

RAJSHAHI UNIVERSITY LAW JOURNAL



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দাপ্তরিক গোপনীয়তা আইন ও তথ্য-অধিকার

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Ombudsman: A means of good governance in Bangladesh

Dr. Md. Ahsan Kabir*

Md. Hashibul Alam Prodhan**

Introduction

In contemporary circumstances, the individual life is affected by the multifarious state activities. Nowadays, the state agencies are to exercise massive administrative power in discharging their responsibilities. The thought of Ombudsman, therefore, evolved in response to the growing concern for the protection of individuals against the ever-expanding state perspective. While the court system revolves conflicts between individuals; the institution of Ombudsman emerged as a mechanism to deal with administrative corruption and mal-administration. This institution is increasingly assuming such a significant role that it is now identified as a 'watchdog' of the administration and the protector of the 'little man' against arbitrary administrative discretion by investigating complaints of individuals concerning grievances against a government agency. Now the institution of Ombudsman has been adopted in many parts of the world irrespective of social, economic, legal, political and demographic diversities among these countries. The main thrust of this article is concerned with the Ombudsman as an institution, which protects the human rights of the citizen with respect to complaints against Government.

Concept of Ombudsman

'Ombudsman'¹ is an old Swedish word that has been used for centuries to describe a person who represents or protects the interests of another. The word was originally derived from medieval Germanic tribes where the term was applied to a third party whose task was to collect fines from remorseful culprit families and give them to the aggrieved families of victims.² The part word, 'man' is taken directly from Swedish (the old Norse word was '*umbodhsmadr*') and does not necessarily mean that the holder be of the male gender. At present, there are several women, who are part of ombudsman community worldwide.³

In Sweden, the Ombudsman office was established by the Parliament to assist it in its dealings with the Executive and the Judiciary. Apparently, it may be considered that the *Riksdag* (Swedish Parliament) felt inability to satisfactorily exercise its oversight on the activities of other branches of government. In order to carry out its role as spokesperson of the people, the Swedish Parliament felt that it needed an officer who could actively deal with complaints made by the public about action being taken by

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Executive and the Judiciary. In addition, the following key elements of the Swedish form of government also led to the establishment of ombudsman office: -

There is no concept of Ministerial responsibility such as exists in Parliaments based on the Westminster system, where the minister is chosen from the members of the Parliament.

In Sweden the Judiciary is a career service that is modeled much more closely on a traditional executive style of decision maker and which therefore lends itself to some of the pressures that exist in any career and promotion based bureaucracy.

The word "ombudsman" has been derived from the Swedish word '*Ombud*' which in Swedish language commonly denotes 'a person who acts as a spokesman or representative of another person or persons.'⁴ A universal definition of Ombudsman is yet to be evolved. However, Ombudsman Committee of the 'International Bar Association' has suggested the following definition:

"An Ombudsman is an office provided by the constitution or by the 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 person against governmental agencies, officials and employees or
- who acts on his own motion and
- who has the power to investigate, recommend corrective action and issue reports."

According to Professor S.K. Agarwal⁵, the term 'Ombudsman' refers only to institutions, which have three basic and unique characteristics:

1. the Ombudsman is an independent and non-partisan office of the legislature who supervises the administration;
2. he deals with specific complaints concerning mal-administration or many proceed on his own information; and
3. he has the power to investigate, criticize and report back to the legislature but not to refer for administrative action.

