

## Challenges and Roles of Ombudsman Institution in Protecting Human Right: A Case Study of Addis Ababa City

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### ABSTRACT

The objective of this study is to explore the challenges and roles of ombudsman institution in protecting human rights in the case of Addis Ababa City. To this end, the researcher employed a qualitative research methodology, and used different techniques to collect the required data such as focus group discussions, in-depth interview and informants were selected through purposive, convincing, snowballing samplings taken to enrich the empirical data from the institution. On top of this, the secondary data were also collected from various scholarly articles, journals, conference and symposium proceedings and institutional documents related to human rights protection, frameworks on and practices of ombudsman. The findings of the study indicated that, though, Addis Ababa city ombudsman institution striving to contribute on protection human rights via building democracy, improving service delivery and promoting good governance, however due to insufficient (unskilled) human resource, weak collaboration with national/international institutions, weak commitment of public officials, lack of operational/institutional autonomy, scrawny public awareness, legislation and recommendations problems and mandate overlap with other institutions are the daunting constraints which affect the institution not to perform its national mandate as it was hoped to do. Irrespective of the challenges, the research further pinpointed opportunities improvement of good governance, increment of legal provision to nationally protect human rights, policy reforms and improvement of public services delivery in many institutions and progressive democratization process being made the government could be using as positive grounds for institutional operation and to realize its mission. Thus, the study finally forwarded the institution of ombudsman needs to change a critical methodology to adopt human-rights based approach to work its mandates in protecting arbitrary violations of rights and also human rights institutions and ombudsman could potentially merge a move that could cut costs significantly due to scarcity of resource and bureaucratic overlap in many national jurisdiction of the country.

### INTRODUCTION

In human history there were plenty conflicts, wars and other highest levels of violations of rights and even in today's global setting human rights violations has continued in the most outrageous way. The factors that forced to introduce institution of ombudsman in the world is the wide spread and increasing complexities of maladministration in different countries of the world that affected citizens' rights and freedoms (T.Tai, 2010) and then in response of such challenges international communities and states' governments turned to an idea of establishing

National Human Rights Institutions in the widely accepted form of ombudsman with the aim to minimize human sufferings and uphold human dignity and the demand for a watchman that will guarantee that government is carrying out its day-to-day functions and does not trample on the fundamental rights of its citizens and ensure maintenance of ethical principles by public officials (Chobanyan, 2016).

Historically, the term "ombudsman" is of Swedish origin and it was used for the first time in Sweden in 1809, when the Swedish Parliamentary Ombudsman was instituted by the instrument of

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Government, to protect the rights of citizens by establishing an administrative agency, independent from the executive branch. The word “Ombud” in Swedish means Representative, agent, delegate etc... (Batalli, 2015) or acting as [independently] or guardians of freedom of information (Tito, 2011) and [its function/mandate is to supervise the public offices].

Today, in worldwide countries, on national and sub-national level, have established ombudsman institution[with] a variety mandate that range from accepting and dealing with complaints against the public administration to safeguarding human rights(OECD,2018).Since the first establishment of the modern form of ombudsman in Sweden jurisdiction and power of the institutions are dramatically increasing, in fact widely spread to other Scandinavian countries such as: Finland (1919), Norway (1952) and Denmark (1953) (Satyanand, 1999).In support of this, in 1978, the International Ombudsman Institute (IOI) was established as promoter of ombudsman through studies, education programs, publications, exchange of regional and international information that recognize ombudsman institutions, strengthen their capacity, and to enhance cooperation’s(Owusu, 2012, Batalli, 2015).

Now the institution exists all over the world. In many African countries the institution has progressively opened after independence in 1960s, as defender of human rights by preventing and minimizing unethical practices, violation of human right that resulted due to maladministration(Mukoro, 2002).The spread of ombudsman has facilitated by its flexibility, which makes it readily adaptable to different constitutional, cultural, legal and political environments(McMillan, 2006) and since court proceedings too expensive and lengthy makes the institution more preferable and popularity of the institution boosted in worldwide, continues to grow dramatically(Chobanyan, 2016,Batalli, 2015).Tanzania was the first African country established ombudsman in1965, this used as vanguard of the dissemination of the idea and the demand that African countries to treat citizens with fairness and impartiality instigated the spread to all over the African countries with fast rate (Mukoro, 2002).

