the root causes of corrupt practices and injustices,” to arrange “for studies to be made or research to be conducted,” and then “recommend appropriate steps for their eradication.” Arguably, the root causes of corruption and injustice may be associated with systems as well as individuals. Thus, this part of the mandate may be understood as an extended invitation to address systemic issues, and this may be understood as the secondary objective of ombudsmen in Pakistan.

Effectiveness in Relation to the Primary Objective

The federal and provincial ombudsmen have been handling complaints against a large number of government agencies—about 30 in the case of the Federal Ombudsman, 36 in Sindh, and more than 50 each in Balochistan and Punjab. This is an impressive outreach across the institutional landscape of governance. Also impressive is the geographical spread of operations, as judged by the lists of districts from which complaints are received.

The seven ombudsmen in Pakistan received about 50,000 complaints from the public in 2009, 60% of which were made to the Federal Ombudsman.\(^{65}\) Some practitioners consider that the volume of complaints received by an ombudsman reflects public awareness and a public evaluation of the ombudsman’s services. This interpretation is plausible, but it cannot explain the large year-to-year fluctuations or the vacillating long-term

\(^{63}\) The statute establishing the Federal Tax Ombudsman ends this sentence with the words “by functionaries administering tax laws.”

\(^{64}\) It is possible to argue that an ombudsman’s systematic attention to maladministration serves as a deterrent and, therefore, also has a preventive value.

\(^{65}\) This includes the numbers mentioned for the federal and provincial ombudsmen and about 2,000 complaints each received by the Federal Tax Ombudsman and the Banking Ombudsman. The Federal Insurance Ombudsman handled only about 250 complaints.
trend reported by the Federal Ombudsman. The number of complaints received by the Federal Ombudsman shows considerable variation during 2000–2009, ranging from almost 12,000 complaints in 2006 to 41,000 in 2000. In 2009, the Federal Ombudsman received about 30,000 complaints, which is twice the number received in 2005, and 37% higher than in 2008, but almost the same as in 2002.

The number of complaints received by the Balochistan, Punjab, and Sindh ombudsmen has been more stable. The Balochistan ombudsman received about 550 to 700 complaints per year during 2005–2007, with a sharp increase to about 1,000 in 2008. The Sindh ombudsman has been receiving 6,000 to 8,000 complaints per year since 2000. The Punjab ombudsman received 8,000 to 9,000 complaints per year in most recent years, but the number was about 50% higher in 2006, 2007, and 2009. In Punjab, 20% of the complaints received in 2009 were against the education department, 15% against the police, 11% against the revenue department, and 6% against the health department. In Balochistan, the water and sanitation authority and the education department accounted for about 20% each of the complaints filed in 2008. Similar information is not available for Sindh.

The Federal Ombudsman reported that women filed just over 11% of all complaints received in 2009. In the same year, a total of 183 children’s complaints were received; 78 of these were lodged either through the website or by post, and the remaining 105 complaints were received through the Federal Ombudsman’s helpline. With inputs from the Children’s Complaints Office (CCO), the Federal Ombudsman has already put forward recommendations that could have a significant impact on children, particularly in education but also in terms of rights. The provincial ombudsmen have not reported the number of complaints filed by women and children.

During 2005–2006, the majority of the complaints filed with the Federal Ombudsman were rejected at the start of the process. Since 2007, the Ombudsman paid particular attention to the issue of complaint rejection and revamped the institution Registration Wing. Now every complaint is examined minutely, and the service is also more friendly and courteous. As a result, fewer than one-fifth of the complaints are rejected at the start of the process by the Federal Ombudsman. The rejection rate is higher for the Punjab ombudsman (around 50%) and lower (about 10%) for Sindh. Similar information is not available for Balochistan.

The annual reports of the Punjab ombudsman regularly classify complaints into three categories; other ombudsmen do not. In 2009, the almost 5,000 complaints considered maintainable fell into the three categories as follows:

- 53% of the complaints related to inattention, delay, neglect, inefficiency, and ineptitude.
- 30% of the complaints were about administrative excesses; discrimination; favoritism; and arbitrary, unjust, and biased decisions.
- 17% of the complaints were against corrupt practices.

The Federal Ombudsman maintains that an ombudsman in Pakistan is not equipped to handle corruption cases. He points out that it takes a lot of time and special expertise to investigate corruption charges and obtain credible evidence that proves the charges. Perhaps that is why the classical ombudsman model does not extend to matters of corruption (the Republic of Korea and the Philippines are exceptions in the region).

One option available to ombudsmen under their mandates is to resolve matters through conciliation. The ombudsman acts as a facilitator, and the time taken to dispose of complaints is considerably reduced in the process.

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66 A large increase in the number of complaints was reported by the Balochistan ombudsman in 2008.
67 The difference between education and health here is the opposite of the impression given by Table 2, in which 58% of the households are reported to be satisfied with education services and only 35% were satisfied with health services.
68 Based on the definition of “maladministration” provided in the statutes.
69 Meeting with the author on 29 June 2010.
Thus, particularly since 2007, the Federal Ombudsman’s office has given greater emphasis to this modality. The percentage of cases in which relief is provided to the complainant through conciliation and agreement has doubled between 2008 and 2009. Similar information is not available for the provincial ombudsmen.

Out of the total workload in 2008 and 2009, the Federal Ombudsman recommended relief in almost 50% of the cases and rejected less than 10% of the complaints. The Ombudsman reports that 38% of his recommendations were implemented by the agencies concerned in 2007, and this rate increased to 75% in 2008 and 88% in 2009. The main reason for this remarkable improvement is that the Ombudsman introduced a follow-up procedure that relies on his complaint management information system and Implementation Wing to ensure that recommendations are implemented and not forgotten.

The Punjab ombudsman reported in 2008 that 56% of the complaints decided after investigation led to grievances being redressed; the views of the agencies were upheld in 31% of the cases, and in 13% directions were issued but implementation was pending for more than 6 months. The ombudsman observed, “It has been experienced that Government Departments are generally averse to the orders of Ombudsman. There is a general tendency of [sic] Government officials to delay implementation of the orders of the Ombudsman.” All three provincial ombudsmen observe in their annual reports that the lack of implementation by agencies has been a problem. However, an improvement was observed in Punjab according the Punjab ombudsman’s 2009 annual report: implementation was pending for only 5% of the complaints decided. In 2008, matters also improved considerably in Balochistan after the governor intervened and issued strict instructions to government departments.

