

**The Role of the Office of the Ombudsman of
Antigua and Barbuda as a National Human Rights Institution**

**By
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Antigua and Barbuda is a small twin island State consisting of Antigua situated 17° 12' North Latitude and 61° 45' West Longitude and Barbuda 17° 45' North Latitude and 61° 42' West Longitude. Antigua is 108 square miles (280 square kilometers) and Barbuda 62 square miles (161 square kilometers) with Antigua having a population 79,000 and Barbuda 1,500. (See attached Map of the Caribbean)

Antigua and Barbuda became independent in 1981 after having been a British colony for some 300 years. It has a Westminster type system of Government with a Governor General representing Her Majesty the Queen. It has been a member of the Commonwealth since independence and is also a member of the United Nations as well as the hemispheric organisation, the Organisation of American States. It is also a member of regional groupings such as the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States (OECS).

Enshrined in the 1981 Independence Constitution is a Chapter on the Protection of Fundamental Rights and Freedoms which includes the following:-

- (a) Fundamental rights and freedoms of the individual.
- (b) Protection of right to life.
- (c) Protection of right to personal liberty.
- (d) Protection from slavery and forced labour.
- (e) Protection from inhuman treatment.
- (f) Protection from freedom of movement.
- (g) Protection from deprivation of property.
- (h) Protection of person or property from arbitrary search or entry.
- (i) Protection of freedom of conscience.
- (j) Protection of freedom of expression including freedom of the press.
- (k) Protection of freedom of assembly and association.

(l) Protection from discrimination on grounds of race, place of origin, political opinions or affiliations, colour, creed or sex.

(m) Provision to secure protection of the law.

Antigua and Barbuda is a signatory to several of the United Nations Human Rights conventions.

Provision was made in the Constitution for the establishment of the office of the Ombudsman. The Ombudsman Act was not, however, passed until 1994 and the first Ombudsman (in the person of myself) was appointed in 1995.

The main function of the Ombudsman is:

“To investigate any complaint relating to any decision or recommendation made or any act done or omitted by any officer of the Government or Statutory body in any case in which a member of the public claims to be aggrieved, or appears to the Ombudsman to have sustained injustice as a result of the administrative functions of that officer or body.”

This is similar to most jurisdictions example Trinidad and Tobago, Barbados and New Zealand.

Faults in administration may include:-

- (a) Delay.
- (b) Bias.
- (c) Unfair discrimination.
- (d) Failure to give proper advice.
- (e) Discourtesy.
- (f) Failing to follow recognized procedures.

Although its functions as a National Human Rights Organisation are not explicitly expressed, in practice the Office of the Ombudsman performs some of the functions. As examples, in addition to dealing with complaints of maladministration in the public service, it investigates complaints of the public against abuse of power by the police and deals with problems experienced by mothers of delinquent fathers not paying child maintenance allowances.

It should be noted, too, that many cases of maladministration also often implicitly involve a Human Rights component. A few of the cases I dealt with may here be mentioned:

- (a) Case of a person who received bail but was still in detention days after bail was granted.
- (b) Police beating and torture.
- (c) Corporal punishment administered to a school child.
- (d) Complaint by a student who gave birth to a child that she was being denied access to the school of her choice.
- (e) Complaint by prisoners on remand awaiting a hearing.
- (f) Problems re delay in obtaining citizenship.

In making recommendations, I usually consider not only local laws but also the international conventions in particular the United Nations and Inter-American conventions.

It is well known that there are many institutions established in some countries with specific Human Rights Mandate. These include Human Rights Commissions or Offices which perform both functions as classical Ombudsman and Human Rights Ombudsman.

I personally am of the view that it will be a financial burden for mini-states such as Antigua and Barbuda to have separate institutions. It would be better for them to have a hybrid system performing both functions as recommended by Professor Linda Reif of the University of Alberta, Canada. In this regard, I have made recommendations that our legislation be amended to give the Office of the Ombudsman an explicit Human Rights Mandate to complement the traditional role dealing with maladministration. We would then be in full compliance of the Paris Principles for membership as a National Human Rights Institution of the United Nations.

It should be mentioned that Antigua and Barbuda is a member of the Caribbean Ombudsman Association (CAROA). The idea of formation of the Association was developed at a Commonwealth Regional Meeting entitled “Strengthening National Ombudsman and Human Rights Institutions in the Caribbean” held in Antigua in March, 1998 at which there were participants from Caribbean countries with or without an Ombudsman, from the Commonwealth Secretariat, and the International Ombudsman Institute (IOI). This has resulted in the publication, by the Commonwealth Secretariat, of the book “Strengthening Ombudsman and Human Rights Institutions in Commonwealth Small and Island States – The Caribbean

Experience” (2000) editors, Victor Ayeni, Linda Reif and Hayen Thomas. The Association has since formed strategic alliances with the International Ombudsman Institute, the United Nations Human Rights Commission, the Danish Centre for Human Rights, the Inter-American Institute on Human Rights and the Caribbean Human Rights Network among others.

Before I close I take this opportunity to express my thanks to the Commonwealth Secretariat for inviting me to this conference and sponsoring my attendance. I look forward to sharing information obtained with my colleagues in Antigua and Barbuda and where possible with members of our regional organisation, the Caribbean Ombudsman Association (CAROA).