

INSTITUTION OF THE OMBUDSMAN AS A MECHANISM OF PUBLIC SERVICES' ACCOUNTABILITY

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Abstract

Institution of the ombudsman is established to listen to the public's grievances against the executive's decisions and indecisions through the simple, cheaper and accessible process and is capable to provide individual redress to the public.

The qualitative method was used such as literature survey and documentary analysis has been carried out to understand the role, evolution and characteristics of the ombudsman's institution. The objective of the study was to identify the role and mechanism of ombudsman and conditions under which ombudsman is effectively used as a mechanism of public services accountability. Findings shows that state-citizen relationship has been equated with the principal-agent model in which citizens stand for the public and state for agent, bound to be answerable to the principal. Ombudsman is empowered to involve the public officials of all levels in to the investigation of the complaints. Ombudsman moves beyond the role of complaint handler and issues guide lines in certain cases to induce policy reform..

Key words: Ombudsman, Accountability, Public service, government,

“Beware, every one of you is a guardian, and every one shall be questioned with regard to his trust” (Tradition of The Holy Prophet P.B..U.H).¹

Sahi Bukhari, Volume 3, Book 41, Number 592¹

Sahih Muslim, Book 20, Number 4496

Introduction

Institution of the Ombudsman is a statutory body involved in the process of making the public officials accountable before the public. Public officials are seen as the peoples' representatives or trustees and are accountable to the public for the performance of their designated functions (Fin, 1993). Public services' accountability refers to the process of calling the executive authority to account for its actions (Jones, 1992). Whereas institutionalised mechanism of accountability refers to the systematic dialogue between the government and the public mediated through different institutions of accountability. Such dialogue depends on the provision of the reliable information from the public agencies which are not only required to be held constantly accountable for their decisions and policies but also for the processes through which these decisions and policies are made (Mulgan, 2003).

The term public services' equals *Civil Services* or *Bureaucratic organizations* operating under the control of government. Key characteristics of the bureaucracy/ civil service include; strict sphere of jurisdiction, specialization of work, use of generalised rules and procedures, official hierarchy, graded levels of authority, criteria of competence and rational legal authority (Weber, 1991).

In order to make the public authorities comprehensively accountable before the public, diverse mechanisms have been devised by the different countries in accordance with their political and administrative environment. Such mechanisms of public services' accountability include; Political accountability, legislative accountability, accountability through judicial review, audit and specialised institutions, i.e., administrative tribunals, Ombudsman, etc.

This analytical paper '*Institution of the Ombudsman as a Mechanism of Public Services' Accountability*' aims at analysing the use of the institution of the ombudsman as a mechanism of Public Services' accountability. Birkanshaw (1994) defines the institution of the ombudsman as the 'statutory bodies whose major responsibility is to obtain satisfaction from public authorities for individuals who are aggrieved by decisions, non-decisions, actions or non-actions, which amount to maladministration or culpable behaviour' (p-187). Ever first institution of the ombudsman was established in Sweden in 1809 with the objective of investigating complaints against the executive authorities. The study is to contribute towards viewing the role of the ombudsman as going beyond complaint handling and towards understanding of its use as a mechanism of public service accountability.

Objectives of the study

The objective of the study is to,

- 1) To identify the role and nature of ombudsman as a mechanism of public service accountability
- 2) Under what conditions institution of ombudsman can be effectively used as a mechanism of public service accountability

Literature Review

History/Evolution of Ombudsman

Origin of the tradition of appointing special officers, other than the formal judicial system, to hear complaints against the actions of the executive, is traced back to the Kingdom of Sweden where in the year 1709, The King of Sweden appointed a special officer known as the 'chancellor of Justice' (Stacey, 1978) to investigate the complaints against the conduct, actions and decisions of the royal officials. Sweden transformed into the democratic state and framed its first democratic constitution in 1809. The first office of the ombudsman was established in Sweden in 1809 under the constitutional provisions.

Swedish legislature established the institution of parliamentary ombudsman as an internal control mechanism to keep a check on the authority of the executive. Sweden established the office of second ombudsman in the year 1915 to investigate the complaints against the armed forces (Stacey, 1978) which was further transformed into an instrument of parliamentary control in 1968. By now, institution of the ombudsman has become an essential component of the Swedish theory of constitutionalism (Magnette, 2003). There has been a slow pace in the establishment and expansion of the institution of the ombudsman during the second half of the 19th and first half of the 20th century. Germany founded the first office of the ombudsman in 1915 in order to investigate the complaints regarding the violations of the fundamental rights by the military officials. Finland established the office of the ombudsman on national level during 1919.

Denmark created the office of the ombudsman in 1955. Danish ombudsman is also considered as a role model for the establishment of the offices of the ombudsman by other countries. However there has been a large scale increase in the trend of establishing the offices of the ombudsman all across the developed and developing countries during the second half of the 20th century, as reflected in Table -1.

Such a sharp rise in the trend of establishing and adoption of the institution of ombudsman can be attributed to different factors which include specific political scenario of post world war II, demand for the public services reforms and legislation related to the data protection and freedom of information (Bennett 1997). Norway went for the establishment of ombudsman in 1962. New Zealand founded the institution of Ombudsman in 1962. Due to its outstanding performance, Ombudsman of New Zealand is also considered as the model institution for the commonwealth countries (Hill, 1976).