Development of the Institution of Ombudsman

Sweden is the foremost country to establish the office of the Ombudsman. The office of Ombudsman was created by the constitution of 1809 itself. It remained an exceptional Sweden phenomenon until Finland adopted it in 1919 by a Constitutional Act. Consequently other Scandinavian countries, e.g., Denmark and Norway established it in 1954 and 1960 respectively.⁶

The first Swedish Ombudsman was Lars Augustin Mannerheim⁷. For more than 100 years, the office remained confined to Sweden and could hardly create any ripple for

other countries. Its contagion effect came out in the twentieth century, when it was adopted in other Scandinavian countries, in Finland (1919), Denmark (1955) and Norway (1962). The introduction of the Danish ombudsman, in 1955, marked the beginning of the worldwide interest in the ombudsman schemes⁸. After assuming as the first Danish Ombudsman, Professor Stephen Hurwitz, began to write and lecture about his office in English⁹. This activity stimulated interest, which readily spread in the Anglo-Saxon world as more and more articles began to appear about ombudsmen in English language publications.¹⁰ Professor Larry B Hill has narrated this fact in the following manner: -

“Mindful of the fact that his own countrymen were insufficiently aware of the powers and possibilities of his newly created office, professor Hurwitz energetically engaged in a campaign of public education in his homeland. Early successes as a lecturer abroad created a lively demand for appearances by him at distant places. Responding to that demand, he widened the range of his expository and exhortatory efforts, almost as though he was an apostle of a new faith or perhaps the salesman of an export commodity. His persuasive speeches and writings, well supported by the writings of other enthusiasts, transformed an ancient institution into one seemingly designed specifically to meet current needs”.¹¹

The introduction of an ombudsman in New Zealand, the first common law country, in 1962, sparked off a great deal of interest in the Ombudsman concept throughout the world¹². But the question remains why Westminster like parliamentary democracies, where the ministerial responsibilities as well as independent judiciary are significant features, have adopted the institution of Ombudsman. This question warrants a deeper insight into the socio-political and economic conditions of the age, in order to understand the need and justification of this new institution.

Salient features of the office of Ombudsman

The review of the office of the Ombudsman in most of the countries in which it operates successfully reveals that it has, in general, the following features¹³:

1. **Independence:** Independence is of fundamental importance to the imperial functioning of the Ombudsman. Therefore, independence from executive intervention has been identified as the most important criterion of the Ombudsman.
2. **Power of investigation:** Ombudsman should be given access to the required information, evidence and documents to reach a decision. The office can call for information and documents from any one including ministers and officials. It should be given the power to examine both the official bills and documents for investigation. In this regard it should enjoy immunity from persecution for its actions and opinion during the exercise of this power.

3. **Annual Report:** Preparing annual reports are one of the main functions of the Ombudsman. The production of meaningful annual reports are of considerable importance because these:
 - a. help to publish the operations of the office to policy makers, legislators and the public;
 - b. clarify general expectations of the bureaucracy in its dealing with citizens;
 - c. are an important indicator as to the effectiveness of the office in proactive; and
 - d. are also a useful conduit for the communication of recommendations and improvements in the machinery of government.
4. **Accessibility:** Dealing with complaints and grievances from members of the public is a basic function of the Ombudsman. Therefore, it needs to be accessible to general people. The procedure to lodge complaint with the Ombudsman office must be simple and easy. Moreover, the complaint procedure should be less time consuming to make it a credible institution.
5. **Flexibility:** The office of the Ombudsman should be a flexible one to enable it to undertake multiple functions. It should enjoy the much-needed administrative discretion to investigate corruption and bureaucratic irregularities.
6. **Jurisdiction:** A clearly defined jurisdiction of the Ombudsman is also an absolute pre-requisite, so that there would be no duplication of efforts, problems of co-ordination and confusion among the public in general.
7. **Personnel:** A man of integrity and outstanding merit should be appointed as an ombudsman so that he can play a vital role to conform social injustice, wide political and bureaucratic corruption and irregularities in public sectors.

Necessity of Ombudsman

The institution of Ombudsman has achieved a widespread appeal for its intrinsic quality of making government administration responsive, adaptive and sensitive needs of the people. However, the majority reasons for the desirability of the office of the Ombudsman may be identified as under¹⁴:

- a. **Protection of individual against executive mistakes:** In modern States, extensive powers and dispersions have been granted to all types of boards, agencies and departments. The possibilities of friction between officials and the citizens have been greatly increased. In this domain, Ombudsman may play a vital role in protecting individuals against executive and administrative mistake and abuse of power.
- b. **Protecting legal status of individuals:** Ombudsman plays a crucial role in protecting the legal status of individuals.

