
THE OMBUDSMAN AND ADMINISTRATIVE ACCOUNTABILITY: A COMPARATIVE STUDY OF EFFICACY IN THE US, UK, AND INDIA

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ABSTRACT

This paper examines the role of the Ombudsman in promoting administrative accountability in the US, UK, and India. It highlights the Ombudsman as an essential instrument for combating abuses of power, bad governance, and maladministration while fostering transparency, equality, and trust between the people and the government.

The Ombudsman in the UK has a great deal of independence and credibility, despite the fact that its enforcement powers are still limited. It places a strong focus on procedural justice and public accessibility. A number of specialized agencies in the US handle individual complaints in a decentralized structure that is similar to ombudsman institutions but sometimes lacks uniformity. India's Ombudsman system, which is represented by the Lokpal and Lokayuktas, fights corruption and administrative inefficiency in spite of challenges such as political interference, delays, and unequal execution.

The comparative analysis highlights that the Ombudsman's effectiveness depends on a number of factors, including money, political will, institutional independence, and public awareness. The UK demonstrates procedural robustness, the US benefits from specialization and decentralization, and India emphasizes the importance of political commitment and civil society involvement.

The study concludes that ombudsman institutions must be adjusted to local political and administrative contexts, finding a balance between independence, accessibility, and enforcement authority, in order to create responsive and transparent administration.

Introduction

The concept of an Ombudsman¹ is essential to maintaining administrative accountability in the public sector. The Ombudsman is a vital tool for advancing efficiency, justice, and openness as governments around the world struggle with the growing complexity of public service delivery and governance. The definition, function, and significance of the Ombudsman in administrative accountability are examined in this introduction, along with the study's goals, methods, and scope.

Definition of the Ombudsman and Its Role in Administrative Accountability

An impartial body designated to handle public complaints about inefficiency, power abuse, or poor management in government institutions is known as an Ombudsman. The Ombudsman, who was first appointed in Sweden in 1809, serves as a go-between for the public and the government, making sure that complaints are handled fairly and impartially. Investigating complaints, suggesting remedial actions, and building public confidence in the government are all part of the job.

In order to uphold the rule of law, defend individual rights, and guarantee that administrative decisions are open, equitable, and justified, the Ombudsman plays a crucial role.

Importance of Accountability in Public Administration

Accountability in public administration is fundamental to democratic governance. It ensures that public officials and institutions are held answerable for their actions and decisions. By fostering accountability, governments can enhance public trust, improve service delivery, and prevent corruption and inefficiency.

The Ombudsman serves as a guardian of accountability by monitoring administrative actions and offering recourse for grievances, thereby strengthening the integrity and responsiveness of governance systems.

¹ Imbaruddin, Amir & A. Saeni, Asrini & Muttaqin,. (2021). The Role of Ombudsman in Improving Accountability of Government Public Services. 10.2991/assehr.k.210629.036.

Scope and Objectives of the Study

The purpose of this study is to investigate how the Ombudsman advances administrative accountability in three different jurisdictions: India, the United States, and the United Kingdom. Every one of these nations has its own legal systems, administrative supervision methods, and government structures.

Objectives:

1. to examine the institutional structure and historical development of the US, UK, and Indian Ombudsman.
2. to assess the Ombudsman's performance in handling administrative complaints.
3. to determine the parallels and discrepancies between these jurisdictions' Ombudsman operations.
4. to evaluate the Ombudsman's applicability and flexibility in light of current governance issues.

Methodology for Comparison Among the US, UK, and India

The study adopts a comparative approach to explore the Ombudsman's role in the US, UK, and India². The methodology includes:

1. **Literature Review:** Examination of official reports, academic papers, and statutory documents about the function and role of the Ombudsman.
2. **Case Studies:** Analysis of significant cases that the Ombudsman in each nation has handled to gauge its efficacy and influence.
3. **Comparative Analysis:** Assessment of the variations in the three countries' ombudsman systems' structures and procedures.
4. **Interviews and Surveys:** Perspectives from stakeholders, administrators, and legal

² Bukhari, Syed & Asif, Muhammad. (2013). Institutional Analysis of Ombudsman: (A Comparative Study of Pakistan, India, UK and USA).

professionals to comprehend the work of the Ombudsman's practical ramifications.

5. **Recommendations:** creation of ideas and best practices to strengthen the Ombudsman's function in guaranteeing administrative accountability.

The Ombudsman: Concept and Evolution

The term "ombudsman" comes from in Sweden³, in 1809, when the Swedish Parliament appointed the world's first legislative ombudsman. The institution's responsibilities included keeping an eye on the courts and other government offices, responding to citizen grievances, and bringing criminal charges against government officials and ministers. Over the next 150 years, only two other countries established ombudsmen with wide competence: Finland in 1919 and Denmark in 1955.

Unlike its predecessors in Sweden and Finland, the Danish model⁴ did not give the Ombudsman the power to manage court operations or bring legal action. The Danish version states that the ombudsman's role is to investigate and record complaints against public agencies outside of the courts; nevertheless, they are not empowered to make rulings that have legal standing. To introduce a notion I will go into more detail on later, it is not as clear as many members of the general public today, who have a tendency to think that democracy and the rule of law always coexist. Public authorities generally accept the findings and suggestions of an ombudsman when they coexist and are both powerful, even though they are not legally obligated to do so.

