

EXTRICATING OMBUDSMAN INSTITUTIONAL ADMINISTRATIVE EFFICIENCY: A PRINCIPLE-BASED APPROACH

Jan Tladi⁴

INTRODUCTION

Over the past six decades, Ombudsman Institutions (OIs) have been acknowledged as dynamic institutions capable of tackling a multitude of critical service delivery challenges (Avgar, 2011; Batalli, 2015; Reif, 2011) in order to advance administrative efficiency institutionally, interpersonally and externally. OIs are generally institutions of last resort, offering impartial and independent services for investigating and processing complaints, resulting in processes, systems, practices and policy changes (Abedin, 2010; Gottehrer, 2009). Consequently, there is a growing body of research validating the cumulative positive consequences of maintaining the highest degree of ethical conduct and upholding fundamental principles towards Ombudsman institutional and administrative efficiencies (Avgar, 2011; Batalli, 2015; Reif, 2011). Additionally, scholars have researched the aptitude of OIs to investigate and resolve complaints to increase good governance and accountability, especially in public administration and other institutional environments (Abedin, 2010; Gottehrer, 2009).

The adoption of a principle-based approach through the implementation of fundamental corporate governance principles, such as justice, accountability, administrative efficiency, transparency, and accessibility, are essential to the legitimacy and sustainability of OIs. It is crucial to understand how this principle-based approach influences administrative efficiency, how it will have a bearing on OIs external effects and consequences, and how it will affect interpersonal relations and attitudes in the performance of OIs' duties and responsibilities. Therefore, the

⁴ Advocate at Property Practitioners Regulatory Authority

research study evaluates the co-efficiency influence of applying a principle-based approach by OIs inwardly at the organisational level and outwardly at the external level as a mechanism of increasing administrative efficiency, good governance, role-modelling and ethically run OIs.

Section 2 (2) of the International Ombudsman Association Standards of Practice (2022) states: “The Ombudsman strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues...”. The standards of practice underlie the posture of OIs critically, organisationally and individually towards ethical behaviour and upholding overriding good governance principles. Given the importance of OIs as essential distributors of organisational fairness and justice, embracing underlying good governance principles towards greater efficiency is gaining more and more traction. To contribute to the growing importance of OIs as alternative dispute resolution (ADR) mechanisms, the research study aims to understand the core relationship between OIs’ administrative efficiency and the implementation of a principle-based approach. This examination revealed the causal antecedents and outcomes of executing a principle-based approach to enhance administrative efficiency. Qualitative review methods have been employed to gain a comprehensible understanding of the combined effect of applying superseding good governance principles for efficiently administered OIs. The paper explores a critical body of literature on OIs’ depiction to grasp the causal consequences of administrative efficiency and concludes by discussing the key findings, results and conclusions.

THEORETICAL FRAMEWORKS

The accountability theoretical construct has been abstracted for appraising a number of OIs’ vertical and horizontal accountability mechanisms, such as decreasing political agency costs between OIs and Parliament, increasing administrative efficiency levels (Pegram 2008), and promoting efficient stakeholder co-ordination and engagement. The existence of accountability mechanisms enable OIs to be accountable institutions at interpersonal, organisational and external levels. On the other hand, legislated OIs, as public representatives, are accountable to parliament for the performance of activities.

