
The Ombudsman: An Instrument for Smooth Bureaucracy in Nigeria

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Abstract

Administrative inefficiency and ineffectiveness like red tapism, bottleneck, lethargy, statism, infringement of human right, employee work dissatisfaction and many more led to the necessary establishment of the Ombudsman institution which has its roots in Sweden over two hundred years ago. However, the institution in Nigeria could be trace back to the Udoji Reform of 1974 that recommended its establishment in Nigeria. The main purpose of this research is to analyze the institution of the ombudsman and its effect on the bureaucracy practiced in Nigeria. This study therefore, assesses the Ombudspersons by investigating them in the operations of a smooth bureaucracy as well as analyzing their successes and failures in the past years of existence. To achieve this objective, related literatures and publications were reviewed and the research discovered that to a greater extent the ombudsman has been able to solve problems relating to it notwithstanding its several short coming, and as such; if properly financed, and left independent, it will enhance smooth bureaucracy in the country.

Introduction

Bureaucracy is an ambivalent term that can be taken to mean different organizations used by contemporary governments in conducting its functions and encapsulated in the administrative system of the civil service. (Akindele *et al.*, 2002) During the colonial administration in Nigeria (1900-1960), the role of the bureaucracy was essentially concerned with the maintenance of colonial law and order and collection of taxes and levies. The colonial bureaucracy was created in the first instance, to prosecute imperial policies. The post-independence era witnessed “the transformation and redefinition of the role of the civil service to that of nation building that is assisting the new government to plan and accelerate the pace of Nigeria’s socio-economic development.” (Nigeria, 1985:15). Bureaucracy widely defined, refers to the machinery of government created to execute the decisions and policies of government. Political office holders make policies, while the public bureaucracy implements it. The terms bureaucracy, civil service and public service are synonymously used in administration. The institution is charged with the responsibility of formulating and implementing policies and programmes of the government. (Enahoro, 2016) This function serves as a major function of the Nigeria Civil service. Downs (1967) states; It is ironic that bureaucracy is primarily a term of scorn. This was properly emphasized by Karl Marx. It suggests a slow-moving organization, usually associated with government, which serves the public with a mixture of arrogance, deliberate obstruction and incompetence. (Wallis, 1993:78). To this end was the institution of Ombudsman created and established in Nigeria.

The public complaints commission or the ombudsman is the institution established by the federal government in 1975 after recommendation by Udoji reform of 1974 to be a “history ear” by entertaining from citizens; complaints of injustice, corruption, unfair treatment and abuse of office by public officers. (Nigerian Infopedia, 2017). He is a state official appointed to provide a check on government activity in the interests of the citizens and to oversee the investigation of complaints of improper government activity in the interests of the citizen. (Kunle, 2012). He could be popularly referred to as a watch dog. The history of the Ombudsman can traced to 1809 in an era of authoritarian monarchy in Sweden. It was developed as a check on executive power and incidentally it developed within the executive itself. It was then establish to ensure that the administration would vigorously respect and implement their laws. Over the period, the office was redesigned and moved away from the sphere of the executive and became the instruments of the parliament to monitor and control the executive. In the twentieth century, it acquired its relative autonomy and evolved into the citizen’s instrument. Posing as the 'defender of civil rights against the arbitrariness of bureaucracy. (Przwouski, Stakes, and Monin, 1999).

Statement of Problem

The adoption of the ombudsman by many countries of the world especially the African nations is a prove of government willingness to be monitored, probed and redressed. As such the public complaint commission established in Nigeria is not an exception. The number of S.S.A. (Sub –Sahara Africa) countries with ombudsman institutions increased from six (Tanzania, Ghana, Zambia, Sudan, Nigeria and Zimbabwe) in the late 1980’s to about a dozen in 1995 with Malawi, Namibia, Senegal, and South Africa among the newcomers. (Ademolekun, 2006). Several countries in Africa have now realized the need to adopt the ombudsman plans and anticorruption institutions in their bureaucracies. (Osegbue, C. *et al.*, 2017). Despite the willingness of the government to rule of law, there is a big gap between the government and the people. The question that has always been still remains; is the ombudsman a bridge between the government and the people? The issue of smooth bureaucracy can only be found in a system of downward and upward communication.