Establishment of the institution of ombudsman in United Kingdom is the outcome of extensive intellectual debate and experience of auditor general or comptroller which provided the basis for the establishment of the institution in the country. United Kingdom founded the institution of ombudsman with the name of Parliamentary Commissioner in 1967 with the mandate of dealing with the complaints of the citizens on behalf of the parliament (Stacey, 1971). In the United Kingdom institution of ombudsman has expanded in different dimension and forms i.e., Health service commissioner, financial services' ombudsman, police ombudsman, Local Government Ombudsman and variety of complaint handling and grievance redress institutions instrumental under the umbrella of ombudsman. United States, Canada, and Australia have also introduced the institutions of ombudsman on the state and provincial level. Emergence of the Association of International Ombudsmen, Commonwealth Ombudsman (1976), Ombudsman for European Union (1995) are the expanded forms of this institution.

Due to the flexibility of its system and adaptability to the countries with diverse systems of administration (Cheng 1968), institution of the ombudsman emerged as a considerable option for the countries beyond Scandinavia to be introduced as a mechanism of Citizens' grievance redress and Public official' accountability. Policy of the adoption of ombudsman by the developed nations was adopted by the developing world as well. Developing countries (Stacey 1978) including India '*lokpal or lokayta*' (1970) and Pakistan '*Wafaqi Mohtasib*' (1983) have established institutions of ombudsmen on the federal and provincial levels. Co-Operative Republic of Guyana was the first (Cheng, 1986) among the developing countries to develop the institution through the Ombudsman Act of 1967.

Roles of Ombudsman

Role of the ombudsman's institution is being perceived in the context of the concerned legal instruments and practices of the ombudsman systems. Countries operating with the ombudsman systems establish this institution under the statutory provisions through the *Acts* of the legislatures.

Statutory Role

Statutory role of the ombudsman has been defined in the International Ombudsman Institute's by-laws of 1974. As per by-laws ombudsman is to

- 1- 'Investigate grievances of any person or body of persons concerning any decision or recommendation made or any act done or omitted relating to a matter of administration, by an officer, employee or member or committee of members of any organization over which jurisdiction exists to a matter of administration.
- 2- To entertain complaints against government or semi government agencies.
- 3- Responsible to make recommendations, resulting from the investigation, to the organizations under jurisdiction'.

A comprehensive definition of the ombudsman institution constructed by Birkinshaw(1994) elaborates the role of this institution. 'Ombudsmen are statutory bodies, whose major responsibility is to obtain satisfaction from public authorities for individuals who are aggrieved by decisions, non decisions, actions or non-actions which amount to maladministration or culpable behaviour.'. Ombudsman performs the role of legislative check(Ansell, 2003) or instrument of parliamentary control (Magnett,2003) on the action and activities of the executive agencies.

Citizen's Voice

Ombudsman operates as a mechanism for institutionalizing citizens' voice, complaints and concerns about the actions or omissions of the public servants(Ansell 2003). With the passage of time, ombudsman has secured greater autonomy from the legislature and has become a means for citizens to control the public authorities and is known as the 'defender of the civil rights'(Magnett, 2003). Due to its complaint handling and recommendation processes, ombudsman exercises multidimensional control over the public officials and institutions (Prezeworski, et al. 1999).

Public watch-dog

Rowat (1973) identifies the role of the ombudsman as public watch dog, grievance man and citizen's defender. Rowat further elaborates the major assignment of ombudsman to receive and investigate the complaints of citizens against the public officials and when such complaints are found justified ombudsman requires the public officials to rectify or remedy the wrongs done. Aufrech and Breslsford(1983) perceive the role of ombudsman as the 'problem solver' and 'system finer'. However ombudsman's image of being a problem solver institution is more dominant than that of its capacity of being system finer.

ROLE MODELS

Relevant literature portrays the Swedish and Danish ombudsmen as two different role models in terms of their structure, jurisdiction and powers (Stacey,1978), (Mulgan,2003),(Ansell,2003),(Reif,1999). Swedish ombudsman is empowered to investigate the complaints both filed by the complainants and on his own imitative against the central and local departments. Swedish ombudsman is empowered to scrutinize the complaints against the courts/judges of the Supreme Court, armed forces, police, prisons, nationalized industries foreign office, and administrative boards. Swedish ombudsman has the powers to access all types of official documents in the course of investigation and can summon any of the public officers to appear before and assist the ombudsman as a witness or expert Danish ombudsman bears certain powers similar to the Swedish model. However in some key aspects it is distinct than the Swedish model. Unlike the Swedish model Danish ombudsman is empowered to scrutinize the decisions of the ministers in their capacity of being heads of the departments. However Danish ombudsman is not empowered to scrutinize the decisions of the courts, cannot admit the complaint for investigation prior to the exhaustion of the opportunity of departmental redress, its jurisdiction is limited in hearing complaints against the local authorities, is not empowered to prosecute the public servants and has limited access to the official documents in the course of investigation.

In both the capacities , investigator or prosecutor, ombudsman represents the citizens(Lane,2000). Similarly, initially, British parliamentary commissioner's role remained restricted to the issues of maladministration whereas New Zealand's ombudsman institution is known as 'grievance chaser' (Bennet,1997). Synonyms to the ombudsman's role in New Zealand (Hill 1976) are , 'grievance man', 'mediator man' , 'citizen's defender' and citizen's advocate. Ombudsman's role can also be understood from the mission statement of the New Zealand's

ombudsman. Ombudsman's role is also to generate complaints against the government, to exercise extensive powers of investigation to post decision administrative audit, to formulate judgements which criticise administrators and to report the findings of investigation to the public through parliament and press.

Types of Ombudsmen.

Institutions of the ombudsman can be categorized with respect to their roles and style of functioning. Important types of the ombudsman include; the executive ombudsman, the advocate ombudsman and mediator ombudsman (Hill, 2002). The other forms of ombudsman identified in the relevant literature include legislative and specialized ombudsman.