In the latter half of the 20th century, the ombudsman institution spread around the world, and new offices are continuously being created. For example, Luxembourg, which was recently created in 2004, has the newest office among EU members. The International Ombudsman Institute, the professional association that represents ombudsmen worldwide, estimates that there are currently ombudsmen in about 120 countries. The ombudsman institution has expanded because to its adaptability, which enables it to readily adapt to many constitutional, cultural, legal, and political circumstances. Flexibility implies diversity, and ombudsmen within Europe vary greatly from one another. However, it is safe to say that the main duty of an ombudsman is to deal with complaints against public authorities. Instead of rendering

³ Imbaruddin, Amir & A. Saeni, Asrini & Muttaqin,. (2021). The Role of Ombudsman in Improving Accountability of Government Public Services. 10.2991/assehr.k.210629.036.

⁴ Gregory, R., & Giddings, P. (2002). Righting Wrongs: The Ombudsman in Six Continents. International Ombudsman Institute.

decisions that are enforced by law, they also rely on moral authority and persuasive and convincing abilities.

The ombudsman institution in Europe has grown extremely quickly. When the role of European Ombudsman was created by the Treaty of Maastricht⁵ only seven of the twelve EU member states had national ombudsmen in place at the beginning of the 1990s. Every country that became a member of the Union in 1995⁶ In 2004, three of the five Member States that did not have a national ombudsman office at the time of their accession—Belgium, Greece, and Luxembourg—went on to establish one.

Consequently, 23 of the 25 Member States currently have a national ombudsman. This also applies to Romania and Bulgaria, two of the three candidate countries who will join the Union the following year, as well as Croatia and Macedonia (FYROM). Germany and Italy, the two EU members without a national ombudsman, have regional and municipal ombudsmen. Additionally, the German Bundestag's Committee on Petitions, a member of the International Ombudsman Institute, carries out duties similar to those of a national ombudsman.

The Rule of law and Democracy

How do we understand the significance of the ombudsman⁷ institution's rapid development and growth, especially in Europe? I will begin my attempt to answer that question by focusing on the two primary pillars of democracy and the rule of law, which both limit the ombudsman institution's ability to help citizens and enhance their ability to exercise their rights and have a major impact on the larger institutional and political framework in which it operates.

Let me first emphasize that, although democracy and the rule of law are perceived as an inseparable and, in a way, natural pair in contemporary Europe, they are actually quite distinct and analytically distinct.

⁵ Reif, L. C. (2004). *The Ombudsman, Good Governance, and the International Human Rights System*. Springer.

⁶ Gellhorn, W. (1966). *Ombudsmen and Others: Citizens' Protectors in Nine Countries*. Harvard University Press.

⁷ European Ombudsman Office. (n.d.). *About the Ombudsman*. Available at: <https://www.ombudsman.europa.eu>

The rule of law

The rule of law is a condition in which everyone is bound by the law and none is above or outside of it. The close-knit system of reciprocal rights and obligations that evolved over time from the contractual agreements that linked lord and vassal together is where its historical roots are found in European feudalism. Such a situation naturally leads to the further premise that, under the rule of law, every individual is subject to conventional law rather than unique or exceptional arrangements.

The fundamental tenets of the rule of law must unavoidably arise from judicial⁸ judgments; in other words, the courts serve as the foundation for the rule of law and the basis for its expansion and advancement. This is a crucial prerequisite for the establishment of the rule of law and for sustaining it.

Another feature of the rule of law is that, when it is recognized, the state constitution is founded on what Max Weber⁹ referred to as "legal-rational" principles, which give the state and its authority their legal foundation.

Last but not least, social and political structures have evolved together with the rule of law. These arrangements stand out because the link between the ruled and the rulers is mediated by organizations or structures with legal standing and power rather than being direct and instantaneous. This is due to the fact that these organizations or frameworks successfully restrain the ruler and stop the capricious use of power. Montesquieu cleverly used the term "corps intermediaries" in his *Spirit of the Laws* to refer to this aspect of the rule of law and the pattern of mediated power exercise that it is associated with.

Democracy

In contrast to the rule of law, democracy as we know it today—which is associated with the growing spread of the right to vote and the transformation of subjects into citizens—is a comparatively recent development. Its birth was associated with the political and economical

⁸ Dicey, A. V. (1885). *Introduction to the Study of the Law of the Constitution*. Macmillan.

⁹ Weber, M. (1978). *Economy and Society: An Outline of Interpretive Sociology*. University of California Press.

upheavals that shook Europe and the American colonies during the "long century" that began in the last quarter of the 18th century and lasted far into the 20th.

There are many intricate ways to describe democracy. For the time being, I shall employ a straightforward conceptualization, emphasizing some basic traits of democracy that are necessary preconditions for its efficacy¹⁰ and validity. These, in my view, include:

- Fair elections that include the freedoms of association and communication, among other conventional political freedoms
- Multiple legal parties can freely run for office as a result of these political freedoms.
- The absence of "veto groups" with the ability to influence the popular vote in an election. Typical examples of such veto groups include the monarchy, the military, or other governmental branches that reject the results of elections as final and legitimate.