When we take the Ethiopian, before the introduction of the 1994 constitution, Ethiopia was never a party to many of the most critical international instruments in the area of human rights, such as the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which gave its consecutive authoritarian rulers a free hand to practice violence (Besselink, & L. F, 2001). There were an abortive attempt to set up ombudsman institutions during the Emperor Hialeslassie, likewise, during the military period there were poor human rights record, abuse of political authority and resulting sensitivities that surfaced and instigated for its downfall.

The introduction of the 1995 FDRE constitution confers democracy and human rights on the nations, nationalities and peoples of Ethiopia and the constitution clearly recognizes the need for the establishment of the institution and realized it in practice. This has been established as per the constitutional regulations in accordance with Article 55 (15) of the FDRE constitution, and endorsed and/or enacted by the parliament

with a proclamation number of 211/2000 as a watchdog behind the realizations of good governance in respect of activities conducted by government sectors in the effort made to serve the public. In order to insure the domestic protection of human rights the FDRE constitution established Human Rights commission and Ombudsman institution in two separated offices with different mandate, the former as human right defender and the second intended to bring good governance by avoiding maladministration in public offices and they are also guided though the normative and legal prescriptions.

## STATEMENTS OF THE PROBLEM

Although many ombudsmen have adopted human rights concerns as an explicit part of their mandate, even those who have not are still inevitably involved in significant human rights work today (O.Ayeni ,2009). It is in similar case that C.Linda (2012) states that there are still many ombudsmen around the world with a mandate to focus on complaining maladministration, but they are still silent on human rights protection. Many of African countries including Addis Ababa ombudsman have adopted, perhaps copied the Scandinavian ombudsman model, yet they found it worrisome and challenging in light of the political and economic ambivalences and difficulties to operate its national mandate and the attempt to protect human rights is not yet comprehensive despite of theoretical inadequacies, political and institutional gaps, legal and parliamentary recognitions to the institution of ombudsman.

The aim of the study is intended to explore the challenges and roles of the institution of ombudsman in protecting human right in Addis Ababa city and the specific objectives of the paper is:

- To identify major factors challenging the performance of ombudsman in Addis Ababa city
- To justify the roles and contributions of Addis Ababa city ombudsman to protect human rights
- To come up with possible solutions that enhances the institution of ombudsman to realize its mandate in Addis Ababa city.

## METHODOLOGY

This study employed a qualitative method of research design, typologically, both primary and secondary information were taken into consideration. The primary data were collected through in-depth interviews and focus group discussion (FGD) while for secondary sources, the study relied on relevant literatures textbooks, journals, magazines, institutional reports, official publications etc. In selecting the interview and FGD sample, non-probability sampling techniques such as purposive and snowball samplings was applied so as to get in-depth knowledge from concerned and experienced individuals. Based on this sampling with set criteria, a total of 40 informants, 8 of them were selected for interviews: five from ombudsman top managers, one from anti-corruption commission, one from human rights commission and one from Cherkos first instance court and 32 of them for FGD: grouped in to four and each

group contains 8. Informants were selected from ombudsman institution, anti-corruption commission, human rights commission and from Cherkos first instance court.

After the required data were collected through the designed data collection instruments, the data was then organized thematically, analyzed and interpreted through critical discourse analysis. It also used narrative and descriptive analysis to get reliable or better understanding about the roles and challenges of the institution of ombudsman.

## LITERATURE REVIEW

### CONCEPTUAL FRAMEWORK AND NATURE OF OMBUDSMAN INSTITUTION

The term "Ombudsman" was used for the first time in Sweden in 1809, when the Swedish Parliamentary Ombudsman was instituted by the instrument of Government, to protect the rights of citizens by establishing an administrative agency, independent from the executive branch (Batalli, 2015). Theoretically many scholars defined the term Ombudsman from different perspectives. Some of the important definitions given by well-known scholars are: For instance, according to Frank (1981) ombudsman means an office established by law, headed by an independent, high level public official who is responsible to the legislature, who receives complaints against government agencies, officials and employees, or who acts on his own motion, and has the power to investigate, recommend corrective action and issue reports. Likewise, ombudsman defined as an independent and nonpartisan officer, provided for by law, who is an experienced person having authority to inquire into pronounce upon grievances of citizens against public authorities (Batalli, 2015).