- c. **Acting as impartial agent of citizens:** The Ombudsman gives the citizens an expert and impartial agent without personal cost to complain without delay, without tension of adversary litigation.
- d. **Psychological value:** The presence of Ombudsman also has a psychological value. His office gives the citizens the confidence that there exists a watchdog for the people who will hold the government accountable.
- e. **Promoting transparency:** The primary duty of Ombudsman in most countries is to fight against maladministration. The fundamental function of the institution of Ombudsman is to ensure transparency in the government.
- f. **Preventing corruption:** In recent times, the emphasis of the Ombudsman has shifted from prevention of maladministration to prevent corruption. Experience shows that combating corruption by mere isolated punitive actions and facile emphasis on better enforcement of rules and procedures is doomed to failure. It is now increasingly realized that corruption should be treated as social evil and it needs to be redressed by institutional measures. In this regard, the Ombudsman may pursue long-term investigation and research into recurring problems of maladministration. He may identify legislative policy and procedural deficiencies and recommend measures for the systematic improvement to overcome those defects. He also may review administrative actions to ensure transparency, efficiency and accountability in the system of governance.

Commenting on the role of Ombudsman, which was challenged in 1970 in Alberta, Chief Justice Milvain said: -

"... the basic purpose of an Ombudsman is provision of a 'watchdog' designed to look into the entire workings of administrative cases. ... [he] can bring the lamp of scrutiny to otherwise dark places even over the resistance of those who would draw the blinds. If [his] scrutiny and reservations are well founded, corrective measure can be taken in due democratic process, if not no harm can be done in looking at that which is good".¹⁵

The ombudsman idea is one, which has grown rapidly in a variety of constitutional settings all over the world¹⁶. According to Roy and Giddings, "Ombudsman nowadays take many different forms, they work in different ways, and they dwell in variety of habitats".¹⁷ In early 1980s, *Caiden et al* observed in an ombudsman study in the following manner: -

"It is found in old countries and new countries, rich countries and poor countries, capitalist economies and socialist economies, unitary states and federal states, civil regimes and military regimes, states with strong administrative law system and states with weak administrative law systems, presidential and cabinet systems, political systems where legislators enjoy constituents' case work and political systems where they do not".¹⁸

The primary duty that the ombudsman discharges, in most countries, is to fight against maladministration. The Ombudsman can deal with many matters of mal-administration that are not subject to court review. Thus, it may be said that the Ombudsman has twin objectives—(a) backing and perfection of public administration, and (b) safeguard and security of citizens. However, the word ‘maladministration’ has no precise meaning in the present context of varied government systems. It generally refers to corruption, nepotism, administrative inefficiency, delay, negligence, bias, unfair preferences or dishonesty.¹⁹ Maladministration may also be accelerated by ‘bad administration’ that includes ‘bad-rule’ or ‘bad-law’. It is now increasingly realized that corruption should be treated as social phenomenon. It is now increasingly realized that corruption should be treated as a social evil and it needs to be redressed by institutional measures. In this view, the Ombudsman may pursue long-term inquiry and research into recurring problems of mal-administration. He may identify legislative, policy and bureaucratic deficiencies and recommended measures for the methodical improvements to conquer those defects and evaluate administrative actions to ensure transparency, efficiency and accountability in the system of good governance.

Ombudsman in Bangladesh

The Scandinavian concept of Ombudsman has been adopted in our Constitution to ensure transparency, accountability, democratic governance, rule of law and human rights. Article 77 of the Constitution of Bangladesh provides that Parliament may by law establish the office of the Ombudsman. Once established, the Ombudsman shall have the power to investigate any action taken by a ministry, public Officer or statutory public authority and such other powers and functions prescribed by the Parliament.