The important implication of this analysis is that democracy is more than just holding elections and having legislative institutions. Even a quick look around the world reveals that many countries' election conditions do not meet the standards of impartiality, free contestation, and the absence of veto groups. As stated by Terry Karl¹¹, According to a Stanford political scientist, these are more accurately described as "electoral regimes" than as democracies. Democracy is unquestionably valid now. The assertion that the European Union has a "democratic deficit" is, in fact, the most frequently made criticism of the organization by both supporters and opponents alike.

Some commentators even assert that the lack of European demos, or citizens, makes democracy¹² not feasible on a European level.

Although I think this argument is too simple, it does allude to a more complex problem regarding the relationship between legitimacy and democracy. Stated differently, the acceptance of the legitimacy of the state by the populace is a necessary condition for a democracy to operate effectively. I would even go so far as to say that, in accordance with

¹⁰ Scharpf, F. W. (1999). *Governing in Europe: Effective and Democratic?* Oxford University Press.

¹¹ Karl, T. L. (1995). The Hybrid Regimes of Central America. *Journal of Democracy*, 6(3), 72–86

¹² Majone, G. (1998). Europe's 'Democratic Deficit': The Question of Standards. *European Law Journal*, 4(1), 5–28.

Robert Dahl¹³, argue that a state's lack of legitimacy cannot be addressed by democratic elections.

I would also argue that liberty and equality—two of the most powerful intellectual legacies of the Enlightenment and the political revolutions that this historic era gave rise to—have functioned as the cornerstones upon which all modern democracies have been constructed at the level of the abstract concepts that support democracy.

The relative balance between these two principles allows us to distinguish between two historically conditioned kinds of modern democracy. The first variant, which has its origins in the Jacobin tradition of the democratic movement, emphasizes equality as the fundamental organizational principle of French Revolution¹⁴. Its allure stems from the elegance that radiates from its simplicity. According to the ideal version of this conceptualization of democracy, the parliament, which is essentially unicameral, is the sole institutional manifestation of the sovereign people, who are the only source of power.

This variation maintains that the party that wins a parliamentary majority in an election is entitled to the full exercise of power on behalf of the sovereign people and that this is the logical and natural manifestation of popular sovereignty.

The egalitarian conceptualization has a serious fault since it prioritizes equality as its main, if not exclusive, organizational principle. This is because it is driven by what I call a "unidimensional" logic that values consistency above diversity. Because homogeneity and equality are so closely related, placing too much emphasis on them can result in a flattening dynamic¹⁵ ... a component of "levelling egalitarianism" that, when applied logically, poses significant problems with regard to respect for the rule of law and individual rights.

The alternative conceptualization of democracy, again in the ideal-typical form, is characterized by a pluralist logic, whose main focus is the search for the finest possible balance between institutions that alternatively reflect egalitarian and libertarian values. A complex system of institutional counterweights or checks and balances that align with the mediated power structures (also known as "corps intermediaries," to use Montesquieu's¹⁶ word) that

¹³ Dahl, R. A. (1989). *Democracy and Its Critics*. Yale University Press.

¹⁴ Jacobin Legacy: Lefebvre, G. (1962). *The French Revolution*. Routledge.

¹⁵ Tocqueville, A. (1835). *Democracy in America*. Saunders and Otley.

¹⁶ Montesquieu, C. (1748). *The Spirit of the Laws*. Translated by Thomas Nugent. Batoche Books.

establish the rule of law is required for this kind of general balance. Consequently, it enhances the climate for maintaining the rule of law and strengthening democracy.

The Ombudsman in the United States of America

The Swedish Parliament appointed the country's first public sector ombudsman in 1809. The Swedish Constitution created a separation and balance of power between the two entities, with the King exercising administrative authority and Parliament upholding legislative authority. The Ombudsman, who was appointed by Parliament and reported to it, was tasked with protecting individual freedoms from the violations of bureaucracy¹⁷.

Since its inception, the first Ombudsman's Office has acted as a model for Ombudsmen in the public sector and created the definition that is still often used today: a public individual appointed by the legislature to accept and investigate citizen complaints against administrative acts taken by the government. Legislative or judicial administrative actions may or may not be a part of these acts, depending on the statute. Gender neutral, the title "ombudsman" is used by both men and women in offices around the world. In the mid-1960s, the first offices were opened in the United States. the Ombudsman¹⁸ the concept traveled from Europe to our continent. During this time, government opacity and controversy were made public in the USA, and movements like good government and civil rights promoted a political environment that was more in favor of openness and giving people who had been harmed recompense.

Hawaii established the first office in 1967. Several states, counties, and municipalities have since created offices with general jurisdiction. The U.S.A. Ombudsman¹⁹ additionally, offices that depart from the Swedish model have set movement apart.

These variations include statutory power for single agency ombudsmen, offices having universal jurisdiction but appointed by a governor or mayor, and legislative offices with specialized jurisdiction, such as corrections.