In conclusion, the Federal Ombudsman and the provincial ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability in relation to maladministration, as defined in the statutes. Relatively little attention has been given to corruption compared with other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption. The Federal Ombudsman and the Balochistan and Punjab ombudsmen have reported improvement in the implementation of their recommendations that, in the case of the Federal Ombudsman, is due to changes in the tracking and follow-up systems of the institution. In recent years, the Federal Ombudsman also improved his effectiveness as a conciliator between complainants and federal agencies.

Effectiveness in Relation to the Secondary Objective

With the exception of the Punjab ombudsman and the Federal Ombudsman, there is little in the annual reports of the ombudsmen to suggest that these institutions are addressing systemic issues and the root causes of injustice and corruption in government agencies. In his 2009 annual report, the Punjab ombudsman makes 11 general recommendations that cut across provincial agencies and address injustice and grievances of specific groups of citizens, including students, government employees, job applicants, the disabled, and rural people. In a different vein, the Federal Ombudsman has made recommendations to individual agencies for improving their systems. One such agency protested to the president, but he upheld the Ombudsman’s recommendation. Two recent cases of this nature attracted high-profile media attention:

- The Federal Ombudsman recommended that Pakistan Railways not charge for high-quality service when a passenger has paid for it but did not receive it due to a sudden change in the train service. He held the existing rules to be unfair and unjust to the passengers, and invoked the principle that passengers should be charged only for the service provided.
- The Federal Ombudsman recommended that the National University for Science and Technology should change its rules so as to allow a refund of the admission fee (in this case, $11,420) paid in advance by a student who then decided to attend another institution. The university admitted that it did not suffer any loss on account of the student’s decision. The Ombudsman declared the university’s no-refund policy to be unfair.
The reports of the Federal Ombudsman also contain a considerable amount of analysis of the nature of complaints in various sectors and try to explain why complaints arise. However, they do not discuss the root causes of corruption, except occasionally in relation to the power distribution companies. Indeed, there is no discussion anywhere among ombudsmen institutions of rent-seeking behavior and the perverse incentives that have prevailed for so long in the public sector and that affect service delivery across the country.

Building on the Federal Ombudsman’s interest in systemic issues, the Strengthening Public Grievance Redress Mechanisms Project led to three types of recommendations: (i) general recommendations for all five agencies to improve their public grievance redress mechanisms, (ii) general recommendations for all five agencies to improve their overall service (and thereby prevent complaints arising), and (iii) specific recommendations for each of the five agencies. It provided the opportunity for the Federal Ombudsman to initiate evidence-based dialogue with the five agencies aimed at systemic reform, and this must be considered a breakthrough. The agencies reviewed the study findings and recommendations, and agreed to receive capacity development inputs from the Ombudsman.

The Responsive, Enabling and Accountable Systems for Children’s Rights (REACH) Project is another important initiative that pays attention to systemic issues. As mentioned earlier, this is the first initiative in the country that focuses the attention of ombudsman institutions on one of the vulnerable groups in society. It addresses systemic issues of relevance to children in two ways:

- The project conducts research, advocacy, and engagement with children and other stakeholders on children’s rights.
- It aims to improve coordination and policy dialogue between public sector agencies and other stakeholders.
  In this connection, the project plans to evaluate the National Plan of Action. It has already done a preliminary progress review, which has identified some major implementation issues that were taken up in a detailed meeting with the National Commission for Child Welfare and Development. The meeting was useful for identifying gaps and bottlenecks in the implementation of the Plan of Action. As a follow-up step, a review meeting with the relevant ministries will be chaired by the Federal Ombudsman to facilitate implementation.

In conclusion, there have been some highly relevant initiatives very recently to address systemic issues, but the resources of ombudsman institutions are concentrated on dealing with individual complaints rather than with systemic change. Donor assistance has enabled the Federal Ombudsman to focus much more on systemic issues than its own resources would have allowed. One result is evidence-based dialogue with and assistance to government agencies for pursuing systemic change. Similarly, the provincial ombudsmen have used donor assistance to launch initiatives for children.

At the same time, the reluctance to study and address the root causes of corruption is surprising in view of the explicit provision to this effect in the statutes. Resource constraints that inhibit sound research may be part of the reason, but this does not explain why ombudsman institutions have been unable to use existing analyses of corruption in Pakistan and elsewhere. Literature is available on the perverse incentives in the public sector, rent-seeking behavior, and simple popular explanations and solutions. The available literature, together with the ombudsmen’s own (considerable) information and insight, provides a solid basis for making recommendations on ways to root out corruption.

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70 In comparison, provincial ombudsmen annual reports reflect a more adversarial attitude with respect to government agencies.
71 A long list of references on corruption in Pakistan is available from Transparency International’s U4 Anti-Corruption Resource Centre and Helpdesk. http://www.transparency.org/policy_research/u4_helpdesk
72 For example, according to Transparency International’s National Corruption Perception Survey TI Pakistan 2010, the “most important cause of corruption, according to Pakistanis, is lack of accountability. Lack of merit and low salaries follow it. Following this trend Pakistanis wanted accountability of public officers, appointment on merit and adequate salaries as the remedies for corruption.” http://www.transparency.org.pk/report/ncps%202010/ncps2010AS.pdf
Main Findings and Food for Thought

Progress and Problems

The number of ombudsmen in Pakistan has increased over the years. In addition to the Federal Ombudsman, there are now three specialized federal ombudsmen. Three of the four provinces have ombudsmen, and the fourth has recently passed the bill creating its provincial ombudsman office. The ombudsmen have shown impressive coverage of the institutional landscape of governance and also of districts across the country. There can be little doubt that the institution has been found to be fair and cost-effective by its users throughout the country. In all these ways, the institution has proven to be resilient and has lived up to its brand name for a large number of citizens.