Constitutional Provisions on Ombudsman

After the independence of Bangladesh the framers of the constitution adopted in 1972 the concept of Ombudsman and Article 77 of the constitution provides:

- (i) Parliament may, by law, provide for the establishment of Ombudsman.
- (ii) The Ombudsman shall exercise such powers and perform such functions as parliament may by law, determine, including the power to investigate any action taken by ministry, a public officer or a statutory public authority.
- (iii) The Ombudsman shall prepare an annual report concerning the discharge of function and such report shall be laid before parliament.

Being persuaded by the fact that an institution like the Ombudsman would be essential for safeguarding the interest and rights of the public in Bangladesh from mal-administration or administrative excesses.

To fulfill the constitutional obligation, the Ombudsman Act was passed in 1980 and it empowered the government to bring it into force by notification in the official Gazette.

Ombudsman Act' 1980²⁰

The main characteristics of Ombudsman Act 1980 are:

- (a) There shall be an Ombudsman who shall be appointed by the president on the recommendation of the parliament.
- (b) Parliament shall recommend for appointment as Ombudsman a person if known legal or administrative ability and conspicuous integrity.
- (c) It shall come into force on such date as the Govt. may, by notification in the official Gazette, appoint.
- (d) The Ombudsman shall, subject this section, hold office for a term of three years from the date on which he enters upon his office, and shall be eligible for reappointment for one further term.
- (e) The Ombudsman shall not be removed from his office except by an order of the president passed pursuant to a resolution of parliament supported by majority of not less than two thirds of the total numbers of parliament on the ground of proved misconduct or physical incapacity.
- (f) The Ombudsman may investigate action taken by a ministry, a statutory public authority, or a public officer in case where a person makes a complaint in respect of such action to him.
- (g) Ombudsman shall have the power to punish any person who, without lawful excuse obstructs him in the performance of his functions with simple imprisonment, which may extend to three months, or with fine that may extend to 2,000/- taka, or with both. In the following discussions, an attempt has been taken to critically assess the various provisions of the act and for success full efficient functioning of the system, some proposal have also been put forward.

Unfortunately, the then Government did not put the Act into effect. Successive governments followed the same posture of denial. However, recently the act has been brought out of cold storage through a gazette notification of the relevant parliamentary committee, although the actual appointment and installation of the office of the Ombudsman has to wait till necessary amendments to the law are effected in the Parliament.

Quality of government services & Ombudsman

The ombudsman office provides not only for individual remedy, appeals and dispute resolution, but also an auditing and accountability role. Ombudsmen office can make the political system more responsive to citizens both individually and collectively²¹. An Ombudsman can also contribute significantly to the quality of government, by

providing comments on the administrative performance. This is particularly important for government organizations wishing to perform their functions in a customer-friendly manner. Complaints are signals, constituting a valuable source of information for quality assurance. This feedback can be of particular value for government organizations as they often have a monopoly of their own and are hardly ever exposed to the dynamics in the outside world. Observing the criteria for proper conduct developed through the Office of the Ombudsman can, in short, contribute to the rationality and legitimacy of public administration. In this regard, a "negative feedback model of accountability" has been developed²². The model explains that citizen's complaints are an important source of evaluative feedback on public programs. Taking public laws and policies as statements of community goals, they set out politically agreed upon quantity and quality of life in specific areas. When citizens are disinterested in existing policies or regulations, or service delivery systems fail or are inadequate, citizens are the foremost to know. In most of the cases citizens have no way to communicate this information to responsible decision-makers except through the very structures, which are often, root cause of the problems. These structures, when dealing with citizens repeatedly demonstrate self-servicing interests opposed to resolving the problem.²³ In addition, the bureaucracies are often the only source of information about such issues available to elected representatives and officials. In developed countries the interest groups and political parties identify major issues, but insofar like the common citizen is concerned, mainly in developing countries, many problems are successfully kept out of the decision-making procedure. In this circumstances citizen complaints and problems are evaluative judgments that discrepancies exist between the criteria established in public policy and the current operation of the system. Therefore, the demands on a widespread complaint means such as an executive ombudsman are a form of negative feedback.²⁴