Traditionally ombudsman deals with complaints from the public on administrative injustice and maladministration, but increasingly too with human rights and corruption related matters (Remac, 2013) and respect for human rights is now seen to be an 'intrinsic element' of good administration (Beqiraj, et al, 2018). Although the specific mandates of ombudsmen vary from country to country, all follow similar procedures in the performance of their duties, thus ombudsman receives complaints from members of the public and, if a violation of rights can be identified, initiates an investigation (Pinheiro and Baluarte, 2000). Hence, we can sum up from the above scholars perspective, the institution of ombudsman is independent and politically neutral institution to secure the rights and freedoms of peoples through investigating individuals' complaints against maladministration, especially that of public authority. The instigating factor for the development of ombudsman office is, since courts [legal] proceedings [are] too expensive and lengthy makes the institution of ombudsman is more preferable and supposed to fill an important gap within the justice system and the ombudsman office, is now widely increasingly and recognized as being capable of making a significant contribution to human rights protections, both at the individual and wider societal levels. Now the institution capable to provide flexible remedies tailored to the citizen, taking into account individual circumstances and the extension of its jurisdiction from

supervising potential maladministration practices to addressing human rights infringements (Beqiraj, et al, 2018).

To be credible and effective, the office of the ombudsman is independent in its structure, function, and appearance (Charles and Julie, 2010) and the irreducible minimum characteristics an ombudsman must have are: independence, impartiality and fairness, credibility of the review and investigation process, confidentiality and non-partisan officer often provided for in the Constitution, who supervises the administration (G. Gottehrer, 1998).

### INTENTION FOR THE ESTABLISHMENT OF OMBUDSMAN

The primary objective ombudsman office is protecting nationals from rights abuses authored by public officials and to insure fairness and legality in public administration (Pinheiro and Baluarte, 2000) and treat peoples lawfully, securing fundamental rights via insuring good governance in public offices (Batalli, 2015, McMillan, 2009) and likewise, ombudsman offices has played crucial role in protecting human rights and its mandate is very extensive which encompassing fighting corruption, ensuring ethical conduct by elected public officials, protecting, promotion mandates in their governing legal frameworks, launching court actions before constitutional and administrative courts to determine the constitutionality or legality of laws, making law reform proposals to government, and human rights education (C. Reif, 2012) and avoiding discrimination and human rights abuses perpetrated by individuals, groups or the government (Pinheiro and Baluarte, 2000).

Human rights ombudsman institution has applied international and domestic human rights law in their activities in reference to their domestic constitutional, legal frameworks and international human rights obligations of their state (C. Reif, 2012). Accordingly, the institutions of ombudsman applied the human rights instruments laws such Universal Declaration of Human Rights, the Declaration on the Rights of Indigenous Peoples, and the European Convention on Human Rights and Fundamental Freedoms (McMillan, 2009). The Human Rights Ombudsman also included the basic moral and legal principle that: "All human beings are born free and equal in dignity and rights" is an axiom on which ideas, theories and the practice of human rights rest. All forms of discrimination are prohibited, which is a negation of the principle of equality. Everyone has the right not to be discriminated (Dzumhur, 2018).

Moreover, the UN has also specifically highlighted the role of the ombudsman in the promotion and protection of human rights: for instance, in many countries of the world, ombudsman offices operate as National Preventive Mechanisms against torture and other cruel, inhuman or degrading treatment/punishment, as part of their mandate, an ombudsman undertake preventive work in the form of monitoring and visits to places of detention, institutions and any other facilities where individuals are deprived of their liberty. Due to this pivotal contribution, international bodies such as the UN, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe (CoE), as well as other regional

bodies, have lent support to the introduction of ombudsman institutions as a democratic means of protecting human rights (Beqiraj, et al, 2018).

## STRUCTURE/MODEL AND MANDATES OF THE ETHIOPIAN OMBUDSMAN INSTITUTION

In the world there are many models of ombudsman institution like executive ombudsman, Independent ombudsman and parliamentary ombudsman (Chobanyan, 2016), of these in terms of modality, Ethiopia adopted the parliamentary ombudsman (Yemsrach, 2010). Parliamentary ombudsman: this is elected and appointed by the parliament and is accountable to it. He/she is acting as a parliamentary body but has wide powers which give him/her certain autonomy and independence from parliament (Chobanyan, 2016). The main task of a classic parliamentary ombudsman is {to have} general jurisdiction over administrative conduct, to control over the administration and its officials. In contrast to the previous two models of ombudsman in which his/her control is spread over both executive and legislative branches (T. Tai, 2010). In short, in parliamentary ombudsman complaint handling and administrative investigation is a practical and effective way of protecting people's rights (McMillan, 2009).

