

Public perception of the Ombudsman

The Ombudsman Commission's ability in getting results again reinforces the public's confidence in the Ombudsman and what it stands for — standing up for the rights of individuals who would otherwise be ignored by the powers that be.



By ANNA SOLOMON

THE OMBUDSMAN COMMISSION was established to protect the fundamental rights and freedoms of the people and to ensure the quality of leadership. The Constitutional Planning Committee gave its reasons for establishing an Ombudsman Commission under the headings 'Rights and Freedoms' and the 'Quality of Leadership' in their opening chapter on Underlying Principles governing the Constitution. Under Rights and Freedoms this is what the founding fathers of our Constitution had to say, and I quote:

Papua New Guinea must be a free society. Our recommendations include a new Charter of Human Rights. We have tried to achieve, both in this chapter and throughout our proposals a careful balance between the rights of the individual and the interests of the community. Apart from basic political and economic rights we have paid particular attention, for example, to the necessity to ensure effective and equal access to the service provided by the Government, including those institutions associated with the judicial process; and we have provided for an Ombudsman Commission to deal with unfair administrative practices. (Paragraph 20 page 1/4)

Quality of Leadership

The future of our country will depend not only on the system of government established and the various institutions designed to further

and protect the well-being of our people, but also on the quality of leadership shown by those who are placed in positions of power and authority, be through election or otherwise. We have included in our proposals a Code which such people will be expected to observe, and which will be enforceable by the Ombudsman Commission and an appropriate judicial tribunal. It is hoped thereby to avoid the kind of corruption, too often seen abroad, that stems from the failure to put the public and national interest before personal advantage.

Thus from the days of the first Ombudsman Commission comprising, the late Sir Ignatius Kilage, Andrew Maino and Frank Hedges in December 1975 the public has come to accept the two main functions of the Ombudsman Commission, the 'complaints function' which is the generally accepted traditional role of an Ombudsman and the 'leadership function' which makes the PNG Ombudsman Commission unique.

The complaints function deals with many complaints from individuals who feel they have been unfairly treated by Government departments and statutory organisations, private sector and individuals. This area alone handles a huge volume of work each year.

The opening of the three regional offices also helped alleviate the workload initially handled by the Port Moresby office. It also made it possible for more people to send in their complaints to the commission and also giving them an alternate venue to seek redress. The only option they had then was travelling to Port Moresby or taking matters to court which was just beyond their means.

The Ombudsman Commission's annual reports carries summaries of selected cases dealt with in the year. They often range from unfair dismissal, to incorrect pay, long delays in refund of entitlements, bashing up of prisoners and allegations of bribery and corruption — and the list goes on.

In the event that the complaints cannot be handled by the Ombudsman, the matter is referred to the appropriate government bodies to handle. For example, Section 219 (5) of the Constitution prevents the Ombudsman Commission from inquiring into court decisions. However, if there is grounds to follow through a complaint, then the commission would liaise with the Public Solicitor who would then take on the case.

Complaints regarding unfair dismissal by a company would be referred to the Labour Department since the Ombudsman does not have any jurisdiction of these matters. The number of complaints the Ombudsman receives each year is in itself a testimony of the public's confidence in this body's professional approach to helping them seek redress from unfair treatment by the Government and its institutions.

The Ombudsman Commission's ability in getting results again reinforces

the public's confidence in the Ombudsman and what it stands for, ie standing up for the rights of individuals who would otherwise be ignored by the powers that be.

In February 1977, a plantation laborer was involved in an accident and lost all fingers on his left hand. He completed all the forms for worker's compensation and sent them to the Labour Department. After trying unsuccessfully for six years, he notified the Ombudsman Commission in November 1983. The Ombudsman Commission took up his case in December 1983 and the Labour Department had to start all over again, but his case was successful. He received his compensation payment on March 17, almost 10 years after the accident!