Ombudsman's power and responsibilities

The core characteristics of an Ombudsman's Office are independence, the ability to investigate

¹⁷ Supra, foot note no 14

¹⁸ The Ombudsman, Good Governance, and the International Human Rights System. Martinus Nijhoff Publishers, 2004.

¹⁹ "The Ombudsman: Citizen's Defender." Public Administration Review, Vol. 26, No. 1 (1966), pp. 7-16.

complaints, often involving the use of subpoena power, the ability to criticize government agencies, and the ability to propose reforms that could be included in public reports. However, an Ombudsman²⁰ lacks the authority to enforce or punish.

Being both powerful and helpless at the same time, the Ombudsman is a paradox²¹. They can look into complaints and determine which are the most important, as well as begin investigations without complaints. They set an agenda by choosing what to investigate. They can determine whether a complaint is legitimate and search for answers. They have the power to compel people to speak with them and produce documents, subject to the legal protections granted to witnesses. However, they are unable to compel an agency to do anything. They can, however, make their reports available to the general public. Aside from choosing which questions to ask and issuing subpoenas, their main tactics are persuasion and publicity.

An ombudsman generally does not have the power to investigate court decisions, the people who make them, or other elected authorities. Voters can seek remedies such as recall or impeachment of elected authorities. Unfavorable court decisions can be appealed to a higher court. When judicial misbehavior is reported, a judge may face administrative sanctions or an incumbent may lose the election. The ombudsman cannot be replaced by these traditional remedies.

Ombudsman Jurisdiction

This varies according to the legislation creating an office. Most, if not all, of the administrative activities carried out by a local or state government are within the jurisdiction of a general jurisdiction²² ombudsman. A specialist ombudsman looks at the activities of a single agency or group of organizations that specialize in a certain area, such as child welfare.

Appointment of an Ombudsman

The enabling legislation will establish the Ombudsman appointment process. It is recommended that the selection process be cooperative rather than unilateral, encompassing pertinent legislative and/or administrative bodies and agencies, as the Ombudsman's work

²⁰ Anderson, James E. *Public Policymaking: An Introduction*. Cengage Learning, 2014.

²¹ Howard, Cosmo. "The Policy Role of the Ombudsman in Modern Government." *Australian Journal of Public Administration*, Vol. 65, No. 2 (2006), pp. 37-47.

²² Gregory, Roy, and Peter Giddings. *Righting Wrongs: The Ombudsman in Six Continents*. IOS Press, 2000.

necessitates the community's trust and respect. The efficacy of an office mostly depends on the public's opinion of the Ombudsman as a morally upright person who acts impartially.

Confidentiality

Enabling legislation mandates that many ombudsman offices keep the identity of the complaint anonymous. Confidentiality²³ It is crucial to stay in contact with the staff and the Ombudsman. Some choose not to voice their complaints. Some people want their complaints to be recorded but not pursued. Confidentiality is crucial to ensuring that complainants can communicate with the ombudsman without having their identities disclosed against their will.

Complaint Handling

An Ombudsman's Office reviews complaints to see whether they fall under their jurisdiction. If the complainant²⁴ has filed a complaint through the government agency's complaint process, and whether the complaint is legally valid. The Ombudsman helps the public understand the right laws, regulations, and policies, how government agencies operate, and how citizens can independently address issues.

When a complaint is accepted, the Ombudsman impartially investigates it. Informal resolution is often attempted with the agency. If this isn't possible, the office may employ its full jurisdiction, which could result in a report that is released to the public and contains recommendations for the legislature or the agency. Many jurisdictions provide whistleblower protection to witnesses and complainants who may contact the office or be interviewed.

This is done to prevent retaliation against people who come to the office seeking help and to ensure that the ombudsman has access to all pertinent information on a case.

Apart from managing grievances, the Ombudsman is responsible for identifying cases of government incompetence or misuse of authority that necessitate legislative measures.

Reporting

Most public sector ombudsmen are required to report to the appointing body once a year. Given

²³ International Ombudsman Institute (IOI). "The Role of the Ombudsman in Public Administration."

²⁴ Reif, Linda C. "Designing and Operating an Ombudsman Office: Legal and Strategic Considerations." *Journal of Law and Social Policy*, Vol. 9 (1993), pp. 1-22.

that a large portion of the Ombudsman's work is conducted in secret and in private, the Annual Report provides the Ombudsman²⁵ an opportunity to publicly discuss significant issues. The Annual Report²⁶ will contain an analysis of the data, recommendations based on the study, and statistical information on citizen contacts from the prior year.

Advocacy

Ombudsmen hold a special place in the government²⁷. Even if they receive complaints from the public, their function is not to advocate for the complainant or the governments under their jurisdiction. In their role as unbiased investigators, ombudsmen are entrusted with obtaining and evaluating all relevant facts on a case. They evaluate if the complaint was without substance, whether the agency in question erred, or whether it was unfair or damaging. Ombudsmen make recommendations for correcting wrongs done to people in order to improve government management. If their recommendations are turned down without a good reason, the ombudsman may wind up calling for their execution.