As indicated above, in terms of modality, the Ethiopian institution of ombudsman has adapted a Swedish parliamentarian model of ombudsman. Like Swedish the Ethiopian ombudsman is accountable to the national assembly, however, there was difference between the Swedish and Ethiopian ombudsman. For instance, the Ethiopian ombudsman is not empowered to initiate legal proceeding and present it to the court deliberation (Yemsrach, 2010). The Parliamentary Ombudsmen have the right to initiate disciplinary procedures against an official for misdemeanors. The objective of the Ethiopian Institution of the Ombudsman (EIO), provided in its establishment proclamation, is "to see the bringing about good governance that is of high quality, efficient and transparent and is based on the rule of law, by way of ensuring that citizens' rights and benefits provided for by law are respected by organs of the executive. Moreover, ombudsman has been established to address maladministration problems, to promote good governance and to defend rights of citizens via upholding the laws, organizational policies and to boost up public participations for better governance. The same is true to the Addis Ababa Institution of Ombudsman as it has been established per the constitutional regulations to be one of the democratic institutions under proclamation no.211/2000 and according to 1995 FDRE constitution, institution of ombudsman proclamation no.211/2000 article 6 sub articles (1) and (3), the Institution has a mandate to supervise administrative directives and decisions given by executive organs and their practices thereof do not contravene the constitutional rights of citizens and make recommendations for the revision of existing laws, practices or directives and for enactment of relevant legal frame works so as to foster assurance of good governance.

## FINDINGS AND DISCUSSIONS

### CHALLENGES OF THE INSTITUTION

#### I. Limited budget and insufficient human resources

According to the NHRIs (2013) the most accruable challenges for many African ombudsman institutions, including Ethiopia, is little experience of introducing of national laws and authorities for protecting human right. Also 2012/13 budget performance report stated that the Institution operates with limited budget and material resources, shortage of skilled and experienced expert's human labor. The funds allocated to the Institution also have been decreasing. For instance, according to its Strategic Plan for 2010-2015, it expected a total budget of 65.4 million for 2012/13 fiscal year, 51.9 million for 2013/14 fiscal year, and 42.5 million for 2014/15 fiscal year. Thus, In this regard, one respondent said that:

".....the biggest challenge is very limited budget allocated for the institution, even if the institution has multi-donors from international institutions such as World Bank, Norway Children Rescue Organization and UNDP but it is not enough and it could not carry out the expected mandate and its planned activities due to lack of funds...." (Quoted from interview with ombudsman institution Principals; Stadium, 2016).

MOREOVER, ONE INTERVIEWEE ALSO ARGUED THAT:

".....the institution severely lacks professional researchers and technologically skilled human labors. This creates work inefficiency and weak case investigation while the institution carries out its operation to deal with complains...it could hardly investigate cases, visit long distance areas, conduct researches and to share with countries which have best experience due to limited budget and human resources...." (Synthesized from interview with ombudsman institution Principals, 2016).

".....the institution has faced lack of multidisciplinary system in recruitment as most of the employs are lawyers; whereas fields of investigation includes varied offences, ranges from petty offences to the economic and financial crimes which require knowledgeable persons having different relevant social science backgrounds are not considered...."(Quoted from FGD, 2016).

The institution of ombudsman faced significant problems like lack of resources: inadequate budget, not enough staff dedicated to it, however, to have credible institution and to conduct the investigation in a timely manner, sufficient and human resources is vital. Without sufficient staff and resources may not be able to do the mandate it shouldered as hoped to do (G.Gottehrer, 1998). In the same vein, Tito noted that paradoxically to a large mission the budget allocated to the institution of ombudsman is however insufficient. Financial resources are important for achievement of the activities of ombudsman institution, but, low budget impose or limited on the achievement and effectiveness of the institution mandates. African countries are not more effective on resolving complaints through investigation, due to limited resources (Tito, 2011).

#### WEAK COLLABORATION WITH OTHER INSTITUTIONS



Regarding to the institution linkage with others institution, one interviewee elaborated that:

“The institution of ombudsman has weak institutional linkage/ collaboration with national and international democratic institutions with like that of IOI, Human rights commission, courts and anti-corruption commissions is not as such strong, even though they do have interrelated mandates in protecting human rights and improving public service deliveries(Quoted from interview with anti-corruption commission principal, Leghar, 2016).

“.....the institution is not partner and has not enough cooperation with media and other peace promoter institutions.....though media has played minimal contribution to the realization of the institution’s objectives and mandate.....” (Quoted from FGD, 2016).