The organisational justice or fairness theoretical construct exemplifies OIs as constituent network dispensers of justice at the formal (procedural), substantive (distributive) and interpersonal (interactional) levels (Avgar 2011; Katsara 2015). This theoretical construct is advantageous for illuminating the role of OIs in the execution of functions from a multi-dimensional level: interpersonal, organisational and external levels. Much prominence is laid on citizens' social depiction of cases of administration of justice or injustice in organisational settings (Poole, 2007; Katsara, 2015), using the three-dimensional levels: formal, substantive and interpersonal justice. Distributive justice hinges on Adam's theory of equity, denoting a social exchange of contractual obligations between two parties, characterised by giving and receiving (1965). Distributive or substantive justice implies fairness of outcomes reached or the content of organisational action taken (Colquitt et al. 2001; Avgar 2011). Procedural justice is defined in terms of cogent procedures, indicating that just decisions are those that result from reasonable procedures (Katsara, 2015). Procedural or formal justice denotes the fairness of the means used to arrive at a specific distributive finale (De Cremer et al. 2010; Avgar 2011). Interactional justice focuses on the quality of interpersonal treatment meted out to individuals (Luo 2007; Anderson and Patterson 2010; Avgar 2011). Much concentration is on interpersonal attributes such as veneration, compassion, and the furnishing of reasonable explanations for decisions taken (Katsara 2015). Research suggests that complainants who anticipated higher levels of procedural justice are more likely to intend to use OIs' services (Harrison et al. 2013) and are shown to be affected by interpersonal justice or the extent to which individuals feel that they are treated in a manner that is respectful and dignified during the decision-making process (Avgar 2011).

Utilitarian theorists advanced several management approaches explicating positive actions, positive outcomes and ethical consequences consequent to actions taken at interpersonal, organisational and external levels. According to the classicists, absolute happiness and pleasure are the ultimate societal aspiration. Therefore, ethical choices should be characterised by "doing the right things" with the highest probability of generating the greatest happiness for the greatest number of people. Societies should create laws that guarantee an equitable balance between individual and societal ethical uprightness

(Afegbua and Adejuwon 2015). This theoretical construct stresses the underlying notion that the ends should justify the means by weighing all competing benefits against the probable harms that could affect individuals and societies (Afegbua and Adejuwon 2015). This theoretical construct is ideal for inducing neutrality and objectivity in the exercise of OIs' duties and responsibilities. The greatest benefit is that in executing duties and responsibilities, OIs should consider all ends and means to reach "fair outcomes" and should exemplify a positive ethical posture at the interpersonal, organisational and external levels.

The Constitution of the Republic of South Africa guarantees the foundation of a societal order grounded on democratic ideals, social justice and fundamental human rights, indispensable for an egalitarian society in which government is based on the will of the people (1996:7). To achieve these constitutional rights, in the exercise of their authority, OIs such as the Public Protector implement vertical and horizontal accountability mechanisms as a means to diffuse political and agency costs. Guaranteeing these constitutional rights entails OIs dispensing organisational justice procedurally, substantively and interactionally. Additionally, the execution of overriding good governance principles, such as accountability, transparency, justice, and accessibility, are essential ingredients for the sustenance of ensuring their administrative efficiency.

METHODOLOGY

Qualitative research review methods were used to comprehend the relationship between enhancing the administrative efficiency of OIs and applying fundamental ethical principles. This entailed using secondary data analysis methods which assisted in cumulatively exposing the beneficial outcomes of combining administrative efficiency and ethical principles for efficiently administered OIs.

Literature Review

Scholars have cumulatively accumulated a weighty body of research on the antecedents and consequences of efficiently administered OIs (Avgar 2011; Papica 2011; Batali 2015; Reif 2011). Consequently, it has

become exceedingly impossible to explicate OIs' administrative efficiency without stating the underlying notions of ethics and principles. From a good governance point of view, ethics and principles are closely interconnected, and it is unheard of to speak of one at the exclusion of the other. The ancient Greek philosopher Aristotle's *Nicomachean Ethics on Law and Morality* serves as a blueprint for how individuals and organisations should act positively and become exemplary (1976). According to Aristotle, ethical virtues should be exemplified through behavioural attitudes. The department of ethical virtues is largely dependent on the law to invoke justice or fairness (1976.). Aristotle found that well-functioning organisations and individuals survive on the optimum functioning of three intellectual virtues: episteme (knowledge), *techne* (application) and *phronesis* (values). Aristotle emphasised the crucial importance of "phronesis" as the single virtue of prudence (1976).