According to Osakede *et al* (2014) Ombudsman system was set up with very good intentions so to meet up with its stipulated functions, the government interference in the operations and the activities of the Ombudsman has remained a serious task for the system to thrive. As such, the purpose for their existence has not been met. This has resulted in bureaucratic bottle-neck, corrupt practices in the Nigeria’s public and civil service in the recent days.

Objectives of Study

The broad objective of this study is to examine the role of Ombudsman in running a smooth bureaucracy in Nigeria with emphasis on the Public complaint commission. The specific objectives include;

1. To determine whether ombudsman can foster smooth bureaucracy
2. To ascertain the role of ombudsman in a democratic society
3. To determine the extent of independency of the institution

Methodology

The method adopted for this research interpretive method of research design and data for the study were basically selected from secondary materials such as textbooks, internet materials, newspapers publications and magazines, journals, articles, etc. through a systematic qualitative content analysis.

Review of Related Literature

Lots of relevant literatures were reviewed to give proper understanding to this study

Concept of Ombudsman

The Ombudsman operates largely in the area separating the individual from the executive arm of government; it is meant to hear the complaints of the individuals against administration and executive officials and agencies. It is not usually meant to review legislative and judicial acts. The Ombudsman deals with unfair administrative measure which are not suitable for judicial review as for instance when the official concerned cannot be sued or where the fact of the case cannot be proved in the court but maybe uncovered through non-judicial investigations (Obiagba, 1993). Nigro and Nigro (1973) in Osegbue, C. *et al.*, (2017) defined an Ombudsman as an officer of the parliament who investigates complaints from citizens that they have been unfairly dealt with by government department, and who if he finds that the complaint is justified seeks a remedy. Ombudsman is an institution established under the constitution or by the legislature that receives and investigates complaints reported by individual citizens against any government and institution and recommend corrective actions (Sultana, 2007; Osegbue, C. *et al.*, 2017).

Ombudsman is an office provided for by the constitution or by an 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, an employer or who acts on his motion, and who has the power to investigate, recommend corrective action and issue reports (Haller, 1998; Sapere & Zinger, 2010).

Ombudsman thus as an institutionalized watch-dog over the activities and modus operandi of the government and the governed. It is therefore important to note that the ombudsman have dual roles. On one hand, they provide redress for individual grievances, while on the other hand they are concerned with the improvement of service delivery standard. In effect, an ombudsman is not just an agent of redress, but also has a quality control function. By investigating individual cases, ombudsman may highlight weaknesses in practices, rules and attitudes. (Osegbue, C. *et al.*, 2017). Ezeani (2005) sees Ombudsman as an official appointed by the National Assembly or Government (as the case may be), and charged with the responsibility of protecting the citizens from the arbitrary and oppressive exercise of the executive powers of government.

One of the demonstrations of democracy is seen in the establishment of the institution of ombudsman. This institution is practically responsible for checkmating governmental policies that does not go well with the people. The commission can be called “the people’s voice”. In nation’s like Nigeria, many citizen find it difficult to air their opinion or complain about issues, or in many cases are not financially buoyant to express themselves in media houses where such cases could be heard and given proper audience. It is therefore important to note that the ombudsman have dual roles. On one hand, they provide redress for individual grievances, while on the other hand they are concerned with the improvement of service delivery standard. In effect, an ombudsman is not just an agent of redress, but also has a quality control function (Osegbue, C. *et al.*, 2017).

Concept of Bureaucracy

Bureaucracy as a term is derived from two words; “bureau” and “Kratos.” The word “bureau” refers to the office, while the Greek suffix “Kratos” means power or rule. Thus the word

“bureaucracy” is used to refer to the power of the office (Hummel, 1998 in Wasim 2011:46). The ideology behind these two Greek words is established in the word “Authority” which Max Weber is defined to mean legitimate power. This can only be acquired through a person’s office or position. Wilmot (1985:98) argued that bureaucracy starts from birth (health bureaucracy) to family upbringing (social welfare), to school (educational), to work (civil service, military, commercial, and industrial), and to worship and death (religion): man is increasingly dominated by bureaucracy. The word administration is a blood in the body of man, just like bureaucracy is an engine to foster administration.