In support of this, one interviewee from the institution of ombudsman management one elaborated that:

“..... in fact, the institution of ombudsman has a linkage with the Ethiopian human rights and anti-corruption commission since they have “Mandate Overlap”, actually administrative problems directly or indirectly affects the social, economic, cultural, civil and political rights of peoples, but the institution is forced to transform certain cases to these institutions for investigation, due to legally limited power. Thus, leads for delaying investigation cases that frustrates customers and of course, the institution makes experience sharing with some African countries like African ombudsman, Namibia, Angola and South Africa, however not yet shared with countries which have highly experienced and technologically supported institutions for complain investigation...”(Quoted from interview with ombudsman institution principals. Stadium, 2016).

In many respects, the powers of the ombudsman are quite similar to those of human rights commissions with competence to receive and investigate complaints. Both are concerned with protecting the rights of individuals and, in principle, neither have the power to make binding decisions. There are nevertheless some differences in the functions of the two bodies, which reveal why some countries establish and simultaneously maintain both types of institutions. Likewise, the primary function of most ombudsmen is to ensure fairness and legality in public administration. In contrast, commissions are more generally concerned with violations of human rights, particularly discrimination. In this respect, human rights commissions will often concern themselves with the action of private bodies and individuals as well as the government. In general, the principal focus of activity for an ombudsman is individual complaints against public entities or officials. However, distinctions are becoming more and more blurred as ombudsman offices engage in a wider range of activities for the promotion and protection of human rights (Girma and Bisrat, 2019). Moreover, fulfillment of the institution of ombudsman requires a close cooperation between national, regional and international institutions. since shared expertise and experience contribute to improve the achievements of the institution which has an obvious impact on several levels: a deep transformation of the population

increasingly committed to combating against injustice, maladministration, violations of rights and corruption, however, a lot of African countries failed to do this (Tito, 2011).

### LACK OF INSTITUTIONAL INDEPENDENCE

Independence is the attribute that underpins a national institution’s legitimacy and credibility and contributes to its effective discharge of its functions (Charles and Julie, 2010). Abdi (2011) also stated that personal and institutional independence is essential for its function as it encourages people to be more willing to submit complaints (Bons, et al, 2011) also stated that without independence there can be no confidence during investigations, their choice to supervise by own motion, conduct or conclusions, have not been tainted by influence and lack of confidence leads to more maladministration practices and weakening of the rule of law over the public. Likewise, group discussant reported that:

“.....though the institution has both legal and operational independence, investigations are not contingent upon the decisions of other actors it can undertake own-motion investigations however, most of the time, the institution supervise public high schools and other small enterprises. This may because of political influence from the executives of public offices. Because the institution is responsible to the parliament, and the parliament is dominated by executives’ organs of government. At times, the institution never exposed peoples who committed maladministration and other illegal acts, so the presence of invisible hand of political interference which is undermining the operational activity of the institution though the office of the ombudsman is politically neutral...” (Synthesized from FGD discussant, 2016).

The Ethiopian ombudsman has a legal power to supervise government office usually it used two common modes of investigation: one is reactive mode that waits for complaints’ and the other one is proactive mode which uses its own motion investigation mechanism early in which the investigator himself sets out for an investigation on condition that there is a suspicion of maladministration and so as to standing as a watchdog behind the realizations of good governance in respect of citizens’ activities and government sectors in the effort made to serve the public (Leul, 2013).It is common for human rights agencies to adopt a stronger advocacy role in promoting respect for human rights. In practice, this can mean that more time is devoted to own motion projects than to complaint handling. The advocacy role can also mean that the office does not enjoy as close or as trusting a relationship with government agencies as an Ombudsman’s office that focuses primarily on maladministration (McMillan, 2009). Accordingly, the greatest guarantee of the impartiality and fairness of national institutions is the selection of an ombudsman which is widely respected across political, economic, social and cultural lines as wise, impartial, fair and someone who seeks the broadest guarantees of respect for human rights.

### LEGISLATIVE GAPS AND MANDATE OVERLAP JURISDICTION

According to the proclamation.No.211/2000, the rules and procedures of the institution, number 29,(1), when cases falling

both under the jurisdiction of the institution and the institution of Ethiopian human Rights Commission materialize, the question of which one has to investigate the case is determined up on their mutual consultation. In this regard, another interviewee reported that:

“....the serious challenge in which the institution faces is legislative gaps and mandate overlap with other democratic institutions such as Ethiopian Human Rights Commission and the Federal Ethics and Anti- Corruption Commission. This has led to confusion among the public and huge backlog of complaints. EIO is pushing for reform and amendment to the law so as to deal with these legal impediments...” (Quoted from interview with First Instance Prosecutor, Kera, 2016).