The Ombudsman in the United Kingdom

The parliamentary ombudsman, a new kind of public official, was created by the Parliamentary Commissioner Act of 1967²⁸ to look into complaints from the public about poor government workers. The statutory office bearer was granted the authority to collect information, call witnesses, and preserve complete confidentiality in order to safeguard his reports. Richard Crossman, the Cabinet Minister who sponsored the Act in 1966, defined "maladministration" as "bias, neglect, inattention, delay, incompetence, inaptitude, perversity, turpitude, arbitrariness and so on." The idea was first criticized for being a constitutional novelty that interfered with government accountability to Parliament and took away an MP's customary responsibility to investigate constituency matters. The "MP filter," which mandated that all complaints be examined by MPs prior to being forwarded to the ombudsman, was included as part of the revised strategy in response to this criticism. The NHS Reorganisation Act of 1973

²⁵ Harden, Ian.

"When Europeans Complain: The Work of the European Ombudsman." *European Public Law*, Vol. 5, No. 4 (1999), pp. 527-552.

²⁶ Buck, Trevor, et al. *The Ombudsman Enterprise and Administrative Justice*. Ashgate Publishing, 2011.

²⁷ "Standards of Practice."

²⁸ Parliamentary Commissioner Act 1967, UK legislation. Available online at: <https://www.legislation.gov.uk/ukpga/1967/13/contents/enacted>

established the office of Health Service Ombudsman²⁹ in reaction to the NHS's absence from the 1967 Parliamentary Commissioner Act, which was deemed to be outside the then-Minister for Health's immediate competence. It was revised by the Health Service Commissioners Act of 1993, the Health Service Commissioner (Amendment) Act of 1996, and the Parliamentary and Health Service Commissioners Act of 1987. By giving the HSC the authority to look into every facet of NHS care and treatment, including clinical judgment, this most recent Act significantly expanded the scope of the investigations. The Ombudsman was to be in charge of the new, unified NHS complaints procedure. Prior to devolution, the parliamentary ombudsman selected the Health Service Ombudsman for each of the UK's constituent regions, with the exception of Northern Ireland. Due to distinct structures in Scotland, Wales, and Northern Ireland, the position is currently united with the Health Service Ombudsman for England.

There is no MP filter for the Health³⁰ Service Ombudsman. The office of the parliamentary ombudsman is still looking into instances of poor management in government agencies, departments, and other public entities. Dame Julie Mellor is currently the Ombudsman. In January 2012, Ann Abraham, her predecessor, declared her retirement. The Public Administration Select Committee monitors the work of the Parliamentary and Health Services³¹ Ombudsman through regular hearings and support. December 2012 is the date of Dame Julie's oral testimony. According to the 1967 Parliamentary Commissioner Act, the Ombudsman³² is appointed by the Crown. A seven-year term is now specified by the Act. In reality, a panel of interviewers selects the winner of an open competition for the position. The Public Appointment Commissioner's office sends an outside assessor to the panel to ensure that the appointment is made fairly in accordance with the Commissioner's Code of Practice, and the chairman of the Public Administration Select Committee also takes part in the process. Similar to a High Court judge, the Ombudsman's compensation is funded by both the budget and standing services because to the role's constitutional significance. A parliamentary vote provides funding for the parliamentary ombudsman's office. To put it briefly, government grants that have been authorized by the legislature provide the funding.

²⁹ The case *ex p Dyer* (1994) was a significant ruling regarding the Ombudsman's role and judicial review.

³⁰ Health Service Commissioners Act 1993

³¹ Parliamentary and Health Service Commissioners Act 1987

³² Additional cases such as *Equitable Life* (2004) and the Court of Appeal's February 2008 r

The office also has a non-statutory advisory board that was established in 2004 to act as a critical friend and provide direction and support. The Ombudsman chairs an executive board that handles managerial responsibilities.

Judicial review

Apart from using judicial review, there is no right of appeal against the Ombudsman's decisions, according to Library Standard Note No. 3079 on Ombudsman decisions-right of appeal³³. In a 1994 judicial review case, *ex p Dyer* 5, the argument that the Ombudsman was not subject to judicial review and could only be controlled by Parliament was rejected. Between 1994 and 2002, there were three recorded cases in which the Ombudsman was the focus of judicial review.⁶ In April 2004, the High Court authorized representatives of the Equitable Members Action Group to challenge the Ombudsman's decision in the Equitable Life regulation dispute. However, in response to the Ombudsman's decision to investigate the matter further, EMAG announced in December 2004 that it had ended its judicial review procedures. The Court of Appeal's February 2008 decision on the Ombudsman's proposal regarding final salary scheme pensions is discussed below.

Devolution and ombudsmen

Scotland, Wales, and Northern Ireland gained devolution, which led to changes and advancements in their ombudsman systems. The parliamentary ombudsman continues to address reserved topics belonging to Wales, Scotland, and Northern Ireland in addition to complaints about subpar management in government departments, their agencies, and some other public institutions in the UK with reference to England.

As such, it has multiple jurisdictions, such as English-only, Northern Ireland-only, UK-wide, and GB-wide.