With reference to the legal framework, the ombudsman institution in Pakistan is not a parliamentary institution, but the founding statutes tend to encourage independence, except in the matter of staffing, budget, and the appointment of the ombudsman and his deputy. These are important limitations that affect the ability of the ombudsman (most notably, the Federal Insurance Ombudsman) to allocate resources, demonstrate credibility across the political spectrum and in the media and civil society, and ensure the continuity of function in the absence of a permanent ombudsman. All these factors, in the final analysis, have a bearing on the effectiveness of the ombudsman in giving timely relief and influencing service delivery.

In addition, laws establishing regulatory bodies for electricity and gas supply have created an overlap between these bodies and the Federal Ombudsman that is problematic for service users and an invitation to duplication by the institutions concerned. Moreover, the national telephone operator, the Pakistan Telecommunication Company, in which a majority stake is held by the government and 24% of the shares are held by a strategic investor, has been removed from the jurisdiction of the Federal Ombudsman, a change that runs counter to the global trend of placing public services within the ambit of ombudsmen.

The implementation approaches adopted by ombudsmen in Pakistan suggest that outreach is being achieved largely through the expansion of offices across the country, with Sindh leading this approach through its effort to establish an office in every district of the province. This familiar bureaucratic expansion approach cannot go far as a national model, given the well-known limitations of budget, motivation, and trained human resources that afflict the public sector; and given the fact that large numbers of people, particularly in villages and among the poor and illiterate, do not receive adequate services and cannot access government offices even at the district level. Alternatives that have the potential for developing efficient outreach, such as networking with government agencies and civil society organizations (CSOs), have not been pursued, except recently and to a limited extent by the Federal Ombudsman.

In terms of addressing maladministration, which is the primary objective of ombudsmen in Pakistan according to the statutes, the Federal Ombudsman and most of the other ombudsmen have established themselves as increasingly popular and vigorous institutions of accountability. There is also now, at the federal and provincial levels, a special focus on children. Relatively little attention has been given to corruption compared with other aspects of maladministration, but this is understandable in view of the demands associated with proving corruption through due process.

The secondary objective of ombudsmen in Pakistan is to address the root causes of injustice and corruption, and this is an invitation to look into systemic issues. Available evidence suggests that there have been some highly relevant initiatives taken very recently to address systemic issues, but the energy of ombudsmen institutions is directed at individual complaints rather than at systemic change. Donor assistance has enabled the Federal Ombudsman to focus much more on systemic issues than its own resources would have allowed, and made it possible for the Ombudsman, as well as provincial ombudsmen, to launch initiatives in support of children’s rights.
It is surprising to find, however, that ombudsmen have been reluctant to recommend ways to eradicate the root causes of corruption, even though research and recommendations for this purpose already exist in the literature.

There are a number of other signs, particularly when ombudsman offices are compared with each other, which illustrate that more could be done to achieve the potential of the institution. It is clear that the Federal Ombudsman has worked in recent years to improve the performance of his office. The Ombudsman’s methods and achievements may well provide food for thought to other ombudsmen, because his office is an older institution, and provincial ombudsmen have not found it possible to forge ahead as rapidly. This is illustrated by the following findings:

- The number of complaints received by provincial ombudsmen each year has been more or less steady during 2000–2009. Moreover, fewer complaints are received by provincial ombudsmen as a group than by the Federal Ombudsman, even though the jurisdictions of the former extend to a much larger number of agencies.  
- In the past, the implementation of ombudsman recommendations by government agencies was problematic, but it has improved remarkably at the Federal Ombudsman, in Punjab (in 2009), and in Balochistan (in 2008), although it remains problematic in Sindh.  
- Service standards and key performance indicators have not been articulated, except by the Federal Ombudsman for some aspects of the business process.  
- Problems with staffing and budgets have remained largely unresolved over time, except for some progress made by the Federal Ombudsman.  
- The Federal Ombudsman has started to institutionalize linkages to civil society. However, outreach to civil society does not appear to be of concern to other ombudsmen.  
- Based on research, the Federal Ombudsman has initiated collaboration with government organizations to understand and address the root causes of maladministration. The Punjab ombudsman has submitted general recommendations that focus on specific groups of citizens and apply to all agencies; other provincial ombudsmen have not yet moved in these directions. Moreover, the root causes of corruption have not yet been studied or addressed by any ombudsman institution.

Only recently has attention been given to one of the most vulnerable groups in society (children). To date, however, nothing significant has been done to focus systematically on women (except for reporting on complaints made by women to the Federal Ombudsman), the rural poor, and other vulnerable groups (except the disabled in Punjab).

The statutes seem to have been revised in only two cases (the Federal Ombudsman and the Punjab ombudsman), and only in limited ways. Other than that, there has been no systematic attempt to review and change any of the founding statutes, which are based essentially on a 27-year-old ordinance issued by a military government.

Revisiting the Legal Framework

Given that many of these problems are shared by all seven ombudsman offices, it may be appropriate for Pakistan’s ombudsmen to articulate their priorities for change as a group. The main question, however, is how they might persuade policy makers to change gear and help them energize their institutions. The answer depends, perhaps first and foremost, on the ownership of the institution. As matters stand, the ombudsman

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73 As noted earlier, however, the number of complaints received by the Federal Ombudsman showed wide variation during 2000–2009.

74 As indicated in Table 5, most of the problems facing the ombudsmen shared by all of them. Ombudsmen have attempted in the past to address some of them individually, but there is as yet no forum in which ombudsmen could discuss their common problems and plan collectively to bring about change.
is appointed by the president of Pakistan or by the governor of a province (except in Punjab), reports to the appointing authority, and depends on the appointing authority for the enforcement of his recommendations.

What is clear from this picture is that the ombudsman has no ownership among elected representatives. After experiencing long years of military government, elected representatives would understandably want to assert their own role in society. (Indeed, much of the electorate considers representatives to be useful when they intervene regularly and successfully with government departments to solve the individual and common problems of the voters.) Therefore it is not surprising that ministers do not take their agencies to task for ignoring the recommendations of the ombudsman, and that the national and provincial assemblies have shown little inclination to empower the ombudsman beyond the limits originally set by a military government.