In this regard, one of the discussant groups enlightened that:

“...In fact a number of countries have established this institution in their national and regional jurisdictions with vary objectives and legislations, in Ethiopia the human rights commission and ombudsman opened in separated offices, the former as human right defender and the next to address maladministration problems in the public offices and as promoter of good governance as well. However, when we critically examined the nature and scope of institutions of ombudsman is wide in range, which means issues in each maladministration problems, there is human rights case either in direct or indirect way. For instance, according the proclamation no.590/2008, freedom of the mass media and access to information, rights of children’s, women’s and disabilities, issues of housing and educations are mandates given to the institution.so these cases are clearly human rights issues, even some of them recognized in the 1948 Universal Declaration for Human Rights. So, merging makes effective and cost efficient.....” (Synthesized from FGD discussant, 2016).

“...when the institution write and present its recommendation, we cannot get fast response from the parliament, they delay more, this affects our complaint investigation, and also the institution it has legally restricted power to investigate on cases of human right, though theoretically it is the mandate of the ombudsman, since at every maladministration practice more or less there is case of human rights matters.....” (Quoted from Interview with ombudsman institution Principals, 2016).

Indeed, in the area of receiving and investigating complaints their functions do overlap and may appear indistinguishable. In many respects, the powers of the ombudsman are quite similar to those of human rights commissions with competence to receive and investigate complaints. Both are concerned with protecting the rights of individuals and, in principle, neither have the power to make binding decisions. There are nevertheless some differences in the functions of the two bodies, which reveal why some countries establish and simultaneously maintain both types of institutions (Pinheiro and Baluarte, 2000). Moreover, challenges of enforcing Ethiopian Ombudsman institution decisions as it has gaps in the legal regime. These includes: First, the absence of an administrative procedural law has resulted in arbitrary and inconsistent procedures of decision making. This affects the work of the institution in setting uniform standards of administrative

procedures. A study commissioned by the ombudsman found that the absence of the procedural law was one of the main causes of administrative injustices in public offices. Secondly, the ombudsman does not have powers to take its decisions to court for enforcement. Further, the law does not expressly impose a duty on public agencies to comply with the decisions of the ombudsman. This is made worse by lack of clear strategy to enforce decisions of the ombudsman, and make it only to rely on informal arrangements for enforcement (Draft report of the Regional Colloquium, 2013).

## WEAK COMMITMENT AND RESPONSIBILITY OF OFFICIALS

Challenges of enforcing Ethiopian Ombudsman institution decisions are emanated from weak collaboration with Anti-Corruption Commission, Ethiopian Human Rights Commission, courts and other stake holders. Even in the Plenary Discussion in this draft report, there was Question: On the issue of the distinction between the office of the Ombudsman, anti-corruption and human rights, Ethiopia has separate institutions. When can an issue be of human rights nature and not administrative injustice? How best can this distinction be made clearer? Response: This distinction is unnecessarily problematic, is wasteful and does not do the citizenry any good. One of the things pushing the creation of separate institutions is vested interests. It is possible that in the next fifteen years, the separation will eventually go away. Indeed, enough work has been done to show that the distinction is just artificial and creates duplication. What is important is to determine how best we manage the process where there are separate institutions on human rights and administrative justice (Ibid). With this regard, one interviewee reported that:

“..... it is usual to see serious and high level of human right violations: peoples are died, harmed, injured, displaced, churches and mosques are burned every day in our country Ethiopia, because of mob justice, even some times I am in doubt whether the ombudsman and human rights commissions are exist or not, because political rights, civil rights, economic rights, rights of belief and other important human and democratic rights are violated...this because of uncommitted leaders and no respect and love their people and weak democratic institutions.....” (Quoted from Human rights principals, 2016).

“.....as we observe and see top officials are not a politically committed and responsible to combat maladministration practices in public offices so as to protecting human rights, freedoms of citizen and to bring good governance, the institution desired objectives remains in vain....” (Quoted from FGD discussant, 2016).

