



Institutional Capacity Development within Ombuds Institutions for Armed Forces

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**5TH International Conference of Ombuds for the Armed Forces
22 October 2013**



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ABSTRACT

The paper explores the following:

1. capacity needs analysis
2. identifies most useful and least useful activities to strengthen ombuds institutions and
3. includes the focus on cooperation and coordination mechanisms used by ICOAF to strengthen capacity building within ombuds institutions.



INTRODUCTION

- President of His Excellency Ambassador Theodor H. Winkler,, Kjell Arne Bratli, Parliamentary Commissioner for the Norwegian Armed Forces and Colleagues,
- I am extremely grateful for having been invited to participate in this conference and equally thankful to engage in a discussion regarding this really important topic.



INTRODUCTION (CONT)

- It is important because well-functioning administrative and institutional capacities are an essential prerequisite for ombuds institutions of the armed forces to flourish.
- Without a determined capacity development plan such institutions will not be able to take off.



INTRODUCTION (CONT)

- I appreciate therefore having the opportunity to tell you how the South African Military Ombud intends to develop its capacity and thus support capacity building for other ombudsmen for armed forces through cohesive cooperation.
- Like other ombuds institutions, its legislative, regulatory and policy framework is tailor-made and specific.



INTRODUCTION (CONT)

- It goes further to outline standards of accountability.
- In a way these frameworks, albeit indirectly, also influence and determine cooperation and coordination mechanisms that are key to the institutional or capacity development of ombuds institutions.
- Let me start by briefly outlining the mandate of the SA Military Ombud.



MANDATE

- The Military Ombud has the power regulated by national legislation to investigate complaints lodged in writing by:
 - a) A member regarding his or her conditions of service;
 - b) A former member regarding his or her conditions of service and
 - c) A member of the public regarding the official conduct of a member of the Defence Force.



MANDATE (CONT)

- The legislative mandate of the Military Ombud is to investigate and recommend the appropriate remedy to resolve a complaint through a report to the Minister of Defence and Military Veterans.



MANDATE (CONT)

- In complying with its oversight function, its role in reconciling members and former members of the South African National Defence Force (SANDF) with the Department of Defence (DoD):
 - a) seeks to ensure that transgressions by the DoD must be corrected;
 - b) that a proper diagnosis;



MANDATE (CONT)

- c) correction of any administrative inadequacies should also be conducted and
- d) that proper redress is provided in cases requiring remedial action as envisaged in sections 4 and 6 of the Military Ombud Act.



MANDATE (CONT)

- It further aims to assist the DoD in engendering good governance practice.
- Experts have identified three phases to ensure an ombuds institution functions well:
 - a) first, an initial phase, where the ombudsman concept is realised through various administrative, political, legal and economic interests.



MANDATE (CONT)

- b) a second phase, where the institution is organised and begins operations and
- c) a third phase, where the institution is running, consolidating its position and finding practical solutions to various organisational, legal and political difficulties.



BASIC CHARACTERISTICS FOR EFFECTIVENESS

- The legal basis for the creation of an ombudsman office and the mandate and powers granted to it by law affect the degree by which the ombudsman office can perform its functions effectively.
- While countries around the world have adopted different models of accountability institutions, an ombudsman office needs certain basic characteristics to be effective.



BASIC CHARACTERISTICS FOR EFFECTIVENESS (CONT)

These include:

- a) independence,
- b) clarity of mandate,
- c) strong investigative powers,
- d) accessibility,
- e) credibility, and
- f) the institutional capacity to perform its tasks.



BASIC CHARACTERISTICS FOR EFFECTIVENESS (CONT)

- The independence of the ombudsman office from the government, especially the executive branch, is crucial to its effective performance.
- In as much as the ombudsman office is expected to prevent or correct misconduct by the executive branch, it has to have institutional, financial, and functional independence



BASIC CHARACTERISTICS FOR EFFECTIVENESS (CONT)

- Strengthening institutional and administrative capacity in all fields and promoting good governance principles is a priority for ombuds institutions in order to underpin necessary structural adjustments.
- This has to go hand in hand with a reduction of regulatory and administrative burdens and the establishment of high standards of transparency, integrity and accountability in public administration.



BASIC CHARACTERISTICS FOR EFFECTIVENESS (CONT)

- This brings me to the question **Why is capacity development important?**



WHY IS CAPACITY DEVELOPMENT IMPORTANT?

Born *et al* (2012) explains that capacity development is important for:

- a) improving the functioning of ombuds institutions,
- b) assuring that complaints are effectively and efficiently addressed and
and
- c) ensuring that ombuds institutions contribute to the effective and accountable governance of the armed forces.



WHY IS CAPACITY DEVELOPMENT IMPORTANT? (CONT)

- Capacity development within ombuds institutions may not be limited to knowledge acquisition, skills development, case management and quality assurance
- but instead can be viewed as a dynamic, continuous process that reviews the approach to a complaints handling mechanism.



WHY IS CAPACITY DEVELOPMENT IMPORTANT? (CONT)

- In fact, viewed broadly, capacity development should include a political process that seeks to situate an ombud institution strategically and in line with the expectations of the people, the military and other branches of government.