Critical observations on Ombudsman Scheme

The most common criticism of the ombudsman system is that the function is not generally well understood. There is relatively limited documentation and information about their work, often confusion and uncertainty about their role, and with the proliferation of ombudsman offices in different sectors, the confusion can be exacerbated. In spite of the key characteristic of accessibility, ombudsman offices are frequently noted for their inaccessibility. Few citizens are aware of the different ombudsman schemes, how to reach them and how to process a grievance. Inaccessibility is the chief reason why ombudsman offices tend to be under-utilised, especially by the most disadvantaged who are less likely to know of the existence of ombudsman and have more difficulty in registering complaints or grievances. It seems that many ombudsman schemes, particularly in Britain, are hidden by bureaucracy and formality and lack a human face. The question of visibility is linked to more general

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criticisms of the operational mode of the ombudsman as too reactive, waiting for complaints rather than taking the office to the public or initiating investigations.²⁵

The ombudsman office is also criticized for the fact that its effectiveness tends to depend upon the character and personality of the ombudsman officer(s) themselves rather than the system as a whole. Regardless of their organizational framework they are a highly personalized institution and success demands an individual or team who are perceived as independent and impartial, with relevant qualifications and in-depth knowledge of the sector, and can command respect and trust from all parties. Of course, such individuals are hard to find.

Since the ombudsman's powers lie essentially in recommendation there is a genuine concern that the ombudsman lacks 'teeth'. For instance, the annual report (for many ombudsmen the only public document issued) is often considered an inadequate instrument for influencing administration procedures and practice, informing mass media and educating the public. Moreover, the ombudsman is generally powerless to change or reverse decisions. In fact, some believe that the ombudsman's powers as critic and reformer must be strengthened to influence changes in legislation and policy and not just administrative procedure. The ombudsman should be concerned not merely with laws or codes as they stand, but also as they might be.²⁶

Role of the Government to Establish an Ombudsman Office: Bangladesh Perspective

The want intended for the office of Ombudsman has been felt in Bangladesh constantly since it's Independence. From the time when Bangladesh is a country emerging from the British colonial rule all the way through neo-colonialism of Pakistan, it inherited an asymmetric political system where administration has precedence to popular representative institution the legislature. After Pakistan's independence, the death of Mohammad Ali Jinnah and Liaquat Ali Khan caused a serious political vacuum in Pakistan, which was tried to fill in by competent senior bureaucrats particularly the CSPs in absence of strong positive political guidance.²⁷ This is how reliance on bureaucracy rather than politicians or the people's representatives had developed in this country. Administration since then has been used to exercise unregulated discretion in the whole structure of government and purportedly involved in ample ranging corruption that is very often complained of.²⁸ In view of these circumstances, the framers of Bangladesh Constitution integrated a proviso for the office of Ombudsman for protecting extensive respected public rights against administrative overload. The *Awami League* government of the day made no attempt to this effect. In this observation President Ziaur Rahman took some initiatives in 1980. The *Jatio Sangshad* (National Assembly) passed the significant Act to comprise the office of Ombudsman. But with the killing of president Ziaur Rahman the scheme crumbled

down before it could take off the ground. In the nine year autocratic rule of General Ershad did not rotate their eyes to it. Although, with the reestablishment of democracy in the country through mass movement in 1990 and the general election under a neutral care taker government in 1991, the issue of appointing an Ombudsman has gained much prominence and both the government sponsored and donor sponsored studies called for the establishment of an Ombudsman's office to monitor the functioning of the executive agencies and adjudicate disputes and grievances. In view of the fantastic public demand for the office of Ombudsman previous government (elected 1996) declared in 1998 its assurance to establish the office as soon as possible. But so far no concrete progress has taken place to establish the office.