The jurisdiction of most Ombudsman offices is confined to the public sector. They can only exercise their powers or offer a remedy to a person in relation to the actions of a government agency (G.Gottehrer, 1998, Batalli,2015). Parliamentary oversight has been weak since they are not able to adequately supervise the Executive – Parliamentary Committees are unable to adequately consider Special Reports of the Ombudsman (Draft report of the Regional Colloquium, 2013).

## WEAK PUBLIC AWARENESS

Ethiopian Institution of Ombudsman has weak capacity and low public awareness, while the capacity has improved over the years. Awareness concerning the institution through promotion on media is still (Ibid). In support of this, group discussant enlightened that:

“.....public awareness is crucial mechanism to increase customers to the institution, thus, the institution expected to make high promotional activities to pronounce its mandate and how to expose unlawful and corrupters etc. Frankly speaking, many people’s do not know the function of the institution, even many they do not know the location of the office....this indicated that poor public awareness, but when the people develop their awareness and knowledge , they can actively participate on fighting maladministration and other unjust acts.....” (Quoted from FGD discussant, 2016).

#### Role of the Institution in Defending and Protecting Human Rights

Ombudsman brings to mind the reaction of safety, protection and freedom and can be considered as the autonomous judiciary trying to promote and protect the ideas of rule of law, democracy and human rights (Batalli, 2015) and increasing trust, fighting corruption, improve citizens participation and improve effectiveness of public sector service (OECD, 2018) and to protect the people against violation of human rights, abuse of public authority, negligence, unfair decisions and maladministration in order to improve public administration and make the government more transparent, more accountable and efficient to the members of public (Arjola-Sarja, 2010 as cited in Batalli, 2015). Likewise, concerning opportunity another interviewee itemized that:

“....the variety international conventions and national legislation endorsed by the government would serve as potent grounds for the institution to protect human rights. In fact, increasing political consciousness and democratization process serving as an enabling opportunity for the institution to promote good governance and minimize mal practices in the city trough investigation and handling complains.” (Quoted from interview with Human rights principals, 2016).

In support of this, offices of the ombudsman are assuming responsibilities in the area of promoting human rights, particularly through educational activities and the development of information programmes. Thus the office does not only protect human rights but also promotes human rights (Girma and Bisrat, 2019). Also, the institution of ombudsman is established to protect violations of human rights, the abuse of power by public institutions, unfair decisions by public agencies that resulted through maladministration practices and so far intended to improve public administration with a view to make states’ governments responsive to their people’s needs (Nandini, 2009). Furthermore, one informant also reported about the roles and opportunities of the institution as follows:

“ .....the institution enhances citizens to obtain their rights, have access to social benefits and reduce the gap between policies and public authorities through investigation and supervision public offices, remind public official of their duty as public servants, mediate conflict between citizens and public

authorities.....(Quoted from Interview with ombudsman institution Principals, 2016).

In support of this, the Ombudsman is an institution providing assistance not only to entities whose rights or freedoms have been infringed and [it has the] duty is protecting the rights and freedoms before the violation occurs. The Ombudsman may perform his/her duties wearing a number of hats e.g. of an investigator, reformer, informer, educator and repairer (Kubiak, 1987 as cited in Tarnacka, 2018). O.Ayeni (2009) elaborated that ombudsman as an institution is founded on principles of human dignity and justice, and is devoted to the fair and equitable treatment of all individuals in a state by applying rule of law effectively in all public offices. Furthermore, ombudsman is the responsible institution in addressing, the deprivation of the individual’s or group’s right to health, education, work and social benefits either directly or indirectly. Moreover, the institution have pivotal role on avoiding systematic rights violations on the part of governments, for example the incarceration of political opponents, punishment of their supporters, use of torture or other degrading modes of treatment (Miller, 2020).

In this respect, the FGD informants discussed that:

“.....the institution itself creates job opportunities for different people and the institution strive more on creating fair and equal distribution of social services, corruption of public money will be reduced, and these roles of the institution contributed for a lot to the country’s political, economic, social development and it also makes public administration to took responsibilities for the well-being of its people, like social security, education, housing, urban planning, health, culture etc.....”.

Consolidation this, Peters (2015) argued that “Corruption and maladministration are inconsistent with the rule of law and the fundamental values of Constitution, it undermine the constitutional commitment to human dignity, the achievement of equality and the advancement of human rights and freedoms. O.Ayeni (2009) also similarly argued that the institution of ombudsman played a pivotal role on defending and protecting human rights and protecting the rights of individuals in their dealings with those entrusted with the exercise of public power by promoting impartiality and fairness. Also the institution is interested in safeguarding administrative law rights including the right to complain about the actions of a government agency without reprisal, the right to natural justice (a fair hearing, and an unbiased decision) before adverse action is taken by a government agency, and the right to equal and non-discriminatory treatment by government(McMillan, 2009).