One of the defining characteristics of OIs' existence is the extent to which they distribute justice fairly and equitably. Sturm (1988) explains justice as an "ethical principle ... an affirmation of collective societal and individual character; heralding something concerning basic societal and individual circumstances, as cosmic beings, belonging together; grounded in the most rudimentary charisma of human beings; ... being human, in the fullest sense, is being impartial." The presence of justice results in societal and individual enrichment; the absence of justice results in deprivation. Justice is the pre-eminence of human development; injustice is indicative of human failure (Sturm 1988). Shelton (2011) postulates that efficient administration of justice involves the judicious consideration of exercising power by applying methods and tools that are more acceptable to the victim than had been experienced. Justice is a foremost societal and individual moral virtue. Cultivating it demands fair distribution of burdens and benefits of societal goods. Societies relied on their leaders to distribute justice even-handedly. The biggest test to determine whether justice has been distributed equitably is how the burdens and benefits were settled (Smurl 1994). Inasmuch as justice is a moral virtue of societies and individuals, it is also a basic moral virtue of the institutional character of organisations. (Sturm 1994). The underlying principles of ingenuity, respect, empathy, and humility represent the substance of the fair distribution of justice (Sturm 1988).

Over time, the principle of justice has been conceptualised differently by scholars. However, there has been consensus regarding some of its defining dimensions. Justice is distinguishable at multi-dimensional levels: procedural (formal), distributive (substantive) and interactional (interpersonal) (Avgar 2011; Velasquez et al. 1990). Distributive or substantive justice implies a two-stage process, i.e., fairness of the ends or outcomes achieved and the content of the OI's verdict (Avgar 2011; Colquitt et al. 2001). Distributive Justice is intended to ensure that burdens and benefits are distributed equitably among societies and individuals in a just and fair manner (Velasquez et al. 1990). Distributive justice determines the extent to which punishment is fair and just and the extent to which societies and individuals are fairly compensated for injuries suffered (Velasquez et al. 1990). Procedural or formal fairness implies the fairness of the methods, processes and means applied to arrive at a particular distributive end or outcome involving an inclusive and transparent process (Avgar 2011; De Cremer et al. 2010). Interactional or interpersonal fairness implies fairness that accentuates the interactive treatment (Anderson and Patterson 2010; Avgar 2011). Colquitt et al. (2001) argued that interactional fairness is influenced by informational fairness, which captures the extent to which individuals are provided with information regarding decisions made, processes used and actual distributive outcomes. To determine whether justice has been equitably distributed in a given situation, consideration should be given to the dimensional elements of justice, i.e., formal, substantive and interpersonal fairness. In assessing the efficacy of the different dimensions of justice, the following aspects are key: equitable treatment of identical cases, implementing processes and operational methods independently and objectively, having representation in the process, and implementing open and transparent processes and procedures.

The equitable distribution of justice is triggered by, firstly, recognising the rubrics and systems applicable; secondly, the available methods and instruments to be used in the ADR process (Papica 2011); and thirdly, the outcomes reached. There is an inherent duty on the part of OIs to be fair to all complainants regardless of, among others, age, colour, ethnicity or social origin, religion, political affiliation, gender, sexual orientation, social and economic status, and disability. The underlying ethical principles such as ubuntu, compassion, respect, accountability, uprightness, veracity, and stakeholder participation and engagement are

characteristics that belong to justice. Justice should be seen to be done and should include complainants having the administrative inalienable right to be informed about the nature and content of the complaint against them. They need to be informed timeously and adequately about the complaint, their right to representation (if applicable) during the hearing, and explanation of decisions taken and reasons thereof.