Executive ombudsman is appointed by the chief executive and works on the sweet -will of the executive authorities. It performs as an internal accountability or complaint handling mechanism within the executive agencies. Executive ombudsman is not an independent institution and is not compatible with the classical ombudsman.

Legislative ombudsman is appointed by the legislature and is the classical form of this institution which works independent of the executive. Legislative ombudsman investigates the complaints on behalf of the legislature and reports its findings to the legislature. Swedish Ombudsman and British parliamentary commissioner are the classical forms of the parliamentary ombudsman.

Advocate ombudsman refers to investigate the complaints of the citizens with the view in mind that some time advocacy is necessary to protect the disadvantaged clients . However, some authors challenge the advocacy role of the ombudsman and hold that ombudsman should not side with the clients and remain neutral for the sake of fair proceedings.

Mediator ombudsman endeavours to find local and mutually adjustable solutions to the problems of the complainants without imposing higher cost on the agency. Mediator ombudsman provides options for both the agencies and clients and involves the complainant in the process of investigation.

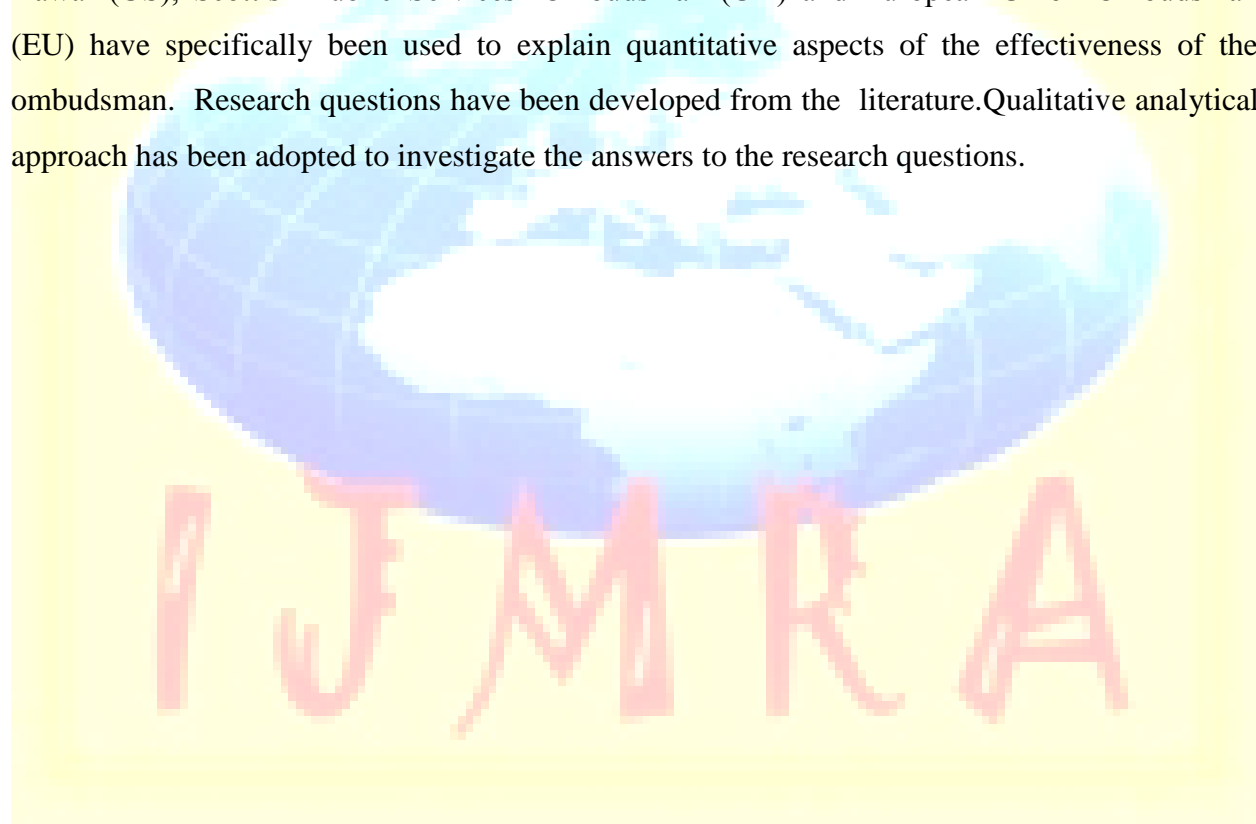
.Specialized ombudsman refers to the offices of the ombudsman meant to deal with the specific departments with the exclusive jurisdiction. Health service ombudsman, police service ombudsman and military ombudsman are the examples of specialized ombudsman.