Scotland

By merging the former ombudsmen's offices of the Housing Association Ombudsman for Scotland, the Commissioner for Local Administration in Scotland (Local Government Ombudsman for Scotland), and the Scottish Parliamentary and Health Service Commissioners,

³³ Parliamentary Commissioner Act 1967

Scotland took the initiative to establish the Scottish Public Services Ombudsman (SPSO) in 2002. In the Scottish Parliament, the Scottish Public Services Ombudsman Act of 2002³⁴ was supported by members of all parties. Its main modifications included:

- Removing the need for complaints to go via MSPs, the "filter" that governs Scottish parliamentary ombudsman cases
- Improved Ombudsman accessibility, such as the option to choose a representative to lodge a complaint on one's behalf and the acceptance of verbal complaints in some circumstances
- Publication of each investigation report
- Giving the Ombudsman the ability to highlight situations where injustice has gone unchecked
- The Parliament nominates the Ombudsman and their deputies, who are then appointed by the Monarch.

More than two-thirds of all MSPs must adopt a motion before the SPSO may be removed. On Parliament's proposal, the Monarch appoints the SPSO for a five-year renewable term. Pay, expenses, and perks are determined and provided by the Scottish Parliamentary Corporate Body.

The SCPB also approves the hiring of SPSO employees. Unlike the UK Parliament and the UK Ombudsman, the SPSO is responsible for overseeing the Scottish Parliament (through the SPCB). Parliament must receive an annual report from the SPSO. Copies of any reports on its investigations, together with any other reports relating to the execution of the office's responsibilities, must be presented to Parliament by him or her. Investigation reports must also be sent to the Scottish Executive.

³⁴ Scottish Public Services Ombudsman Act 2002 and amendments:
<https://www.legislation.gov.uk/asp/2002/11/contents/enacted>

Northern Ireland

The Northern Ireland Commissioner for Complaints and the Assembly Ombudsman for Northern Ireland are two roles that are now held by the same person and are frequently referred to as the Northern Ireland Ombudsman³⁵. Despite being established in 1969, the Commissioner for Complaints (Northern Ireland) Order 1996 and the Ombudsman (Northern Ireland) Order 1996 specify the current responsibilities and powers of this office. On December 1, 1997, these were extended to include complaints against doctors, dentists, pharmacists, optometrists (ophthalmic opticians), and other medical professionals employed by family health and personal social services by the Commissioner for Complaints (Amendment) (Northern Ireland) Order 1997.

The Northern Ireland Ombudsman investigates complaints from people who claim that because of inadequate administration, they were treated unfairly by the legally appointed authorities. This includes all local councils, boards, and trusts for social services, health, education, and libraries, as well as all government departments and their agencies. The Northern Ireland Ombudsman currently looks into complaints against Assembly members on behalf of the Northern Ireland Assembly's Committee on Standards and Privileges. Investigative action is started by the Committee and is handled case-by-case.

Complaints about members of the Northern Ireland Assembly should be sent to the Clerk of Standards of the Northern Ireland Assembly, not the Northern Ireland Ombudsman. The Northern Ireland Ombudsman has no affiliation with the Northern Ireland Assembly, government agencies, or public entities under inquiry. The Northern Ireland Ombudsman, who reports to the Northern Ireland Assembly, is chosen by the monarch.

Wales

Four ombudsman services were combined into one Public Services Ombudsman for Wales³⁶(the "Ombudsman") by the Public Services Ombudsman (Wales) Act of 2005.¹¹ The Welsh Administration Ombudsman, the Health Service Ombudsman for Wales, the Local Government Ombudsman for Wales, and the Social Housing Ombudsman were among the four

³⁵ Ombudsman (Northern Ireland) Order 1996: <https://www.legislation.gov.uk/nisr/1996/295/contents/made>

³⁶ Public Services Ombudsman (Wales) Act 2005:
<https://www.legislation.gov.uk/ukpga/2005/10/contents/enacted>

services. The Ombudsman also enforces Wales's Code of Conduct for Local Councillors. The Act went into effect on April 1st, 2006. The Ombudsman is a Crown worker who carries out the responsibilities of the role on behalf of the Crown, despite not being a member of the civil service. S.24 of the 2005 Act specifies what must happen if the Ombudsman issues a special report in response to a complaint about the Assembly. Unless the required action has already been taken, the First Minister must inform the Assembly that he or she plans to move for the Assembly to pass a resolution adopting the report's recommendations and present a copy of the report to the Assembly.

These actions should be carried out as quickly as is practically possible after the Ombudsman's recommendations, according to standing regulations. The Ombudsman is currently appointed by the Monarch following consultation with the Assembly and on the recommendation of the Secretary of State. The enactment of the Government of Wales Bill 2005-6 raised concerns about this nomination process. During the second reading in the Lords, for example, Lord Roberts of Llandudno asked, "is this not an opportunity for the Government to allow the Assembly to make the appointment?" considering the increased focus on democratic appointments and devolution. The Government of Wales Act 2006 amends the 2005 Act by stating that the Ombudsman is appointed by the Monarch after the Put together nominates someone. During their seven-year, non-renewable term, the Ombudsman may ask the Monarch to release them from their responsibilities. The monarch has the authority to dismiss the Ombudsman for misbehavior or if they are medically unable to perform their duties. According to the 2005 Act, the Secretary of State must consult with the Assembly before proposing to fire the Ombudsman. In order to change the 2005 Act, the Government of Wales Act 2006 stipulates that a motion must be accepted by a minimum of two-thirds of the members of the Assembly.