It may be appropriate to consider how to develop ownership of the ombudsman among elected representatives, initially at the national and provincial levels and subsequently also at the local level for large metropolitan areas. One option is to convert the ombudsman into a parliamentary institution, selected by and reporting to an assembly or a bipartisan committee of an assembly. In terms of the political economy of service delivery (Figure 2), this option would bring the ombudsman closer to elected representatives and policy makers, and would better integrate him in the long route of accountability through which citizens hold service providers accountable. Selection of the ombudsman and deputy ombudsman through a transparent, credible, and consultative process is integral to this proposal.

Converting the ombudsman into a parliamentary ombudsman would also be a great step toward independence from the executive branch of government. However, given its importance, the question of independence may be considered both within and outside the context of parliamentary ownership of the institution. For example, nothing would be gained by waiting for greater ownership among elected representatives while important staffing and budget issues, particularly the demands for professional cadres and one-line budgets, remain unresolved. Whether it is these issues, or issues concerning the ombudsman’s appointment process, length of tenure, and the appointment of a deputy ombudsman, elements enhancing independence could certainly be introduced in a step-by-step manner while the discussion continues on the matter of establishing the parliamentary ombudsman. The findings provided in Table 5, when reviewed and prioritized collectively by the ombudsmen of Pakistan, could form the basis for that step-by-step approach to change.

The issue of systemic change, including the root causes of injustice and corruption, as called for in the statutes, also deserves greater emphasis in the ombudsman’s legal framework. As matters stand, the ombudsman appears limited in the statutes to conducting research and giving recommendations based on analyses of root causes. Further instruments could include free access to an agency’s records, coordinating IT-based solutions, authority to call meetings on subjects of common interest, and so on.

The problematic overlap between the Federal Ombudsman and the regulatory bodies with authority over electricity and gas distribution companies needs to be resolved. One option, justified by the expertise available to the Federal Ombudsman and the need to avoid duplication, is to put these utilities exclusively under the jurisdiction of the Ombudsman and remove individual grievance redress from the functions of the National Electric Power Regulatory Authority (NEPRA) and the Oil and Gas Regulatory Authority (OGRA). Another option, which would be costlier, is to establish a specialized industry ombudsman for one or both of these service sectors. Both options are consistent with the observation that regulatory bodies are generally not meant to address individual complaints. The following observations make a case for the second option:

- More than 11,000 (38%) of the complaints received by the Federal Ombudsman in 2009 were aimed at the electricity distribution companies, and 2,500 were aimed at the gas distribution companies.
- More than two-thirds of the population is not satisfied with the provision of electricity and gas (Table 2).
- The power supply sector has consistently ranked second (after the police) in the citizens’ ranking of the most corrupt sectors (Table 3).
Strategic and Operational Directions

There is considerable experience within the country, the region, and other parts of the world to suggest that it may be useful for Pakistan’s ombudsmen to consider new directions. National experience and some of the good practices have been summarized in this paper; other good practices were mentioned in regional technical assistance 200975 and by Malik.76 Change is also indicated by the 18th constitutional amendment, which has significantly increased the responsibilities of provincial authorities, including the provincial ombudsmen, in terms of sectors and services. There is, moreover, the urgent need to improve the provision of services to a poor and rapidly expanding population, and to ensure the outcomes associated with Pakistan’s Millennium Development Goal (MDG) commitments.

Ombudsman institutions in Pakistan, particularly the provincial ombudsmen, may wish to consider how to position themselves strategically in the current situation. One possibility is to further develop the twin focuses of human rights and vulnerable groups that the ombudsmen have adopted recently in relation to children.77 Proceeding in this direction, the ombudsman strategy could

• focus more emphatically on specific target groups, particularly groups of vulnerable people such as children, women, the rural poor, the disabled, and so on, to whatever extent is considered feasible by an ombudsman office; and
• adopt a rights-based approach (Appendix 5) that could provide a powerful internationally accepted framework for addressing injustice and corruption, and help improve service delivery.

In terms of the high-level elements of strategy, this could imply, for example, modifying the ombudsman’s mission statement to include something along the following lines: to enable the ombudsman and his partners to eradicate injustice to women, children, the poor, and vulnerable.78 It could also imply the articulation of some new objectives such as the following:

• support Pakistan’s human rights commitments as laid down in its international obligations and in its Constitution and law,79 and
• support Pakistan’s commitment to achieve the MDGs.

While the MDG targets are not as comprehensive as some of the rights-based agenda, they are actionable through specific development interventions in a wide range of key sectors. In addition, taken together the MDG targets represent probably the broadest commitment to development that the government has ever given to the citizens of this country (short of the rights and principles enshrined in the Constitution of Pakistan). Thus, the government’s commitment to the MDGs provides a strong foundation for ombudsmen to pursue a rights-based approach and, in the process, enables the institution to highlight its huge mainstream role and consequently raise its profile.

75 ADB, Assessing the Capacity Development Needs.
76 Malik, Ombudsman’s Role in Good Governance.
77 Indeed, the Balochistan ombudsman in his 2008 report conveys his belief that “the institution of ombudsman is well suited for the task of promoting human rights and the self-efficacy of the disadvantaged sector of the society, which is a victim of the abrasive discrimination and discretionary actions of the bureaucracy.”
78 The statutes allow the Federal Ombudsman and provincial ombudsmen “to recommend appropriate steps for [the] eradication” of “corrupt practices and injustices.”
79 The Federal Ombudsman and provincial ombudsmen are already supporting Pakistan’s constitutional provisions and international commitments with respect to children.
At the operational level, one of the most important issues is the need for a realistic approach to making ombudsmen much more accessible to the public. It may be appropriate to consider relevant lessons from Pakistan and other countries in this connection. While regional and district offices have an important role to play in extending the ombudsman’s outreach, networking with CSOs and local (district-level and smaller) organizations could also be useful. This may be different from engaging CSOs in an advisory capacity at the ombudsman’s head office: it could mean engaging them to facilitate citizen’s access to the nearest ombudsman office, or (after adequate training and testing) acting as a conciliator between complainants and government agencies through their district or regional offices on behalf of the ombudsman.