There are two main contending views on the study of bureaucracy; namely the Weberian and Marxian. According to the Weberian standpoint, bureaucracy is viewed as a large- scale, complex, hierarchical and specialized Organization designed to attain rational objectives in the most efficient and effective manner. The Marxian view bureaucracy as an instrument of oppression, exploitation and damnation in the hands of the dominant class who control and manipulate the state and its apparatus in the society (Enahoro, N. I, 2016). To him, bureaucracy is most specifically conceived as instrument usually employed by the ruling class to accumulate wealth and maintain their domination and control of the state.

The ideal bureaucracy of Weber could also mean a mechanistic and formal approach used in carrying out the functions of government to the point of indifference towards the effects achieved (Akindele, *et al.*, 2002). Coser, *et al.*, (1976) affirms that bureaucracy is a type of hierarchical arrangement that exists in an organization and it is designed rationally to coordinate the work of employees in the pursuit of large-scale administrative tasks, administrative organization based on a hierarchical structure and governed by written rules and established procedures. The authority attached to an official and the position of an official within the hierarchy depends on the office held, rather than the personal attributes and status of the incumbent.

The Mandate of the Ombudsman

The task of the Ombudsman generally is to conduct investigations and then give judgments. They do not fight for justice nor involve themselves in form of violence for justice. These investigations arise from complaints made by the public about the activities of government agencies. Akindele (1992) while quoting Van lean and Whittington gave functions of the ombudsman to be universally the same. That is;

- (a). To protect the rights of citizens.
- (b). To act as an indirect check on the misuse of powers by the administrators or any government officials.
- (c). To investigate publicizes abuses of bureaucratic power and in some cases to initiate Legal action Much as a private citizen would.

This eventually has made the ombudsman to be regarded as an official appointed to provide a check on government activities in the interest of the citizens and to oversee the investigation of complaints of improper government activity against the citizens.

According to Mammilla (2006). (Who was formerly an Ombudsman in Australia and now a common wealth Ombudsman) The office of the ombudsman is one example of an independent overseeing agency that is beyond the judicial and legislative branches of government this new system of overseeing accountability has developed in response to the shortcoming of legislative and judicial methods in providing effective practical protection of people’s rights.

In most countries of the world, where the institution exists, the office of the ombudsman is established to function in all ministries and departments of the Federal Government, as well as

in many states and local government. The work of the ombudsman has transformed government in terms of its accountability and sensitivity of individual rights.

Structural Operational Analysis

According to Ugbe (2004), Nigeria is a federal state the public complaints commission is structured in line with the federal system of government in Nigeria.

Accordingly, it has its National Headquarters. It also has 5 area offices in each state of the federation. The area offices facilitate easy and quick submission of compliances. At all local government Headquarters complaints boxes are kept for those who may not find it easy to travel to area offices or state offices to lay their complaints. Structurally, it was also documented by Ogunna (1999:470) that the commission is set to investigate the complaints lodged before it or entered through its own initiative, against government actions or inactions which deprives the citizens their right and make them suffer from injustices. The commission is empowered to investigate into such actions taken by (public commission publication).

- Any officer, department ministry of federal government.
- Any officer, department or ministry of the state government.
- Any officer, department authority of the local government.
- Any company incorporated under or pursuant to companies and allied matters act whether owned by any government or aforesaid or by private individuals in Nigeria or otherwise.
- Any statutory cooperation or public institution set up by any government in the federation.

Specifically, the case which the commission is empowered to investigate are as follows:

- i. Administrative act which are or appear to violate any law or regulation of any government of the federation (federal, states or local) this cases include wrongful dismissal of officers, non-payment of salaries and allowances, and so on.
- ii. Administrative actions which are mistaken in law or arbitrary in the ascertainment of fact, cases of this nature include hasty dismissal or termination in which the officers concerned are not given the opportunity to defend themselves, resulting in non-compliance with the procedure or error in getting the necessary fact of their offence.
- iii. Administrative actions that is unreasonable, unfair, oppressive, or inconsistent with the general functions of the administrative organ. Examples of this case are denial of official benefits, withholding of retirement benefits.
- iv. Administrative actions that is improper in motivation or irrelevant in consideration. All cases of injustice arising from selfish, sectional, partisan or religious consideration belong to this category.
- v. Administrative actions which suffer from ambiguity and cannot be explained.

Analysis of Ombudsman in Nigeria

Agency report, All Africa (2015) the commission nationwide resolved 12,976 cases out of a total of 30,000 complaints that were received the chief commissioner retired justice George Uloko in a press conference.