Accountability remains one of the basic principles of OIs' character. In exercising duties, OIs are required to be accountable and answerable to the complainants regarding complaints lodged. OIs who are appointed through legislative instruments are answerable and accountable, not only to the citizens but also to parliament for their operational activities undertaken. As posited by Pegrum (2008), the extent to which OIs are accountable and answerable can be measured by how they are able to reduce the political agency costs between them and parliament. It will also be helpful in assessing the efficiency levels and efficient stakeholder co-ordination and engagement processes. OIs enforce "soft" forms of sanctions in the form of issuing recommendations as opposed to "coercive" sanctions. Increasingly, academics, scholars and practitioners demand that OIs be entrusted with "enforcement powers" as opposed to "soft powers" in order to strengthen both vertical and horizontal accountability mechanisms (Pegram 2008).

Having "enforcement powers" will endow OIs with powers to impose enforceable legal sanctions. Consequently, they will be able to discharge accountability duty more effectively. OIs are often disparaged for being pawns of the institutions that established them, thereby encroaching upon their ability to effectively account for their operations (Pegram 2008). Accountability, in the context of public administration, can be exemplified from two levels: political accountability, denoted by accountable arrangements between political office-bearers towards the citizens, and public accountability, denoted by holding public officials accountable for their actions and inactions in the delivery of public services. Citizens are endowed with the inalienable right to good governance to satisfy these public services.

One of the underlying principles characterising OIs is maintaining their independence. The need to maintain independence is a substance contingent principally on institutional elements such as how they are instituted and their accountability mechanisms. Mbiada (2017) posits that the personal qualities and qualifications of appointees to the position of Ombudsman contribute to their level of independence. It is believed that securing assurance of OIs' independence is a key constituent for ensuring that OIs execute functions conscientiously, objectively and without favour, fear or prejudice. The independence of OIs is secured through fair recruitment processes encapsulating open and fair procedures to be followed. The recruitment procedure should involve the use of scientifically proven competency-based assessments. This is an attempt to maintain the independence of OIs from undue influence. Saloranta (2021) posits that there is a close correlation between the non-existence of openness and transparency and a decreased level of independence in OIs, which is potentially harmful to their legitimacy.

One of the important roles of OIs is ensuring that the institutions are accessible to their clients. The principle of accessibility of OIs can be viewed from two stages, i.e., structural and social accessibility. Structural accessibility relates to physical features such as reachable offices and disabled-friendly premises. Social accessibility factors include providing technical assistance to complainants. As suggested by Saloranta (2021), awareness campaigns in the form of media statements, using social media platforms and workshops, serve a vital role in promoting their existence. Some of the accessibility features include readily available material in user-friendly languages clarifying important information such as access to offices and the key activities of OIs; provisioning appropriate facilities and assisting disadvantaged complainants and those with special needs as well as implementing simplified processes that are easily understandable and user-friendly for clients (Saloranta, 2021). Ensuring accessibility should involve addressing challenges concerning language, literacy, costs, physical location and fear of reprisals (Saloranta 2021). There should be outreach programmes, including multiple entry points for users, providing designated complaint handlers and literature about policies and processes, taking relevant languages and focus groups (translation services free of charge) into consideration, with a special provision for vulnerable groups and those with disabilities (Saloranta 2021).

Achieving OIs' administrative efficiency can be influenced at multiple levels: interpersonal, organisational and external levels (Avgar 2011; Lavelle et al. 2007). In order to influence administrative efficiency, these different levels or units should be underpinned by overriding principles and ethics, such as accountability, transparency, accessibility and justice. The existence of these overriding principles is likely to influence the perceptions of administrative efficiency since efficiently administered OIs can promote good governance by increasing accountability, openness and transparency, and fair and objective processes (Reif 2004). Additionally, OIs are responsible for balancing many types of individual interests and societal needs and goods, which are diverse in nature (Avgar 2011; Shelton 2011). Balancing these diverse computing interests requires efficiently administered OIs. Some of the constraints in evaluating the relationship between the OIs' administrative efficiency and a principle-based approach are that the very existence of OIs is based on maintaining good corporate governance principles organisationally and externally, and, as such, it is almost a given that their activities and actions should be underlined by these fundamental principles; and that the varied roles, responsibilities and outcomes associated with these increasingly important institutions are to advance administrative efficiency internally first and, thereafter, externally, in order to gain more traction and legitimacy.