In addition to CSOs and local organizations, there is a large group of individuals who could also play the previously mentioned roles, especially where distances are large and CSO presence is weak. These are district-level social workers and community activists, the union council, and even the villages throughout the country. Communities trust them because of their proven integrity and impartiality. Not only CSOs but also government projects engage them for various purposes, related mainly to development activities and awareness raising. Volunteers such as those at the union council level have also played a highly positive role in the area of governance, for example, in the intervention by the United Nations Development Programme (UNDP) to help operationalize the alternative dispute resolution mechanism, known as Musalihat Anjuman, in 20 districts across the country.

Additional improvements that could help improve the operations and effectiveness of the regional ombudsman include the following:

- The introduction and monitoring of service standards and key performance indicators, as have been initiated by the Federal Ombudsman;
- the introduction of a comprehensive complaint management information system and the creation of an implementation wing, along the lines of the Federal Ombudsman; and
- analysis of systemic factors that generate widespread corruption, starting modestly, if need be, drawing on the ombudsmen’s considerable knowledge and insight and on the literature on combating corruption.

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80 As described by the Federal Ombudsman (Malik, Ombudsman’s Role in Good Governance), the linkages established by the ombudsman system in Japan, through civil society and volunteers, have resulted in a situation whereby the public can find at least one government-commissioned resident counselor in each municipality. “Approximately 70% of the complaints are received and dealt with by the administrative counselors in various districts of the country, while the remaining 30% are received and handled by the field offices of the Ministry.” This frees up the ministry to address the more fundamental issues of systemic change.

81 As observers who know the country might appreciate, social workers and community activists are different from local notables, a class of self-promoters inherited from earlier times who are trotted out by the local administration for every visiting dignitary, mainly to press their own claims in the name of the people.

References

Websites of the ombudsman institutions of Pakistan:


Foundation documents:

Federal Tax Ombudsman. Ordinance No. XXXV of 2000
Wafaqi Mohtasib (Federal Ombudsman). President’s Order No. 1 of 1983.

Literature on good practices for ombudsman institutions:

Other references (listed here in the order in which they are cited in the paper):

18th-Amendment-in-the-Constitution-of-Pakistan-Complete-Text


Electricity. Complaints about the electricity supply were very numerous. Focus group participants highlighted the frequent bouts of load shedding daily and said it adversely affected not only their normal routine but also their work and income. There were also complaints about rising charges and inflated electricity bills.

Garbage Disposal. In most communities, participants said that the government’s garbage disposal service was virtually nonexistent. They said that people who can afford to hire private sweepers and garbage cleaners do so at their own expense. The major complaint was that garbage items (bags and bottles) clog drains, resulting in stagnant water that emits a stench and creates an unhygienic environment.

Gas Supply. Focus group discussions revealed that many areas in Pakistan lack of access to gas. In areas where gas was available, there were few complaints. In Toba Tek Singh and Rahim Yar Khan, focus groups praised the gas supply and said it had greatly improved.

Roads. The reaction of focus groups to the condition of roads was mixed. In some parts of Punjab and Sindh, participants praised the improvements made in the roads during the past 4 years. However, participants in Balochistan and Khyber Pakhtunkhwa complained of broken roads and said that the condition of the roads worsens during the monsoon, making walking and driving extremely difficult.

Sewerage and Sanitation. Sewerage and sanitation as well as drainage of rain water, were major issues in all focus group discussions. Participants complained of neglect by the authorities and said that, despite repeated complaints, these issues remain unresolved. They also stressed an urgent need to solve these problems because the lack of proper sewerage and sanitation causes severe waterborne diseases, especially among children.

Water Supply. All focus groups complained about the limited quantity and poor quality of water. Most participants said that the water is very dirty. During the survey, one person showed a bottle of “brown” mixture and asked the survey team to guess what the mixture was. Most people said it was honey. She said it was the water quality the residents were getting in that community.
Appendix 2
Main Findings of the 2010 Social Audit of the Devolution Trust for Community Empowerment on Health and Education

User Satisfaction with Health Services

In 2001/02, 23% of households were satisfied with government health services, 45% were dissatisfied, and 32% said they had no government health service at all. In 2004/05, overall satisfaction with government health services was 27%. Satisfaction with government health services rose again in 2009/10, with 33% of households satisfied and 28.5% households dissatisfied, though “no access” almost reverted to the 2001/02 level. Across the provinces, dissatisfaction was relatively much higher than satisfaction in Balochistan and Khyber Pakhtunkhwa.

<table>
<thead>
<tr>
<th>Location</th>
<th>% Satisfied</th>
<th>% Dissatisfied</th>
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<td>11.4</td>
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<tr>
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<tr>
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<td>28.4</td>
<td>3.4</td>
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<tr>
<td>Pakistan</td>
<td>32.9</td>
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Except for the “very vulnerable,” in which the proportion of households satisfied with government health services is lower than that of dissatisfied households, the proportions of households satisfied are higher than those dissatisfied “vulnerable” and “nonvulnerable” groups.

Focus Group Discussions

Focus groups discussed health issues at length. Most participants complained about government health facilities, stating that there were no doctors present; even when they were appointed by health units, they were more interested in running their own private clinics. It was pointed out that there were a shortage of medicines in government outlets and that government medicines were being sold in markets. The behavior of the doctors and medical staff was described as rude. Participants also said that sometimes patients die due to lack of emergency care. However, the services and helpful attitude of the female health workers (village-based health workers) were appreciated.

User Satisfaction with Government Education

In 2001/02, 55% of households said they were satisfied with government educational services, 38% were dissatisfied, 3.8% were neither satisfied nor dissatisfied, and 7.4% reported no available services. In 2004/05, 53.3% of households said they were satisfied, 36.4% were dissatisfied, 6.2% were indifferent, and 4.1% said they had no access at all. Overall satisfaction with government education has risen marginally over the past 5 years. In 2009/10, except in Balochistan, where the proportion of households satisfied with government education was lower than those dissatisfied, the proportion of satisfied households was much higher in all provinces, than that of dissatisfied households. This was especially true in Punjab, perhaps because of the Punjab Education Sector Reform Programme.