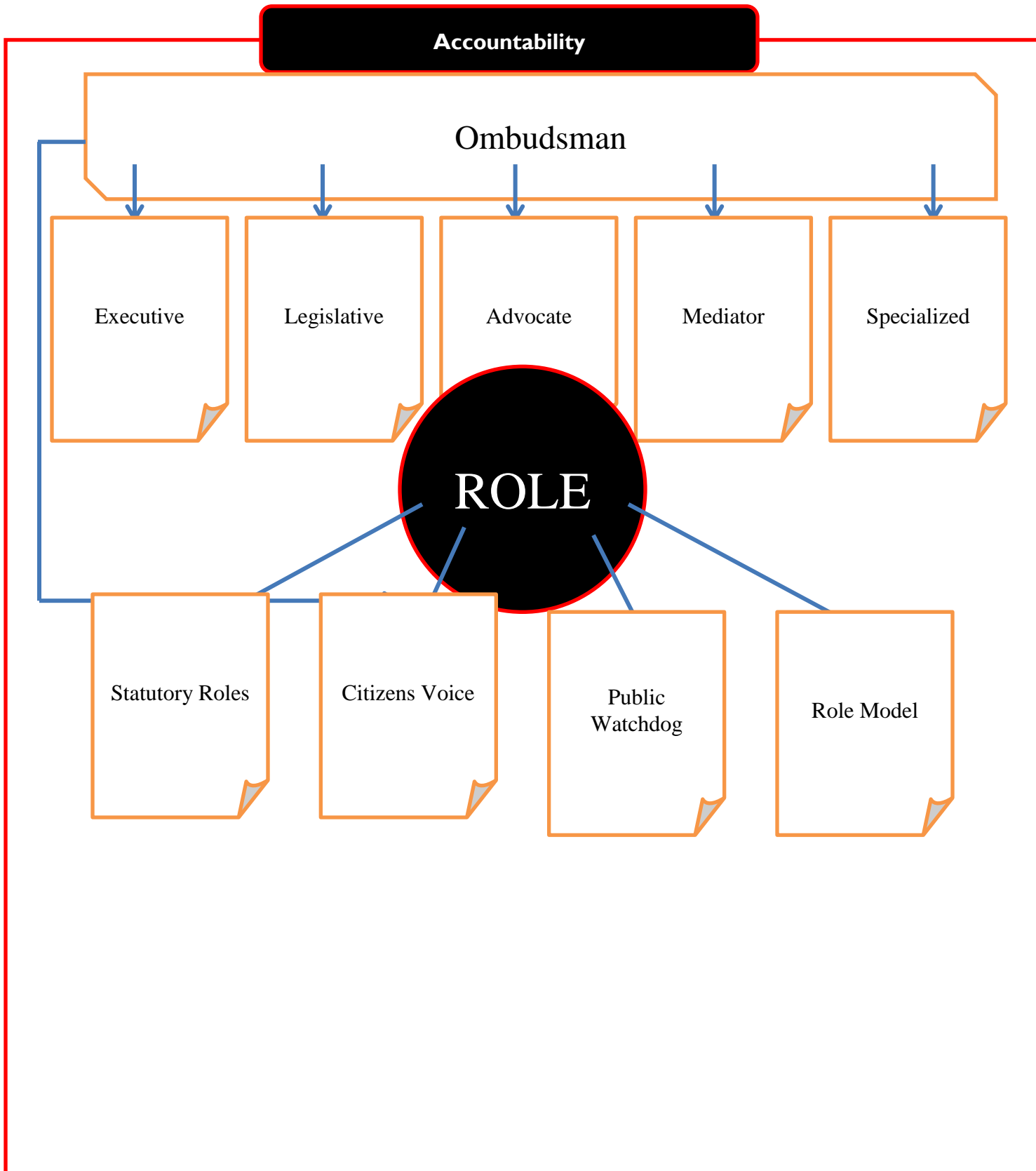
Hence having described the rationale, role and types of the ombudsman, next section is to identify the key characteristics of the institution of the ombudsman. Key features /

characteristics of the ombudsman distinguish this institution from traditional mechanisms of accountability in its procedures and performance.

Methodology

Secondary data /documents have been analysed to address the research topic. Literature on the concept of accountability has been surveyed. Publications on the history and role of the ombudsman have been assessed to understand different dimensions/ aspects of the institution of the ombudsman. Periodical reports of the ombudsmen have been an important documentary source used to elaborate the effectiveness of this institution. Reports of the Ombudsman of Hawaii (US), Scottish Public Services' Ombudsman (UK) and European Union Ombudsman (EU) have specifically been used to explain quantitative aspects of the effectiveness of the ombudsman. Research questions have been developed from the literature. Qualitative analytical approach has been adopted to investigate the answers to the research questions.





.External to the executive.

Organizationally, institution of the ombudsman does not fall within the ambit of the executive structure. Contrary to the position of the executive agencies ombudsman remains external to the administrative set up and carries out its functions while staying distant and external to the departments and agencies subject of scrutiny / accountability with the ombudsman.

.Functionally autonomous.

Institution of the ombudsman is free and independent in its functioning. Neither executive nor legislature interferes with the investigations and recommendations of this institution. Legal safeguards have been provided in this regard.

.Accessible and visible.

Unlike traditional courts or parliamentary committees ombudsman is easily accessible for the citizens .Process and proceedings of complaint handling is visible to the parties to the complaint. Such accessibility and visibility of this institution distinguishes it from the traditional mechanisms of public services accountability.

.Empowered investigator.

Ombudsman is legally empowered to gain access to the record of internal proceedings of the agencies in order to approach fair understanding of the treatment done to the complainant. Ombudsman is empowered to summon and ask the executive officials and agencies to explain , justify and rectify their actions aggrieving the citizens.

.Expert/specialist.

Ombudsman carries out its investigations with the help of professional experts and specialists. Legally, ombudsman can call upon the experts and specialists to assist him in the handling of complaints requiring expert opinion in the formulation of the judgement.

Impartial/ non partisan. Institution of ombudsman proceeds with its functions in a nonpartisan and impartial manner. Although approach of the institution of ombudsman remains client-centred but is not anti-administration.

Objectivity and informality. Another feature of the institution of ombudsman refers to the objective and informal approach of ombudsman towards the investigation of the complaints. Ombudsman focuses the ways of finding out the solution of citizens problem through holding the authorities to account objectively but informally.

Enforcement capabilities, Ombudsman uses variety of techniques to carry out the investigations and getting its findings implemented. Apparently ombudsman do not possess the coercive powers for enforcing its decisions and recommendation. Capability of ombudsman to bring change through its findings is contested and require investigation.