The subsequent discussions will throw light on the initiative taken so far by the government for institutionalizing the office of Ombudsman. A five-member committee headed by the law secretary was appointed to examine the legal aspects of appointment of Ombudsman. In this consider, the committee has given their green signal.²⁹

The Ministry of Law proposed a financial proposal of Tk 3, 67, 00, 000 to the Ministry of Finance for set up the office of the Ombudsman.³⁰ The Ministry of Finance will keep provision for the money in the ensuring budget of 1998/99. The aforesaid amount has been earmarked for the purposes of the office of Ombudsman, and other pertinent office expenditures including staff remuneration transport allowances etc. A scheme by ministry of law relating to the setting up of Ombudsman's office and its organogram consisting of a total of 127 employees, including 31 officers, has also been put forwarded to the ministry of Establishment and Ministry of Finance for authorization.³¹

The Ministry of Law projected that out of these 127 officers and employees, there would be one Director General (equivalent to the status of secretary to the government), One Additional Director General (Additional Secretary), eight Directors (Joint Secretary), eight Deputy Directors (Deputy Secretary) and eight Assistant Directors including others officials and employees. The monthly remuneration of the Ombudsman has been fixed Tk. 21,000 and Tk. 15,000 for house rent, Tk. 500 for medical facilities and Tk. 450 for other purposes.³² However, though the Government has decided to employ 127 employees but it was not clear whether they would be appointed by the Ombudsman himself as per the Ombudsman Act or by the Government. In observation of the fantastic public demand for the office of Ombudsman the *Awami League* government declared in 1998 its commitment to establish the office as early as possible. After everything else, *BNP* government (elected in 2001) established the office of Ombudsman by Government Gazette on 6th January 2002.

The Cabinet at its regular weekly meeting on April 4 last discussed in detail the draft of Tax Ombudsman Act, 2005 to appoint the Tax Ombudsman and asked the relevant ministry to place it again before the Cabinet after further scrutiny.³³ Earlier the Cabinet in its meeting on December 13, 2004 approved in principle the proposal submitted by the Internal Resources Division, Ministry of Finance, for the appointment of the Tax Ombudsman at the National Board of Revenue (NBR) to deal with the complaints from taxpayers about payment of taxes. Mentioned, in his budget (2004- 2005) speech on June 10, 2004, the Finance Minister stated that steps were underway to introduce Tax Ombudsman Bill to Parliament for setting up the office of the Tax Ombudsman to settle tax-complaints and tax-demand. While speaking at an exchange of views session with the joint secretary level officers at BPATC, Savar, on 8 January, 2005 the Law Minister said that the Tax Ombudsman law, when enacted, would play an effective role in establishing transparency and accountability in the revenue sector to check corruption. He also disclosed that the government would appoint ombudsman gradually in each sector. When the Law Ministry vetted draft Ombudsman Act would receive the nod of the Cabinet, then it would be tabled in Parliament for passage. The NBR collects about 90 per cent of total tax revenue and about 80 per cent of the total revenue of the government in a financial year. The rest 20 per cent of the total revenue of the government in a financial year came from other taxes and non-taxes collected by organs other than the NBR. The main direct taxes collected by the NBR are the income tax, wealth tax and gift tax, while the indirect taxes are the customs duty, value added tax (VAT), turn over tax, supplementary duty and infrastructure development surcharge. People's perception is that the tax department is one of the most corrupt departments in the country. Some people consider discretionary authority of the officials to be an important reason for corruption in the tax department. The Independent of April 4 reported that the Dhaka Chamber of Commerce and Industries (DCCI) recently urged the government to curb the discretionary authority of administrative officials of the NBR to ensure justice to tax payers. The DCCI said that as the government increased administrative authority over the appellate and tribunal levels on realizing income tax, the people were being deprived of justice. As a result most of the disputes were going to the High Court for resolution. The details of the draft Tax Ombudsman law are not known. However, available information reveals that the Tax Ombudsman will examine any case of harassment or corruption by a tax official or revenue employee only when a written complaint is made either by any person or on the basis of reference from Parliament or if asked by the President or the Prime Minister. He may also institute *suo moto* inquiry. He will send a copy of the complaint to the competent authority for comments. If, after investigating a complaint, he is of the opinion that injustice has been done to the complainant, he will recommend to the chairman of NBR that the injustice should be remedied in specified manner and