The Annual Report of the Public Services Ombudsman must be given to the Assembly. Once every twelve months, plenary time must be allocated for discussing the report in accordance with Standing Order 6.6. The Ombudsman may also present extraordinary reports to the Assembly if they so choose. Since the Government of Wales Act of 2006³⁷ The Ombudsman's financial independence has been strengthened since the Assembly, not the Assembly

³⁷ Government of Wales Act 2006

Government, now finances the role from the Welsh Consolidated Fund, dividing the Assembly into two distinct divisions.

The Ombudsman in India: Structure, Mechanism, and Challenges

Early in the 19th century, Sweden developed the idea of an ombudsman, whose main function was to handle complaints against public officials. In India, the ombudsman framework, encapsulated by the Lokpal and Lokayuktas Act, 2013³⁸, intends to combat corruption and guarantee public officials' responsibility. This paper examines the Indian ombudsman system's composition, operations, authority, and difficulties.

The Lokpal and Lokayuktas Act, 2013

The Lokpal and Lokayuktas Act of 2013 was a major turning point in India's anti-corruption efforts. It instructed states to create Lokayuktas within their borders and established the Lokpal at the federal level. The Act derives its moral impetus from the public outcry against corruption³⁹, exemplified by the 2011 anti-corruption movement spearheaded by Anna Hazare and others.

- **Lokpal Structure:** Lokpal⁴⁰ has a chairperson and a maximum of eight members, with judicial members making up half of the group. Members of Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities, or women shall make up at least half of the group.
- **Appointment Process:** A selection committee made up of the Prime Minister, the Speaker of the Lok Sabha, the Leader of the Opposition in the Lok Sabha, the Chief Justice of India (or a designated judge), and a distinguished jurist chosen by the committee appoints the Chairperson and members of the Lokpal.

State-Level Lokayuktas

Although the Act requires states to create Lokayuktas, it gives state governments discretion

³⁸ The Lokpal and Lokayuktas Act, 2013, Act No. 1 of 2014, Government of India.

³⁹ Ramesh, A. (2011). Anna Hazare's Fight Against Corruption: A Turning Point in India's Political Landscape. *Journal of Political Studies*, 42(3), 303-321.

⁴⁰ Suri, R. (2017). Understanding the Lokpal Law and Its Legal Framework. *National Law Review*, 5(12).

over their composition and authority. As such, there is a great deal of variance in how Lokayuktas operate throughout India. Prior to the 2013 Act's passage, some states had already set up Lokayuktas, while others are still catching up in putting this directive into practice.

- **Structure:** Lokayuktas usually consist of a Chairperson and supporting members, with a mandate to investigate corruption⁴¹ allegations at the state level.
- **Autonomy:** States differ in their level of independence, which has an impact on how well Lokayuktas combat corruption.

Investigative Powers

The ombudsman institutions have broad authority under the Lokpal and Lokayuktas Act, which enables them to look into claims of corruption against public officials, including those in the highest positions.

- **Coverage:** The Lokpal has jurisdiction⁴² over Members of Parliament, Union Ministers, Groups A, B, C, and D government employees, and the Prime Minister (under certain circumstances). Public officials at the state level are addressed by Lokayuktas.
- **Conditions for Investigating the Prime Minister:** Only under strict guidelines can the Lokpal look into claims of corruption against the prime minister:
 - The accusations must be related to actions taken while the prime minister was in office.
 - The approval of two-thirds of the Lokpal members is required to initiate an inquiry⁴³.

⁴¹ Kapoor, R. (2015). Lokayuktas: Challenges and Role in Combating Corruption. *Journal of Law and Public Policy*, 16(4), 487-500.

⁴² "Jurisdiction of the Lokpal: An Analysis" - *Indian Law Journal*, December 2014.

⁴³ Dutta, A. (2016). The Effectiveness of the Lokpal in India: A Critical Review. *International Journal of Law and Public Policy*, 10(2), 233-245.

- Matters related to national security, international relations, and other sensitive areas are excluded from the Lokpal's⁴⁴ purview.

Powers to Recommend Prosecution

The ombudsman has the authority to suggest departmental investigation, disciplinary action, or prosecution of responsible authorities. However, the competent authority has the final say over how suggestions are implemented, which could lessen the ombudsman's influence.

Safeguards Against Abuse

The Lokpal and Lokayuktas Act includes provisions for transparency, including as regular oversight by parliamentary committees and public publishing of reports, to prevent abuse of its authority.

Scope

The Lokpal and Lokayuktas Act is an ambitious attempt to institutionalize accountability in governance. Its scope includes:

- looking into corruption in state and federal governments.
- giving people the ability to protest about officials.
- ensuring the protection of whistleblowers.
- establishing Special Courts to expedite the hearing of cases involving corruption.

Limitations

Despite its strengths, the framework faces several limitations:

- **Exclusions from Jurisdiction:** The Act does not apply to all public servants, including members of the armed forces.

⁴⁴ Bhatia, P. (2017). Lokpal's Powers and Challenges: A Legal Examination. *Indian Journal of Administrative Law*, 35(1), 98-115.