One informant also reported about the mandates of the institution as follows:

“..... for your surprising different people still they believed ombudsman institution established solely to solve administrative problems public offices and agencies but when critically and intentionally investigate administrative problem genuinely speaking administrative problems are not far from violations of the three classifications of generations of rights like either civil rights, economic rights, social rights, cultural rights or political rights. For instance, issues of information, housing, education

etc...are part and parcel of human rights. So, definitely ombudsman has mandate in protecting human rights” (Quoted from interview Anti-corruption, Leghar, 2016).

Likewise, maladministration affects the recognized categories of rights such as Political rights, Legal process rights, Egalitarian rights (or freedom from discrimination), Social rights, Economic rights and Socio-economic. Let's see corruption as one malpractice by government officials (McMillan ,2009) and corruption affects the recognized human rights as they have been codified by the UN human rights covenants and specifically Petty corruption most often affected are social rights. If you see, corruption in the health sector affects the right of everyone to the highest attainable standard of health (Article 12 in the International Covenant on Economics, Social and Cultural Rights (ICESCR); in the education sector, the right to education (Article 13 ICESCR) (Peters, 2015). Moreover, ombudsman is particularly well placed to deal with a category of rights that has traditionally been neglected: economic, social and cultural rights. These rights are implicated in many of the functions and services of the government. In responding to individual complaints or undertaking systemic investigations, an ombudsman will often be addressing, either directly or indirectly, the deprivation of the individual's or group's right to health, education, work and social benefits or housing, among others( O.Ayeni, 2009).

## CONCLUSIONS AND RECOMMENDATIONS

To sum up, the office of ombudsmen is one of the offices which are established to serve as human rights body as well as institution for the advancement of administrative justice and also deals with the specific allegations or complaints from the public against administrative injustice and maladministration. The duties of an Ombudsman are to investigate complaints and attempt to resolve them, usually through recommendations or mediation. Therefore, the findings of the study show that the Addis Ababa institution of ombudsman has used both reactive and proactive modes of investigation. However, the informants depicted that although the institution has power to investigate by its own motion, but most of the time it used the reactive mode of investigation which is ineffective to alleviate complain. Furthermore, the task of realizing good governance and human right is influenced by couples of challenges such as insufficient human resources (lack of qualified, technologically skilled human power and shortage of budget), legislative gaps and mandate overlap, weak commitment and responsibility of officials, weak collaboration with that of national/international institutions and lack operational independence. Thus, due such factors, the institution remains ineffective and still needs more attention from above to as it was hoped to do.

Irrespective of the challenges, the research further pinpointed opportunities in which the institution of ombudsman could be using as positive grounds for its institutional operation. These include the creation of better institutional linkage between the city and the institution, improvement of good governance, increment of legal provision to nationally protect human rights, policy reforms and increased pressure over courts to be

independent judiciary bodies, improvement of public services delivery in many institutions and progressive democratization process being made the government are the opportunities help the office/institutions ombudsman to realize its mission.

Addis Ababa ombudsman conventionally seems as solely responsible for handling maladministration problems far from human rights, but in practice it deals human rights issues. For instance, issues of education, housing, information, and corruptions, which is clearly human rights concern. Likewise, at every maladministration problem there human right violation. Therefore, opening the human right commission and ombudsman institution in to two different offices is not effective rather than increasing costs and bureaucracy on customers. Moreover, a number of ombudsmen have adopted human rights concerns as an explicit part of their mandate. Even those ombudsman offices that do not explicitly have that function as part of their mandate are inevitably involved in significant human rights work today. All of these emphasize the need for ombudsmen everywhere to make this role more apparent, adopting an explicit frame of reference for the human rights components.

The study finally forwarded the institution of ombudsman needs to change a critical methodology to adopt human-rights based approach to work its mandates in protecting arbitrary violations of rights and also human rights institutions and ombudsman could potentially merge a move that could cut costs significantly due to scarcity of resource and bureaucratic overlap in many national jurisdiction of the country. Moreover, adoption of clear statutory policies and applicable legislations could also important and all-inclusive capacity building and awareness creation programs on human rights protection and mandates ought to be provided for relevant stakeholders and the community at large.

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