CONDITIONS UNDER WHICH OMBUDSMAN OPERATES AS A MECHANISM OF PUBLIC SERVICES ACCOUNTABILITY

An overview of the literature distinguished two important models of the ombudsman institution the Swedish and Danish ombudsman. Swedish model ombudsmen are more proactive and also act as public prosecutor in addition to the intrinsic role of investigator extending their jurisdiction to include the scrutiny of the actions of the courts, whereas Danish model institutions do perform the key role of being investigators but do not emphasise the scrutiny of the actions of the courts and do not perform as the public prosecutor.

Table Key *Conditions for the operation of Ombudsman as a Mechanism of Public Services' Accountability.*

<i>Essential Conditions</i>	<i>Essential component of Accountability</i>	<i>characteristics of Ombudsman</i>	<i>Remarks</i>
Structural Externality	Accountability institution to be external from executive agencies.	External from both Executive and legislature.	Institution of ombudsman is external to the executive hierarchy
Authority to make executive accountable.	Accountability institution/mechanism must have a mandate to hold executive agencies accountable.(demanding explanation, justification and rectification)	Ombudsman bears the authority to make the executive agencies within the jurisdiction accountable.	Ombudsman is authorised by law to make the public institutions accountable.
Independence		Functionally independent and	Ombudsman is independent of

		autonomous from politics and executive.	political and executive pressures
Powers Of Investigation	Capability of accountability mechanism for seeking answers and explanations from the executive officials and institutions. Triggering dialogue/social interaction	Empowered investigator with access to internal correspondence of the offices.	Ombudsman is an empowered investigator
Statutory Protection		Ombudsman is appointed through legislature .	Ombudsman are statutory entities
Impartiality /objectivity		Impartial / non partisan Expert/specialist Objective and Informal procedure.	Ombudsman is pro citizens but not anti government
Accessibility and Visibility	Readiness on part of agencies to accept Accountability. Readiness on part of agencies to accept sanctions and rectify wrong doings identified by the Accountability institution.	Visible and accessible	Ombudsman is easily accessible as compared to other mechanisms of accountability
Enforcement Capability	Capability of proposing remedy and requiring rectification from the agencies.	Enforcement Capabilities	Evidence of non compliance is rare

down a road map regarding the analysis of the effectiveness of the institution of ombudsman as a mechanism of accountability.

Effectiveness of the Institution of the Ombudsman as a Mechanism of Public Services' Accountability.

Literature survey reveals that due to the nature and multiplicity of its objectives, quantitative evaluations of the performance of the ombudsman have been scarce and comparative empirical evidence is rare. Due to the scarcity of quantitative evaluations, scope of this study is restricted to the understanding of the effectiveness of the ombudsman qualitatively. What does effectiveness of the ombudsman mean?, what are the measures employed to evaluate the performance of the ombudsman?, How far empirical evidence explains the effectiveness of the ombudsman as a mechanism of accountability? Key indicators/measures of the effectiveness, are to be identified and elaborated with the help of the empirical evidence found in the relevant literature.

Nature and dimensions of impact/effectiveness.

Approaches towards the evaluation of the ombudsman programme involve, evaluating the performance of the institution against its own set goals, and comparing ombudsman's performance with other accountability institutions. Objectives of the institution of the ombudsman, as identified in the preceding discussions, involve; encouraging the public to complain, righting the specific wrongs, bringing humanity to the bureaucracy, minimizing the public's alienation from the government, reforming the administration, acting as the administrative watch-dog and vindicating the civil servants when unjustly accused of maladministration (Hill,1976).

Effectiveness of the ombudsman needs to be analysed from two dimensions of its impact. *Firstly*, ombudsman is expected to provide individual redress to the citizens, *Secondly*, Ombudsman's findings cause an indirect impact leading to introduction of changes in the policies of the executive agencies,(Hill,1976, Danet,1978,Mulgan,2003). Hertogh,(2001)refers to the expected impact of the institution of the ombudsman in Netherland quoting the statutory provisions of the Netherland's General Law Act of1992 and Ombudsman Act of 1981, 'decisions of the administrative courts and ombudsman in Netherland should not only provide individual redress but are also expected to have an effect on the administrative action and produce some sort of policy impact' reaching into the future and beyond the particular decisions complained against'.

Mulgan(2001) considers the prevalence of the threat of calling the executive authorities to account as an important ingredient of the effectiveness of accountability. Other important elements to the effectiveness include; free flow of information, availability of the effective

forums for discussion and cross examination, mechanisms of rectification and in certain circumstances an element of the retributive justice. Certain measures of evaluation are to be elaborated in the next section..

Measures of Evaluation.

Literature on the ombudsman provides for different measures to evaluate the impact or effectiveness of the ombudsman. Some of the common and generalisable measures have been identified in this essay. Stacey (1978) provides for the measures to evaluate the impact/effectiveness of the ombudsman in terms of How widely office of the ombudsman is used ? How widely office of the Ombudsman is known to the Public as an alternative forum of remedy? What does remain the number of complaints received in the office of ombudsman? and what does remain the extent of representation bias with reference to the demographic composition ? . Furthermore, effectiveness of the ombudsman can also be measured in terms of ; the extent of , accessibility ,visibility, independence, expertise ,representativeness and authority enjoyed by this institution in the discharge of its functions.

Table..Danet’s Measures for Evaluating the Effectiveness of the Ombudsman.