WHY IS CAPACITY DEVELOPMENT IMPORTANT? (CONT)

- In fact, viewed broadly, capacity development should include a political process that seeks to situate an ombud institution strategically and in line with the expectations of the people, the military and other branches of government.
- In this sense, capacity development must be measured in terms of the impact it has in encouraging effective and accountable governance systems within the armed forces.



AIMS

It is against this background that this paper aims to:

- a) Explore capacity needs analysis within ombuds institutions,
- b) Identify coordination and cooperation mechanisms within ombuds institutions and
- c) Understand the role of ICOAF in strengthening the functioning of ombuds institutions.



CAPACITY NEEDS

- Capacity development is essential for newly-established, emerging or well-established institutions at both institutional and individual capacity levels. The following were identified as essential capacity needs for all ombuds institutions *viz.*:
 - a) Good legislative, regulatory and policy frameworks that provide statutory governance responsibilities, and set out clearly defined lines of credibility, independence and accountability, scope of practice, and



CAPACITY NEEDS (CONT)

b) A structure to guide the implementation, enforcement and administration of the legislative provisions.



CAPACITY NEEDS (CONT)

c) Service delivery must be adapted, tailor-made, sensitive and specific to needs of the institution, adopting an individual or systemic-centered human rights approach which advocates for fair and equitable administrative conflict resolution processes with coordinated stakeholder cooperation.



CAPACITY NEEDS (CONT)

d) Outline capacity development, resource (operational, financial & human) needs, cooperation and coordination mechanisms that are key elements for institutional and individual development.



GOVERNANCE WITHIN LEGISLATION

- Legislation must specify the accountability and governance responsibilities of the institution as it will impact on the functional independence and resource interdependence.
- Central to governance is how to ensure fairness for all.
- The provision of good “start-up” support and sustainable resource systems is also essential.



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS

- In the South African context, prior to democracy, armed forces were plagued by a high prevalence of social injustices, human rights violations and discriminations.
- However, post democracy the appointment of the Mil Ombud in 2012 has created an independent, impartial and expeditious investigation and resolution process for complaints in respect of conditions of service for members and former members of the SANDF.



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS (CONT)

- From evidence-based experience on the matters investigated and resolved to date by SA Mil Ombud, the following are considered critical activities to strengthen functioning and operations of ombud institutions:



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS (CONT)

- Clearly defined service work procedures for intake, analysis, investigation, recommendation and implementation of the recommendations;
- Norms and standards for service delivery both internal and external quality control mechanisms;
- Continuous individual and institutional capacity building programmes for personnel not limited to training, integrated periodic curriculum reviews within units, formations and services.



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS (CONT)

- Such training will enhance institutionalisation of ombud services and has the potential of strengthening career paths and informing progression or promotion opportunities and institutionalising relationships with stakeholders;
- Meaningful outreach programs to strengthen coordination and cooperation mechanisms and to enhance the profile of the institution;



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS (CONT)

- Development and integration of profession or service specific curriculum to training programs as means of strengthening institutionalisation of the ombud institution beyond roadshows;
- Purpose driven branding;
- Establishment of good relationships with media;



MOST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS

- Adoption of a partnership approach and to avoid confrontational responses on systemic issues; and
- More transparent approach to communications in relation to core business.



LEAST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS

- Some activities have the potential of damaging the image of ombud institutions namely:
 - a) The adoption of an arrogant approach, in execution of the mandate;
 - b) Inability to acknowledge and deal with prejudice and be able to manage environmental, individual and institutional perceptions.



LEAST USEFUL ACTIVITIES TO STRENGTHEN OMBUDS INSTITUTIONS (CONT)

- c) Avoid reactive response to client;
- d) Unclear, long reports that are not evidence-based should be avoided at all costs; and
- e) Avoid a poor media or public profile.



FUTURE FOCUS FOR INTERNATIONAL COOPERATION

- Future international cooperation should focus on the following:
 - a) Providing technical support to ombud institutions that is either in the formative stages, being established or fully operational;
 - b) Providing external quality assurance by monitoring and evaluating institutional progress using periodic surveys or either passive or active surveillance systems;



FUTURE FOCUS FOR INTERNATIONAL COOPERATION

- c) Coordinating training *viz.* formal training and exchange programs with time frames among member states with the view to enhance institutionalisation of such institutions globally.
- d) Linked to the training would be development on training manuals on transverse matters;



FUTURE FOCUS FOR INTERNATIONAL COOPERATION (CONT)

- e) Strengthening cooperation and sharing lessons learnt or best practices on case management systems, monitoring, evaluation and implementation of recommendations thereof;
- f) Extending ICOAF activities beyond continental operations to regional activities especially for the African continent where ombud institutions are an emerging phenomenon.



FUTURE FOCUS FOR INTERNATIONAL COOPERATION

- g) Linked to this would be a consideration into secondment of expertise to assist new institutions with capacity building;
- h) Setting up extensive networks to exchange ideas on core functions or core business; and
- i) Developing guidelines and benchmarking systems to inform norms and standards development.



CONCLUSION

On this note, let me end with a quote from Mahatma Gandhi which so successfully parodied, among other things, negative civil service attitudes, including resistance to change and arrogance. ***“The best way to find yourself is to lose yourself in the service of others”***. In addition C.J Jung said ***“You are what you do, not what you say you will do.”***



I THANK YOU