Figure A2.2 Government Education: Relative Satisfaction Levels 2001/02–2009/10

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<th>Location</th>
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2009/10
For all vulnerable as well as nonvulnerable groups, the majority of households expressed satisfaction with government education.

**Focus Group Discussions**

Issues related to the government education system were discussed in detail in the focus group. While acknowledging that government education was free, with textbooks, uniforms, and sometimes even meals provided to the students, there were complaints about the low quality of teaching by untrained teachers, teacher absenteeism, and the inability of teachers to implement discipline among students. Female focus group participants stressed the need to upgrade girls’ primary schools to middle-level and middle schools to higher levels and to establish skills training centers for women. On the other hand, focus groups praised the quality of education in private schools, but said that these could be attended only by those who could afford the relatively high costs. Most participants also said that madrasah education was patronized by those parents who thought religious education taught good values and civil norms, and as such was essential for girls who did not need formal education. Some participants also said the madrasah education was free and was encouraged by parents who could not afford the high costs of private school, especially if there was no government school nearby.
Appendix 3

Elements of Independence in International Practice

From a paper presented by Laura Pettigrew, Senior Counsel, Ombudsman Ontario, at a conference of the Forum of Canadian Ombudsman, 30 March to 2 April 2003.¹

Independence is often referred to as a hallmark of ombudsmanship. There are, however, varying degrees of independence. For instance, while administrative tribunals display elements of independence, they are fundamentally distinct from superior courts, which are constitutionally required to possess objective guarantees of both individual and institutional independence.

Parliamentary ombudsmen are usually structurally independent of the political process and government administration. They generally are officers of and report directly to the Assembly or Parliament. The appointment of the ombudsman is commonly on the address, recommendation, or approval of the Assembly or Parliament. Some ombudsmen may appoint their own staff, who are not civil servants and have the authority to lease premises and contract for services. Budgets may also be approved by a process governed by the Assembly or Parliament rather than by government administrators. There are often statutory safeguards ensuring that the ombudsman can only be removed for cause on the address of the Assembly or Parliament. The term of office of the ombudsman may also extend beyond the term of a particular government. These and other features tend to separate ombudsmen from the organizations over which they have jurisdiction.

Statutory ombudsmen, who report through a minister, may display some of the same indicia of independence as parliamentary ombudsmen. However, there may be less structural separation between such ombudsmen and the administration they investigate. For instance, a statutory ombudsman may report to a minister rather than directly to the Assembly or Parliament. However, the minister’s ability to exert influence over the ombudsman may be limited; for instance, the minister may be required to table the ombudsman’s reports with the Assembly or Parliament.

Public sector, private sector, and college and university ombudsmen are often a part of the administration that they investigate. However, there are ways of developing relationships and processes to attain a degree of independence, even when this is not entrenched in legislation.

From a presentation by Chris Field, Western Australian Ombudsman, at the Australian and New Zealand Ombudsman Association (ANZOA) Biennial Conference 2010, 6 May 2010, Wellington, New Zealand.²


I now want to turn to how independence is applied in practice. At the outset, I need to be clear that there is no one accepted approach to the application of independence for parliamentary ombudsmen, nor for industry-based ombudsmen, and between these two different types of ombudsmen there are also many differences of approach. What I have decided to do in this section is set out what I think are typical ways that independence is applied, while still noting obvious departures from the norm. I have identified 10 ways that independence is applied in practice: (i) the appointment process of the ombudsman; (ii) the term of appointment of the ombudsman; (iii) the removal of the ombudsman; (iv) the legislative guarantee of the independence of the ombudsman; (v) the relationship of the ombudsman with the government of the day; (vi) the ombudsman should be outside of the public service; (vii) the relationship of the ombudsman with parliament; (viii) the budget of the ombudsman; (ix) the location of the ombudsman within the structure of government; and (x) the physical location of the ombudsman. In compiling this list, I have principally had in mind parliamentary ombudsmen, but where appropriate I have also made reference to industry-based ombudsmen. I will now deal with each in turn.

**The Appointment Process of the Ombudsman**

The appointment process for the ombudsman, to preserve independence, is generally an appointment of the governor chosen through an independent selection process. Some appointment processes specify that a parliamentary committee undertakes the appointment process or that both houses of parliament must agree to the appointment of an ombudsman.

In the case of industry-based ombudsmen, appointment is typically undertaken by the board (or council where they are separate) of the ombudsman, or a committee of the ombudsman that has equal number of consumer and industry representatives.

**Term of Appointment of the Ombudsman**

The term of the appointment of the ombudsman is widely recognized as a key component of protecting independence. The general view is that the term of appointment should be at least longer than one full term of government. In Australia, the norm is that appointment terms are between 5 and 7 years, but at least in one case the ombudsman is appointed until the age of 65.

In the case of industry ombudsmen, appointment terms are usually set out in contracts, but not necessarily for extended fixed terms. Having said that, the experience of Australian industry-based ombudsmen is that they generally serve terms of 5 years or more.

**Removal of the Ombudsman**

The removal of the ombudsman is also a critical factor in preserving the independence of the ombudsman. The ombudsman should, of course, be removed from office for proven incapacity or misconduct, but generally speaking this can only be undertaken with the agreement of both houses of parliament.

The removal of industry-based ombudsmen is usually by the decision of the governing body of the ombudsman, namely the board.
Legislative Guarantee of the Independence of the Ombudsman

The independence of the ombudsman (including many of the matters that I have included in this list) should be enshrined in the legislation that creates the office of the ombudsman.

Some additional matters that are regularly captured in legislation that pertain to independence are the salary of the ombudsman, the post-employment activities of the ombudsman, and also immunity from civil suit for the performance of their functions.

The independence of industry ombudsmen is usually enshrined in their establishing documents, including charters and constitutions, but may also have a regulatory underpinning, often in legislation that regulates the particular industry that the ombudsman oversees. Of course, both the benchmarks and ANZOA’s policy on independence of ombudsmen provide critical reference points for the independence of industry-based ombudsmen.