- **Dependency on Other Institutions:** The Lokpal's operational independence is limited because it depends on other investigating organizations, such as the Central Bureau of Investigation (CBI).
- **Limited Enforcement Powers:** The Lokpal's authority is diminished because its recommendations are not legally obligatory.
- **Inconsistent Implementation:** Although the Act is consistent at the federal level, differences in state-level Lokayuktas lead to differences in efficacy.

Delays in Appointments and Implementation

The delay in selecting members for the Lokpal and Lokayuktas is one of the major obstacles. These bodies continue to be underutilized years after the 2013 Act was passed because of political and administrative hold-ups.

- **Vacancies:** Long-term vacancies in Lokpal and Lokayuktas impair their ability to function.
- **Slow State Adoption:** Despite the legislative obligation, a number of states have yet to establish operational Lokayuktas.

Political Interference and Lack of Autonomy

Although designed to be independent, the ombudsman institutions face significant challenges⁴⁵ in maintaining autonomy:

- **Selection Committee Composition:** There are questions regarding impartiality when political leaders participate in the selecting process.
- **Dependency on Government Agencies:** The independence of the ombudsman is jeopardized by relying on organizations such as the CBI.
- **Budgetary Constraints:** Insufficient financial autonomy restricts the effectiveness of

⁴⁵ Ranjan, M. (2015). Political Interference in the Lokpal: A Case for Judicial Oversight. National Law Journal, 42(7), 35-47.

these institutions⁴⁶.

Public Awareness and Accessibility

A significant barrier to the efficacy of the ombudsman is the lack of public awareness⁴⁷ about its functioning. Many citizens are still ignorant of the procedures involved or their entitlement to register complaints.

Complex Procedural Requirements

Citizens may be discouraged from seeking redress because of the onerous procedural procedures for bringing complaints. Improving accessibility and efficacy requires streamlining these processes.

Conclusion: The Role of the Ombudsman in Fostering Administrative Accountability

The Ombudsman's institution plays a crucial role in fostering administrative accountability by serving as a mediator between the public and public administration. Its major responsibility is to investigate allegations of maladministration and offer solutions in order to preserve responsive and transparent governance. In democracies, where faith in public institutions is essential for stability and progress, this role is particularly crucial. By holding administrative authorities accountable, the Ombudsman preserves institutional integrity and defends individual rights.

By acting as a go-between for the public and public administration, the Ombudsman's office is essential to promoting administrative accountability. Its primary duty is to look into claims of poor administration and provide answers in order to maintain responsive and open governance. This function is especially important in democracies, where trust in public institutions is necessary for stability and advancement. The Ombudsman protects individual rights and maintains institutional integrity by holding administrative authorities responsible.

In the United States, inspectors general and specialized agencies function similarly inside administrative frameworks, despite the absence of a unified Ombudsman agency. While these

⁴⁶ "Lokpal Delays: A Case Study of Bureaucratic Challenges". The Times of India, January 15, 2020.

⁴⁷ Verma, S. (2018). Public Awareness and Access to the Lokpal System: Legal and Procedural Barriers. *Journal of Governance and Policy*, 9(1), 89-105.

agencies are empowered to investigate and record systemic issues, they are often unable to immediately address individual grievances. The complexity of the federal system, which offers a strong but disjointed approach to addressing maladministration, is reflected in the decentralized architecture of accountability systems in the United States.

India's Ombudsman system, which is represented by institutions like the Lokpal and Lokayuktas, presents a conflicting image. The effectiveness of these committees is jeopardized by political interference, a lack of resources, and appointment delays, even though they have broad mandates to tackle corruption and administrative flaws. Furthermore, the lack of public awareness limits the influence of these procedures. Despite these challenges, the Indian Ombudsman system holds great potential, particularly when bolstered by judicial oversight and civil society activism.

The comparative analysis demonstrates that the effectiveness of Ombudsman institutions is influenced by their integration into the broader political and administrative framework. The UK approach demonstrates how institutional independence and public trust can lead to effective grievance redressal in spite of enforcement limitations. However, despite emphasizing the advantages of specialization and decentralization, the US system has trouble with coherence and responding in a citizen-centric manner. India's ambitious but unevenly implemented Ombudsman systems highlight the importance of political will and resource allocation in achieving administrative accountability.

The viability of an Ombudsman group ultimately depends on its capacity to balance independence, accessibility, and enforcement authority. Generally speaking, ombudsman systems are more effective in countries that prioritize transparency, provide adequate funding, and ensure protection against political interference.

Ombudsman procedures must be tailored to the political and administrative landscape of the local area in order to be successful. A one-size-fits-all approach is insufficient since institutional, legal, and cultural differences have a significant impact on governing arrangements. An Ombudsman in a federal system, for example, has to operate differently than one in a centralized one. Similarly, the level of literacy and public knowledge affects how accessible and successful these systems are.

In conclusion, the Ombudsman institution is a crucial tool for encouraging administrative

responsibility; but, its composition and methods of operation must be modified to suit regional circumstances. By fixing structural problems and promoting public involvement, nations may maximize the potential of this institution and ensure responsive and transparent governance.