Client-centred Measures	Public Administration- Centred Measures	Ombudsman’s office-centred Measures
1-Rate of complaining, petitioning (a)No of complaints/petitions per 100000,population. (b)No of complaints /petitions/100000,voters	1-Targets of complaints: distributed by classification of departments, agencies.	1-Annual case load: Total new files opened
2-Knowledge of availability of Ombudsman’s help. Petitions addressed to his office	2-Subjects of complaints- Resource, service withheld. Resource , service taken away. Procedure faulty Poor human relations	2-Staff work load average no;Files per staff member; (a)numerator= Total annual case Load. =Total files surviving preliminary screening.
3-Knowledge of Ombudsman’s	3-Overall Fairness:	3-Degree of investigation:

<p>jurisdiction, Petitions rejected for the lack of jurisdiction.</p>	<p>Proportion of complaints found justified: Total files in the case load. Total complaints investigated Total complaints on which decision made whether justified..</p>	<p>proportion immediately rejected . proportion partially investigated. Proportion fully investigated.</p>
<p>4-Representativeness of general public. (a) Comparison of general demographic profile with population (SLS, age, sex, occupation, urban, rura, residence ,etc). (b). Comparison with target population of the users of services.</p>	<p>4-Fairness to sub-groups; Test for variation in percent justified by demographic characteristic of client by department.</p>	<p>4- Efficiency: (a). Proportion of files in case load closed at year's end. (b), Speed of handling of individual petitions ,complaint.</p>
<p>5-Individual vs Collective complaints/ petitions; Individual, own behalf. Individual's ,on other's behalf. Group, individual's behalf. Group/own behalf. Individual's / group Behalf</p>	<p>5-Responsiveness to the Ombudsman's Recommendations: proportion of the complaints in which problem is rectified voluntarily.</p>	<p>5-Ability to help: (a). Proportion of justified complaints fully or partially rectified. (b) Proportion of all petitions, complaints (investigated or not) in which some assistance was rendered.</p>
<p>6-Appropriateness of Forum, Content of complaint/,petition. observance of norms of bureaucratic form e.g. typing of attached documents ,copies sent, short letters etc,</p>	<p>6- Targets of Reform : distributed by classification of departments /agencies; Substantive Reform Procedural Reform.</p>	<p>6-Fairness to sub-groups; (a). substantive fairness test for variation in ability tp help by demographic characteristic of clients . (b) Procedural fairness: Test for variation in efficiency by demographic</p>

<p>observance of bureaucratic norms in content e.g, appeal is universalistic , contains relevant information etc.</p>		<p>characteristics of clients. 7- Impact of Administrative reform: proportion of all complaints leading to; (a). Substantive Reform (b)Procedural Reform.</p>
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Source.Ayeni ,V(1999) in The International Ombudsman Anthology ,By Linda C,Reiff.²

Since, scope of this study is limited and entire set of the evaluation measures given in the table above cannot be analysed, a subset of evaluation measures has been chosen to be elaborated with the help of the available empirical evidence. Such generalise able measures/ indicators of the effectiveness of the ombudsman include; *Firstly*, number of complaints, *Secondly*, categorization of the complaints, *Thirdly*, number of ombudsman offices, *Fourthly*, customer satisfaction surveys, *Fifthly*,cost effectiveness, and , *Finally*, cases reported in the periodical reports.

.Number of complaints/ Enquiries.

Phrase that ‘ *customers vote by their feet*’, refers to the tendency of giving up the use of ineffective services or institutions. In their annual reports, ombudsmen themselves use the number of complaints as a measure to assess the effectiveness of the institution. Increasing number of the complaints is considered as an indicator of the effective performance of the concerned institution.

Although increase in the number of complaints may also be associated with the population growth, yet this measure is used as a key indicator for the evaluation of the effectiveness of the ombudsman. Larry, B, Hill (2002), while analysing the performance of the Ombudsman of Hawaii, identifies the number and categorization of complaints as key indicators of the effectiveness of the institution. Figure 5.1 reflects the number of complaints or yearly office work load as an indicator of Hawaiiin ombudsman’s effectiveness for thirty during the years , 1969-1999.

Gradual rise in the number of complaints is considered as an indicator of the effective performance of the ombudsman of Hawaii. Scottish Public services ombudsman also presents the

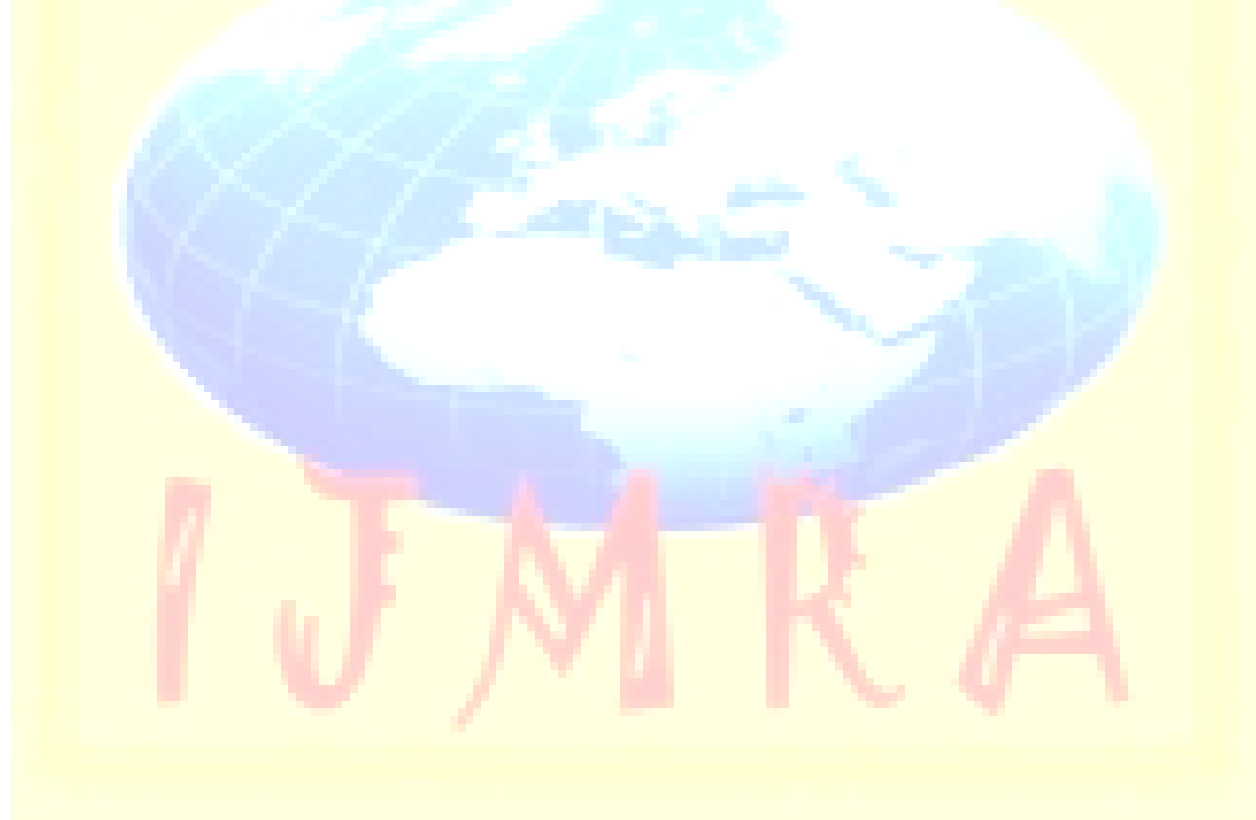
²-I have compiled the table from the annexure of the article. By Ayeni(1999).