Inefficiencies within OIs cause undue delays in resolving disputes, a failure to implement intended corrective measures and decisions, non-observance of established procedures, systems and applicable policies, and the non-conveyance of relevant and adequate information timeously. Additionally, failure to adhere to the highest degree of standards can result in severely mismanaged OIs, thereby leading to substantial financial, human, reputational and legitimacy costs (Buss 2011). Unfortunately, few organisations evaluate the associated costs, resulting in administrative inefficiency. Incidents of low morale, low productivity and unhealthy conflict contribute to administrative inefficiency.

Unresolved organisational conflict represents the largest reducible cost in many organisations. In contrast, Buss (2011) postulates that many organisations do not measure the financial, human and credibility costs

of conflict, resulting in administrative inefficiencies. Severely mismanaged conflict can seriously tarnish the reputation of OIs (Buss 2011), leading to lower motivation, productivity and service levels, negatively impacting administrative efficiency levels (Buss 2011). Research has shown that 80 per cent of organisations' employees who are impacted by negative conflict tell other people inside and outside the organisation (Buss 2011). A bad reputation has the potential to affect an OI's legitimacy and the ability to retain top talent or secure stakeholder support, including from clients (Buss 2011).

FINDINGS AND DISCUSSION

Scholars distinguish between three pivotal philosophical perspectives on principles: consequentialism, deontology and utilitarianism. Particularly, utilitarianism predisposes OIs to become guardians of "boni mores" and axiomatically principle-driven organisations. Efficiently administered OIs depend on the availability of appropriate operating systems and functional policies, processes and procedures; effective interpersonal relations and interactions; and executing organisational decisions and actions in a way that upholds rudimentary notions of administrative efficiency. Implementing corporate governance principles such as accountability, administrative efficiency, justice, openness, transparency, and accessibility has beneficial outcomes for OIs at multi-dimensional levels: interpersonal, systems, organisational and external environments. Governments across the globe have the enduring struggle of treating their constituents fairly and justly to gain legitimacy. OIs have a critical role in reassuring and enabling fairness and justice competently, compassionately and in an honest manner.

The Standards of Practice adopted by the International Ombudsman Association states: "the Ombudsman advocates for fair and impartially administered processes..." (International Ombudsman Association Standard of Practice, 2022). The Office of the Ombudsman in Hong Kong (1997) emphasise the need to inculcate a culture of a principle-based approach with a number of standards for ethical behaviour: upholding a sense of duty and accountability; sensible decision-making; maintaining honesty and veracity; upholding professionalism and public

interest; maintaining courtesy, equality, and equity; being loyal and dedicated; and being economic and environmentally friendly.

In rethinking OIs' administrative efficiency, the pertinent questions to be asked are: How can OIs increase administrative efficiency? How will the execution of underlying ethics and principles affect the different justice dimensions? How will the implementation of ethics and principles, taken together, affect administrative efficiency? Papica (2011) rhetorically posits that "as harbingers of fair treatment, how will OIs maintain an aura of impartiality between the disputing parties and apply equitable policies and procedures justifying why certain decisions were made?" This paper examines the potential linkages between the activities of OIs in relation to increasing their levels of efficiency through applying antecedents and consequences of ethics and principles.

According to Papica (2011), distributive justice plus procedural justice equals outcome justice. The author's formula explicates a co-ordinated, balanced, and harmonious combination of distributive justice and procedural justice, which, in turn, will produce justice as an outcome (Papica 2011). Unlike distributive or procedural dimensions, interactional justice is supported through improved information sharing and perceptions of interpersonal treatment. The distribution of justice through the different dimensions, distributive, procedural and interactional, is affected by different antecedents and consequences. How effective are these dimensions found to be correlated to OIs' performance and outcomes? The distribution of higher levels of justice at these dimensional levels has the real probability of benefiting OIs organisationally, individual employees and their external environment. To this end, the distribution of justice has been shown to have improved the quality of how OIs interact with complainants. How individual employees perceive OIs' distribution of justice has been shown to positively affect employee health and wellbeing, resulting in increased productivity and positive behaviour. Therefore, the OIs have a mandate to ensure that the entire process of distributing justice is applied fairly and even-handedly, i.e., from the point of referral to the moment the decision is taken and across the entire organisational spectrum.