Ombudsman Should be Outside of the Public Service

The ombudsman should not be a member of the public service and should have freedom in relation to employment of staff.

Relationship of the Ombudsman with the Government of the Day

The ombudsman must be free of ministerial direction or direction from the government of the day. Similarly, industry ombudsmen must not only be free of control of industry, but also the ombudsman should be free from direction about how to handle and resolve complaints from the board of the ombudsman.

Relationship with Parliament

The ombudsman must have a direct relationship with parliament and be subject to their authority and their authority only.

Budget of the Ombudsman

The ombudsman must have a sufficient budget to undertake his or her tasks independently. This certainly does not mean that the ombudsman, to be independent, can simply name a number that he or she believes is appropriate and be given that amount. Ombudsmen, like other agencies, must seek their appropriation directly from the parliament and be held to account by Parliament for its expenditure. The method by which ombudsmen obtain their parliamentary appropriation will differ slightly from jurisdiction to jurisdiction, but will sometimes be approved by a parliamentary committee and on other occasions, a government department, most typically, Treasury.

In the case of industry-based ombudsmen, their budgets are generally set by their boards and approved at an annual general meeting of members.
Location of the Ombudsman within the Structure of Government

The structural location of the ombudsman is important in practice to its independence. The location of an accountability agency as a line responsibility in a large departmental structure can potentially have negative impacts on the independence of the ombudsman. In my view, this is very different from having a minister charged with the administration of the governing legislation of the ombudsman—a quite proper arrangement that in no way impacts upon the independence of the ombudsman.

Physical Location of the Ombudsman

Care must also be exercised about the physical location of the ombudsmen—my office, for example, is in a building with no other government tenants, save for a number of accountability and integrity agencies with whom we very sensibly have a resource sharing arrangement. Similarly, we would generally expect industry-based ombudsmen to not be located in the same building as their industry.
Appendix 4

Grievance Redress by Regulatory Agencies and Service Providers

Complaints against Service Delivery Institutions

Although the Wafaqi Mohtasib (Federal Ombudsman) has been receiving complaints against a variety of service providers, seven federal agencies have consistently accounted for the bulk of the Ombudsman’s work load (Table A4). (One of the seven, the Pakistan Telecommunication Company, is no longer within the jurisdiction of the Federal Ombudsman.)

Table A4  Volume of Admitted Complaints against Major Agencies

<table>
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<tr>
<th>Agency</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
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<td>10,179</td>
<td>9,855</td>
<td>11,336</td>
</tr>
<tr>
<td>SNGPL and SSGCL</td>
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<td>65</td>
<td>1,253</td>
<td>1,794</td>
<td>2,543</td>
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<tr>
<td>PTCL</td>
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<td>708</td>
<td>1,190</td>
<td>1,154</td>
<td>672</td>
</tr>
<tr>
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<td>353</td>
<td>317</td>
<td>683</td>
<td>894</td>
<td>897</td>
</tr>
<tr>
<td>NADRA</td>
<td>394</td>
<td>270</td>
<td>435</td>
<td>487</td>
<td>785</td>
</tr>
<tr>
<td>Pakistan Post</td>
<td>182</td>
<td>173</td>
<td>351</td>
<td>288</td>
<td>356</td>
</tr>
<tr>
<td>SLIC</td>
<td>210</td>
<td>200</td>
<td>242</td>
<td>239</td>
<td>257</td>
</tr>
</tbody>
</table>

Table A4: Volume of Admitted Complaints against Major Agencies


Complaints against the Water and Power Development Authority (WAPDA), the gas distribution companies (Sui Northern Gas Pipelines and Sui Southern Gas Company), and the Pakistan Telecommunication Company (PTCL) declined in 2005 and 2006, as the Federal Ombudsman stopped receiving complaints after the establishment of sector-specific regulatory agencies (introduced in the following section). The Law and Justice Division, however, later opined that the Federal Ombudsman still had exclusive jurisdiction in matters concerning maladministration. Complaints against these organizations, therefore, increased as they began to be entertained again. The service providers also have their own grievance redress systems. The nature of complaints received against them is introduced as follows:

Regulatory Agencies

National Electric Power Regulatory Authority

The generation, transmission, and distribution of electric power are now regulated by the Generation, Transmission and Distribution of Electric Power Act, 1997. Under this act, the functions of distribution were
transferred from WAPDA to nine licensed power distribution companies with distinct regional jurisdictions. The power distribution companies are confronted with some serious challenges, however, and the National Electric Power Regulatory Authority (NEPRA), established under the 1997 Act, regulates their operations.

The Consumer Affairs Division of NEPRA redresses complaints filed against electric utility companies regarding infringements on the terms of the NEPRA act. Such complaints are usually referred to the offices concerned and the cases are pursued until the issues are resolved. A complaint cell has been established under the Consumer Affairs Division of NEPRA to receive and redress diverse complaints.

**Oil and Gas Regulatory Authority**

The Oil and Gas Regulatory Authority (OGRA) has responsibility, among other things, for regulating the gas distribution companies (Sui Northern Gas Pipelines and Sui Southern Gas Company). Any person may register a complaint with the registrar for

- any act or thing done or omitted by a licensee or dealer in violation or alleged violation of the ordinance, rules, regulations, order of the authority, or terms and condition of the license;
- noncompliance by the licensee or dealer with the service standards in the areas including but not limited to (i) billing; (ii) connection and disconnection of service; (iii) metering; (iv) timeliness in providing service; (v) safety practices, or (vi) quantity and quality of natural gas, liquefied petroleum gas, or compressed natural gas being supplied; or
- discriminatory practices of the licensee or dealer.

**Pakistan Telecommunication Authority**

The Pakistan Telecommunication Authority (PTA) regulates telecommunication companies. It aims to ensure the protection of telecom consumers’ rights by setting strict quality measures for the operators. The PTA had initially formed a consumer complaint cell to handle its complaints. The escalating consumer base had put the number of complaints on the rise and, due to the introduction of new services by operators, the nature of consumer complaints also become more diversified. The previous complaint-handling mechanism was not effective enough to tackle such a situation, so the Authority, revamped its complaint cell into a dedicated consumer protection directorate.