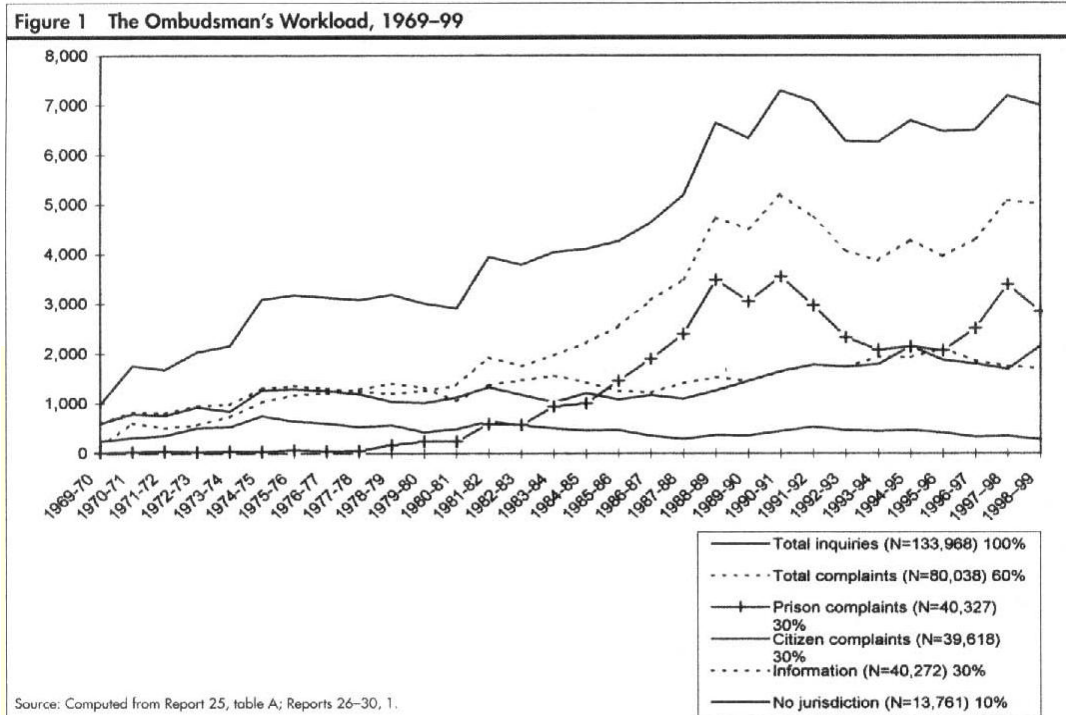
number of complaints as a measure effectiveness as reflected in Table, 5.3. Sector wise summary of the complaints and their disposal also indicates towards the effectiveness of the ombudsman's performance.

Categorization of Complaints

Categorization and relevance of the inquiries and complaints are also used as an indicator to evaluate the effectiveness of the office of the ombudsman. Sometime number of the complaints may not be increasing but quality and speed of decisions along with the contents of the complaints become the sources of determining the effectiveness of the decisions

Figure , Number of complaints with the Office of the Ombudsman of Hawaii.





Article: Ombudsman Revisited by Larry B, Hill(2002 p-28).

Table.5-2 Number of complaints with Scottish Public services Ombudsman

Year	Enquiry	Complaint	Total
2006-2007	2386	1842	4228
2005-2006	1974	1724	3698
2004-2005	990	1387	2377
2003-2004	498	1293	1791

Source; Scottish Public Services' Ombudsman.(Annual Report.2006-2007 –p-7)³

. European Union Ombudsman's Report for the year 2006-2007, reflects an internal analysis and classification of the complaints(Annexure ,A) . Report presents the trend of rise in the number of complaints received in the office of the EU ombudsman and further categorises the complaints with respect to the action or decision taken on them.

Annual report of the ombudsman include a comparative statement of work load of the year of report and previous year. So analysis of the periodical reports of the offices of the ombudsman strengthens the argument that the number of complaints and office workload along with the categorization of the complaints do explain the utility and effectiveness of the ombudsman.

³.Data compiled into table from the Histogram on p-7.

SPSO's report 2007-8 reflects the importance of evaluating performance through the categorization of the complaints.