Individuals and societies are bound together by a pledge of mutual trust, responsibility and respect, which implies a sense of belonging and a duty to care for one another. OIs should be required to implement an organisational culture which emphasises and creates embedded trust. Efficiently administered OIs should balance policy implementation and their impact on others. There is a “golden rule” that says: “Do unto others what you want them to do unto you”, an old-age ontological perspective dating back many years ago. The ancient Chinese philosopher Confucius was credited with propagating this ideal. The “golden rule” signifies how OIs should embrace this adage in dispensing justice in executing duties and responsibilities. Additionally, OIs are encouraged to incorporate ubuntu values such as being empathetic, compassionate and humane in their dealing with aggrieved parties. Allesandra and O’Connor (1996) coined the notion of the “platinum rule” – “treating others the way that they want to be treated”. The authors proffer this axiom as an alternative to the “golden rule”. They argue that the “platinum rule” is more ideal than the “golden rule” as it factors in the feelings, emotions and experiences of other individuals in the distribution process of justice.

There are inherently four just and equitable elements for consideration during the course of OIs’ processes: corporeal, formal, interpersonal, and substantive justice. Corporeal justice relates to the physical and psycho-social factors involved in where the process is taking place, including session location, accessibility issues such as access to information, and technical assistance. Formal justice entails implementing fair and equitable rubrics and systems to guide the process to be followed. Interpersonal justice describes the sequence of step-by-step interactional or interpersonal relationships involved, from the lodgement to the final outcome of a complaint. This also entails intervening processes such as logging complaints, undertaking fact-finding exercises, informing parties of the complaint about the alleged dispute, gathering relevant information concerning the complaint, scheduling hearings and meetings, taking decisions on the basis of evidence collected and adduced, and distributing findings to the parties. Finally, substantive justice entails designing and implementing fair and equitable policies, systems and procedures to arrive at the desired outcome, considering the chronological steps involved. Reaching a just or fair outcome is a by-product of efficiently administered OIs and their

adherence to the underlying ethical principles. In order to enhance administrative efficiency, OIs should implement the following procedural fairness factors: parties should be informed about the complaint; implement the audi alteram partem rule, which requires all parties to the complaint to be heard; accurately evaluate the facts surrounding the case; and take unbiased and impartial decisions—furnishing the reasons for the decision taken.

OIs need to embrace Peter Drucker's approach to management (Drucker et al. 2008) to efficiently control administration activities by incorporating the seven design characteristics. To illustrate, OIs' managerial controls and practices should be efficient, meaningful, appropriate, congruent, timely, simple and operational. The administrative efficiency of OIs should be characterised by the desire to bear the burden of cultivating justice. This should entail ensuring a balancing act between the competing interests of disputing parties. The obligation to dispense justice should be characterised by ethics and principles. Acting fairly and in a just manner depends on the appropriate mix of expertise and a positive attitude. In the event the expertise and attitudes are incongruent, it could potentially jeopardise the ADR process severely.

Naturally, OIs are empowered to address diverse stakeholder needs and interests, which can either be internal or external. An adequate response to the diverse needs of these internal and external stakeholders may facilitate distributive, procedural and interactional justice. It is accepted that the constructive contestations of ideas in an ambience of mutual respect can help OIs and has the potential to drive greater performance and creativity. By addressing stakeholder needs and interests, OIs can contribute to an ethical and principle-driven climate. This requires a multi-stakeholder focus across a range of organisational activities. OIs' activities have been shown to have a broader range of potential benefits for these diverse stakeholders. Additionally, apart from managing and resolving conflict, OIs can function as channels through which important organisational information is transferred and processed. OIs have also been shown to enhance organisational learning and development, resulting in heightened administrative efficiency levels.