Events of the last ten years have shown a change in the public's perception of the role of the Ombudsman Commission. Today allegations of bribery and corruption is common knowledge. There have been reports published showing blatant breach of the Leadership Code. Whose responsibility is it to see justice take its course. The public want to see action taken quickly as soon as a leader is exposed as such.

The recent report by the Ombudsman Commission on the Port Moresby Water Supply is a case in point. It was a field day for the media when the report was released, *The Independent* even serialised the report for 22 weeks! However, the response from the public has been, 'We want to know if any of these leaders have broken any law, if so which law, and what punitive action will be taken against them?'

Twelve years ago a senior public servant was investigated and reprimanded severely for claiming K350 in rental allowance. Today, the millions of kina in public money 'given away' by some leaders makes the case of this senior public servant seem trivial. The changing face of dishonesty has now reached a stage where debate must be encouraged in finding practical ways to address this problem and encourage transparency. The media has a vital role in working with the Ombudsman Commission to achieve this end.

Work in that direction had already been undertaken by the late Sir Ignatius Kilage and the Ombudsman Commission in 1984. Sir Ignatius was a man of letters. Many of us remember clearly his report of November 1982 called *Corruption in Government* on the investigation into the 'Executive Diaries' deal. His term as chief Ombudsman ended on 5 January 1985. His last report to the nation was called *A Comparative Study of Anti-corruption Agencies and Laws of Hongkong, Singapore and Papua New Guinea*. He described this report as his farewell gift to the nation. In his introduction, he said:

Corruption can be compared to *Salvinia* weeds. It can spread quickly and suffocate aquarium life as well as human beings whose livelihood is

fishing. If corruption is not checked, it will suffocate the fabric of our society and our dreams of idyllic society will be in vain.

The report is an analysis of the anti-corruption laws of Hongkong and Singapore and what PNG could adopt. Sir Ignatius compared the Ombudsman Commission with the Hongkong Independent Commission Against Corruption (ICAC) and its sister agency, the Unofficial Members of the Executive and Legislative Council (UMELCO) and the Singapore Corruptopriate judicial tribunal. It is hoped thereby to avoid the kind of corruption, too often seen abroad, that stems from the failure to put the public and national interest before personal advantage.

At the time of writing, Sir Ignatius was concerned about the lack of full financial and moral support of the elected leaders and the bureaucracy to stem the tide of corruption. 'We have been called a watchdog with no teeth. Now it appears that we are also being subjected to having our eyes plucked out,' he said.

Sir Ignatius also argued that Papua New Guinea could reinforce the role of the Ombudsman Commission and other anti-corruption bodies by settling in place a constituency of leading public figures and private citizens which would have the same functions as the UMELCO group in Hongkong. This is in the Melanesian tradition and has the potential to draw the remainder of the community into the struggle for a corruption-less society. This body could also oversee and link forces between the commission and such other agencies as the public and and state prosecutors.

There were four short recommendations made to the Government then:

1. the Government decide on a fixed sum for the Ombudsman Commission with CPI increase adjustments;
2. the Ombudsman Commission be empowered to employ special operatives in relation to the leadership code;
3. the Government look into the possibility of setting up an anti-corruption agency for private sector or empower an existing agency to master corruptive practices;
4. penalties for corruption be revised in keeping with the trends of times.

I would urge this seminar to give some serious thought to these suggestions made 13 years ago but very relevant to the situation we find ourselves in today. At the time Sir Ignatius was writing his report the Government had announced the arrival of television in PNG and he said in his closing chapter, 'Now is the time for the anti-corruption agencies, especially the Ombudsman Commission, to form policy concerning a campaign against this national malady in the media, similar to the Hongkong Commission.'

Yes, the media has a responsibility to the people of this country in participating actively in any moves to create a transparent government.

References:

- Ombudsman Commission of Papua New Guinea 12th Annual Report*
- Ombudsman Commission of Papua New Guinea 14th Annual Report*
- A Comparative Study of Anti-Corruption Agencies and Laws of Hongkong, Singapore and Papua New Guinea*

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