Agency report, Premium times (2018) reports that the Police Ombudsman receives 884 cases of professional misconduct against its personnel across the country between January and June, Mr shogunle (Head, Public Complaints Rapid Response Unit) said 750 of the cases have been resolved while 124 were still under investigation and 10 of the reported cases were discovered to be false. In this publication, he said that a number of cases dropped by 13.29% in the first-half of 2018 when compared with 1,155 cases recorded in the same period in 2017.

Uche, A. (2017) reports that The National Insurance Commission (NAICOM) Ombudsman settles 218 cases worth of N5.5 billion in 2016.

Ajokubi, L. (2016). Reports that the institute commissioner in Imo state in his 2015 annual report presentation said that a total of 405 cases which were received and initiated in 2015, 302 cases were resolved and disposed while 103 cases are pending and still under investigation. Agency report, Savid news. (2015). The State Director of the Public Complaints Commission (Ombudsman) said in an interview with the News Agency of Nigeria (NAN) that it has resolved 300 cases brought before it in Akwa Ibom State. This cases among others includes; unpaid pensions, wrong termination of appointments and irregularities in promotion Notwithstanding, private corporations like banks has also seen the need for the institution. Access bank establishes its in-house customer Ombudsman for the purpose of resolving services issues between the Bank and its customers in the normal course of business. Osegbue, C. *et al.*, (2017) in his findings reported that every two months an average of 1-2 persons are being victimized in the units where they work in Anambra state and reported cases are not treated. The strongly concluded that the Ombudsman has not been able to effectively address cases of violation of fundamental human rights of public servants in the Nigerian public service as a result of undue government interference.

According to Ogunna (1999). In 1995, the commission received 10,013 cases throughout the federation of which 3,644 cases were satisfactorily resolved while 6, 369 were pending. In 1997, 3,918 cases were satisfactorily settled, while a total of 5,649 were pending. For example in Imo State alone, in 1996, 203 cases were received out of which 199 were satisfactorily resolved while 126 were pending.

Judicial appointments and conduct ombudsman annual report (2014). Observed that 183 cases conduct relating to Junior Committee (JC) 10,96 conduct relating tribunals 16 cases conduct relating to advisory committees were dealt with at 1st level initial check, totaling 295 while lot cases conduct relating to JC 10,77 cases relating to tribunals and 4 cases relating to advisory committees were finalized at 2nd level “fast track” totaling 185.

These therefore indicates success in the ombudsman. However, the institution faces some challenges in carrying out its activities. As a result of these, bureaucracy in Nigeria is practically influenced by the institution.

Challenges of the Ombudsman

In the process of this research, some challenges faced by the institution were observed such as:

1. The Ombudsman only investigate a case and cannot carry out justice against offenders. This has made them to be called “Dogs that cannot bite”.
2. Inability to investigate all cases at the appropriate time may result to the cases being obscure. Such complaint would lose their trust on the institution.
3. Government influences: members of the institution are appointed by the same government there are to investigate against as such, many cases would be abandoned especially when if it directly affects the government negatively.
4. The current public/civil servants has little/no awareness of the institution because of their recent fall in cases resolved.
5. Inadequate finance: staffs of the institution in 2016 went on strike as a result of a slash in their salary. This, eventually is an expression of dissatisfaction on their side and would result to their inability to perform their duties.

Conclusion and Recommendation

The institution of Ombudsman popularly known as the Public Complaints Commission in Nigeria has played major role in enhancing smooth bureaucracy; which in turn as led to the practice of democracy. Democracy according to Abraham Lincoln is the government of the people, by the people and for the people; which is the driving force of the institution. Despite its many setbacks, its recorded successes can foster a Nation to a greater height. The establishment of the institution in Sweden was out of a strong need to rescue the people from the operations of the elites. However, the ombudsman has been strongly influence by the government; which has caused their inability to resolve some cases.

I therefore recommend that:

1. Adequate fund should be made available to the institution as they are the mouthpiece of the public in order to reduce delay and inability to address all cases.
2. The module for appointing an Ombudsman should not be carried out by the government, rather the people should appoint someone whom they feel is credible of defending their interest. This will reduce government influence and increase the independency of the institution.
3. Media houses should take it upon themselves to bring the Institution to public notice to avoid ignorance of their rights and privileges. Since the institution has been brought to the closest level to meet the people's interest.

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