within specified time. If the chairman of NBR does not act according to the recommendation(s), the Tax Ombudsman may make a special report on the case to the President. The Tax Ombudsman, it is learnt, will have the authority to constitute an advisory committee and appoint a number of inspectors to conduct investigations. He or the officials authorized by him will have the power to seize any article, book of accounts or any other document, and scrutinize any document or make an inventory for tax evasion.³⁴ The Ombudsman should be viewed as an institution composed a Chief Ombudsman, and several others to be appointed in phases with specialized sector-specific jurisdiction, such as Ombudsman for Administration; Public Procurement Ombudsman; Education Ombudsman; Health Ombudsman; Human Rights Ombudsman; Women and Child Rights Ombudsman; Land Rights and Land Administration Ombudsman; Environment, Water and Forest Ombudsman; Local Government Ombudsman; Banking Ombudsman; Ombudsman for the rights of Minorities & other Disadvantages Communities; Power & Emergency Ombudsman; and Labour Rights Ombudsman etc. The appointment of Tax Ombudsman was a welcome development in this regard.

The proposed Ombudsman by the Ombudsman Act, 1980 has been given wide powers to provide assistance to the aggrieved persons who have suffered injustice in the hands of the public servants because of mal-administration and corruption.

There exists tremendous amount of expectation among a cross section of people as regards the institution of Ombudsman. The popular belief is that the institution would be able to provide the benefit of justice to the property stricken people who have been suffering due to defective administration but could not get access to the courts and other legal bodies for reasons of cost and inaccessibility. The successive government has also made pledges to establish such an institution in the country. So, the Ombudsman, if appointed, will have to be functioning to meet up these expectations, which, in fact, poses the most serious challenge to the institution in Bangladesh.³⁵

Conclusion

Above discussion has exposed that appointment of Ombudsman is mandatory for ensuring transparency, accountability and efficiency in the system of good governance. It is absolutely necessary for a country like Bangladesh, which has already been ranked as most corrupted in the world. Under existing Act, the powers that Ombudsman would exert would be quite vast but they would also be purely recommendatory. Therefore, whether the office of the Ombudsman functions or failure depends wholly on how soon those who matter start behaving responsibly rather than continue rising to unbelievable heights of audacity.

A crucial requirement of good governance is the methodical and institutional aptitude to ensure accountability in the functioning of the state, its various organs and vital

institutions of public interest in and outside the government. Among the most significant factors behind governance failure are the absence of openness, lack of checks and balances with regard to exercise of power and discretion, and lack of institutional opportunities for raising citizen's voice against misuse of power, mal-administration, violation of rights, carelessness, partiality and bribery that take place at the interface between citizens and the administration. The Ombudsman is one such independent institution that receives and probes into citizen's complaints against government officials and institutions, and recommends remedial action. From this point of view it is clear that the ombudsman offices in Bangladesh not only consider individual grievances but also identify 'systemic' faults, thereby helping to secure improvements of a general nature as regards working methods and administrative practices and procedures. Ombudsman has gone even further as regards the promotion of good practice and published codes of offering general guidance to government bodies as well as the officials, which uphold the good governance in Bangladesh.

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