Customer Satisfaction

Another important measure of evaluating the effectiveness or impact of the ombudsman remains the consumer satisfaction survey. Ombudsman operates in a customer sensitive environment and its effectiveness is also explained by the degree to which customers are satisfied with the proceedings of the ombudsman. Special *outreach* branches have been established within the institution to maintain a first-hand contact with the customers. Customer satisfaction surveys are sponsored by the ombudsmen and comments of customers are published in the periodical reports. SPSO(2006-2007) included the comment of a customer whose complaint was not upheld, "*thank you for your letter for informing me of the results of your investigation into my complaint. Although I am disappointed with the outcome, I appreciate the thoroughness and diligence with which you carried out the task*". Academic literature on the ombudsman scarcely covers the consumer satisfaction dimension of the effectiveness of the ombudsman

.Cost effectiveness.

Analysis of the economic and political cost effectiveness of the institution is another important indicator to evaluate the ombudsman. Having carried out an evaluation of the New Zealand's ombudsman, Hill(1976), argues that the ombudsman's benefits do not accompany any political consequences and its economic cost does not outweigh its benefits. Evaluation of the New Zealand's ombudsman reveal that benefits of the ombudsman programme appear to have greatly outweighed its social and economic costs.

Reported Cases

Quality of the periodical reports is a useful index to the evaluation of the effectiveness of the offices of the ombudsman (Ayani,1999). Coverage of statistics, organization, language and usefulness of the information provided in such reports indicates the overall effectiveness of the institution. An important dimension of the effectiveness or impact of the ombudsman institution remains the reported cases in the annual reports. In order to provide guidance to the executive agencies and to constrain these agencies principally from repeating such actions ombudsman makes a selection of the cases of general interest from the yearlong proceedings and reports the findings of the investigation and decision on the complaint in the annual reports.

Reported cases of general interest are of three types and do create an impact in terms of individual redress and policy reform.

Limitations

Survey of the literature on the ombudsman reveals that there is a scarcity of empirical evidence regarding the evaluation of the ombudsman as a mechanism of accountability. Evaluation measures discussed in this study require more analysis and be tested in a comparative scenario. Available evaluation measures are diversified and unspecific due to which quantification of the performance of the ombudsman has not been possible. Mere reliance on the statistics provided in the ombudsman's periodical reports is insufficient to grant validity to the evaluation of the institution. Validity refers to the sufficiency and generalise ability of the evidence gathered to ascertain the effectiveness of the ombudsman.

FINDINGS AND CONCLUSION

Having surveyed the literature on accountability and ombudsman qualitatively, derivation of the concrete findings on the effectiveness of the ombudsman remains difficult. Empirical evidence regarding the effectiveness of the ombudsman is insufficient to lead to the concrete conclusions. Different aspects of the ombudsman's performance require more analysis and a suitable comparator is required to be developed to evaluate the effectiveness of the ombudsman as a mechanism of public services' accountability. However based on the theoretical understanding and analysis of the limited measures of evaluation in this essay, certain general findings regarding the process of accountability and effectiveness of the ombudsman are here by summarised .

Firstly, accountability is found to be the process of making the executive authorities, explain, justify and rectify their actions and non-actions. **Secondly**, Institution of the ombudsman is one of the different mechanisms of accountability which is legally established, statutorily protected and operates independent of the executive and legislature. **Thirdly**, democratic societies seem appreciative of the ombudsman institution, increasing number of the ombudsman offices has been considered as evidence in this regard. **Fourthly**, number of the complaints, customer satisfaction surveys, cost effectiveness, and number of the ombudsman offices are used as the general measures of the evaluation and available evidence based on these measures indicates that the institution of the ombudsman is being used effectively as a mechanism of accountability. **Fifthly**, institution of the ombudsman is not equipped with the tangible mechanism of

enforcement which remains a source of questioning the effectiveness of this institution by the critics. *Finally* Ombudsman does not replace; rather complement the role of the traditional mechanisms of public services accountability, i.e, courts, and tribunals. audit etc.

CONCLUSION

Hence, under the topic ‘ *Institution of the Institution Ombudsman as a Mechanism of Public Services’ Accountability*’, literature survey and documentary analysis has been carried out to understand, the meaning and nature of public services accountability, types characteristic and limitations of the traditional mechanisms of accountability, rationale, role ,evolution and characteristics of the ombudsman’s institution along with the elaboration of the conditions under which ombudsman is effectively used as a mechanism of public services accountability. Certain measures of evaluation have also been identified and limitations of the ombudsman have been listed prior to the summarization of the findings of the analysis.

State –citizen relationship has been equated with the principal -agent model in which citizens stand for the public and state for agent, bound to be answerable to the principal.

Institution of the ombudsman is established to listen to the public’s grievances against the executive’s decisions and indecisions through the simple, cheaper and accessible process and is capable to provide individual redress to the public. Ombudsman is empowered to involve the public officials of all levels in to the investigation of the complaints. Ombudsman moves beyond the role of complaint handler and issues guide lines in certain cases to induce policy reform. Ombudsman operates independent of the executive as well as legislature and enjoys statutory protection for its proceedings and recommendations.

This institution has been effectively functioning as a mechanism of accountability ,since the number of people resorting to the ombudsman for redress is increasing and number of the ombudsman offices is rising all over the developing and developed countries which reflects the usefulness of this institution.

Keeping all the qualifications of the ombudsman constant, this institution needs to be provided with the comprehensive and effective system for enforcing its recommendations because reliance on the voluntary compliance cannot always be credible. Evaluations of the ombudsman carried out so far are mostly qualitative and subjective. There is a need to identify clearer and specific quantitative measures to evaluate the effectiveness of the ombudsman more objectively.

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