The directorate comprises a complaint cell that can easily be accessed by consumers in a number of ways, including telephone (toll-free helpline number), fax, e-mail, the PTA website, mail, and personal visits. Furthermore, consumers can also access the PTA’s zonal offices in provincial capitals for early redress of their complaints. By joining hands with telecom operators and other stakeholders, the PTA has continued its efforts to protect the rights of telecom consumers. For instance, it initiated a process of formulating regulations to safeguard telecom consumers. After an extensive consultation in different forums, the final outcome was presented in the form of consumer protection regulations in March 2009. Under these regulations, each telecom operator is required to set up a comprehensive mechanism for the redress of consumers’ grievances.

Regarding the complaint-handling mechanisms, these regulations make it compulsory for the operators to entertain complaints of consumers such as misuse of services, inferior quality of service, illegal practices, poor services, misleading statements, nonprovision of services, mobile portability-related complaints, etc., and in doing so, to maintain and protect confidential information about the consumer.

To promote the awareness of telecom consumers, the PTA recently launched a campaign called the “Redressal of Consumer Grievances Mechanism.” This campaign informed telecom consumers about the three easy steps
for lodging a complaint, the first step consisting of an initial contact via phone, mail, e-mail or the website, as mentioned above.

Service Providers

Sui Northern Gas Pipelines and Sui Southern Gas Company

The majority of complaints relate to overbilling, delays in obtaining gas connections, and gas fluctuation (reduced pressure)—especially in winter. These stem from problems with the manual meter reading system and the overall shortage of gas. Sui Northern Gas Pipelines has a call center that appears to handle emergency complaints (for example, gas leaks) very effectively. But the company’s complaint system is much slower in responding to nonurgent grievances, notably those about overbilling.

Pakistan Telecommunication Company

Mostly complaints relate to faulty lines, overbilling, and disconnections. Digital technology should have ended complaints about billing, but they persist in large measure because of hidden charges and imposed packages. Pakistan Telecommunication Company has a nationally known and used hotline that people call to register complaints. However, the quality of complaint handling varies: the company has an efficient referral system, but it is hampered by a dependence on linemen who vary in their attitudes and responsiveness.

National Database and Registration Authority

The National Database and Registration Authority (NADRA) primarily issues computerized national identity cards and other related identification documents. Most complaints relate to delays in issuance of these cards or rejection of applications. The agency claims that most of these delays and rejections arise because of errors in data entry (e.g., spelling of names, or dates of birth), which it attributes to the low levels of education in the population. NADRA has highly automated operating systems, right down to local level centers and mobile vans. But research suggests the agency needs to focus on improving its public facilities and on instilling a culture of customer service among its staff. A major problem with NADRA is that it does not communicate proactively with applicants and tell them what is happening with their cases; applicants find out only when they seek information themselves. The other problem is NADRA’s highly centralized structure: the core functions of data verification and card issuance are carried out at the national headquarters, which inevitably leads to delays. NADRA’s grievance redress system is hampered by the same factors: most can be resolved only at the national headquarters.

Pakistan Post

Pakistan Post receives a large number of complaints about lost or late delivery of mail and money orders. Most arise in rural areas, where the agency’s facilities are generally in very poor condition. Pakistan Post has made substantial efforts to improve services and facilities in major offices, but at the local level in rural areas the situation is still dire. Automation does not extend to local offices, making communication, upward reporting, and monitoring of post offices and sub-post offices difficult, thus, undermining accountability. Pakistan Post faces a serious shortage of personnel and equipment. The agency has introduced an electronic tracking system in major cities. It also has a complaints hotline, as well as complaint cells in its national, circle, and regional offices. But in the absence of substantial improvements at the local level, both the system of grievance redress and quality of service are not up to par.
State Life Insurance Corporation

Most of the complaints relate to rejections of claims or delays in claim processing. The major cause of these is the corporation’s dependence on agents to sell policies. Agents are paid on commission, and have little loyalty or accountability to the State Life Insurance Corporation (SLIC). It is common to find them giving potential policy purchasers false information. There are also numerous complaints about agents embezzling funds. The SLIC provides some training to agents, but its overall control and monitoring of them is weak. Some complaints are handled by local and zonal offices, but others are passed on to the Policy Holder Services Division at SLIC’s national headquarters. Processing those complaints takes time. The SLIC operates largely with manual systems, so upward reporting is very weak. Headquarters has no idea how many complaints are received by zonal offices and handled internally. Moreover, the SLIC suffers from a shortage of personnel and facilities.
Appendix 5
Introduction to a Rights-Based Approach

The literature emphasizes that a program based on a rights-based approach revolves around obligations and capacities. It means developing the capacity of duty-bearers to meet their obligations, and the capacity of rights holders to claim their rights.¹

The following elements are necessary for a rights-based approach:

- assessment and analysis to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers, as well as the root causes of the nonrealization of rights;
- assessment of capacity elements (responsibility, authority, resources) of rights-holders claiming their rights and of duty-bearers to fulfilling their obligations, leading to strategies for building capacity; and
- the monitoring and evaluation of both outcomes and processes guided by human rights standards and principles.

Duty-bearers should be identified against specific rights holders. They include

- the parliament and its committees and caucuses,
- the administrative or executive branch of government,
- the judiciary, and
- nonstate actors (including civil society and the media) who are in a position to influence other actors in favor of the rights holders.

Strengthening the Ombudsman Institution in Asia
Improving Accountability in Public Service Delivery through the Ombudsman

Accountability is essential for good governance, and in many Asian countries the ombudsman is the key accountability institution. Originating in the West, the concept of the ombudsman arrived relatively late in Asia. Yet more and more ombudsman offices are being established in Asia, and they play a critical role in the fight against incompetence and injustice on the part of government officials.

This report presents in-depth research on Asian ombudsmen, with a focus on best practices and emerging issues, especially in the context of the new public management, and includes recommendations to policy makers. It will be a valuable resource for scholars, ombudsmen, and anyone else interested in this vital institution.

About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to two-thirds of the world’s poor: 1.8 billion people who live on less than $2 a day, with 903 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.