The existence of procedures and processes for the efficient resolution of disputes pursues the truism of sound regulations, policies and systems and, consequently, points towards good outcomes. As Papica (2011) suggested, prudent administrative decisions, backed by procedures, processes, systems and policies, are executed via proper conduits, resulting in fair and satisfactory outcomes. OIs are institutionalised vehicles through which deep-seated interpersonal and professional conflicts can be addressed. Addressing interpersonal-level conflicts and disputes will potentially affect multiple dimensions of conflicts across the board. Resolving these conflicts goes to the heart of distributive, procedural and interactional justice. The participation of OIs in organisational disputes serves as a vehicle through which to deliver substantive remedies to their employees. OIs have the capacity to enhance organisations' distributive, procedural and interactional justice climate by addressing substantive interpersonal-level conflicts. A coherent and clear understanding of the effects of OIs' key actions would benefit the creation of harmonious interpersonal relationships within OIs. The execution of OIs' key activities should be underlined by well-constructed administrative guidelines and efficient procedures to implement actions, systems and plans.

In order to gain the trust of prospective complainants in their work, OIs should implement a system of openness and transparency and promote stakeholder participation. Openness and transparency have the capacity to encourage accountability and responsiveness. When complainants are furnished with relevant and accurate information about the services rendered by OIs, they will likely use the services and gain more trust in the system. OIs are recognised as guardians of administrative efficiency and intermediaries of accountability. This significant role can better be advanced in the course of protecting the best interest of society and individuals, irrespective of jurisdiction. It is becoming widely held for organisations to increase their legitimacy by exercising openness and transparency. Administering functions openly and transparently is the foundation of dispensing justice and has the capacity to increase administrative efficiency. It is impractical to discharge justice equitably without openness and transparency. As posited by Papica (2011), there should be congruence between what you are doing and what you are accomplishing, signifying that when OIs carry out their duties in an open,

transparent and accountable manner, it has the potential to result in efficient administration within them.

A growing body of research suggests that during the past few decades, trust in the performance of public institutions has been deteriorating. OIs, especially those operating within the public service environment, have the capacity to play a key role in reinforcing trust in public institutions. The prerequisite for trust-building in public institutions is to first build trust organisationally. This should be followed by adopting a principle-based approach by implementing principles such as integrity, accountability, transparency and fairness; being service-oriented; inculcating a user-friendly organisational culture nurturing the highest degree of standards; and actively portraying trustworthiness.

The personal qualities of an Ombudsperson, as appointed, are key for ensuring their independence and ability to exercise duties objectively, without fear, favour or prejudice. Beyond educational qualities, the appointment of an Ombudsperson should be underlined by personal attributes such as probity, integrity and authenticity. An appointed Ombudsperson should become a role model for servanthood and ethical leadership. The appointing authority should transcend formal qualifications and consider other attributes such as empathy, compassion and honesty. An appointed Ombudsperson should demonstrate that they are competent in maintaining the independence of the institution and its administrative efficiency and effectiveness. These personal qualities and attributes should cascade throughout the organisational levels. When an Ombudsperson demonstrates an exemplary outlook, the staff underneath them will follow suit.

On a more practical level, it is expected that individuals should have the following unassailable rights in an ADR process: having their disputes resolved impartially, fairly and in a timely manner; upholding the rules of natural justice; and having access to relevant information and documents. The basic idea is that OIs should be easily accessible institutions, especially to underprivileged individuals. Being easily accessible involves a number of factors, such as having user-friendly operating hours; lodging complaints free of charge; having user-friendly complaints management systems and processing; and applying a

variety of processes for lodging of complaints, e.g., telephone, e-mail, social media platforms and face-to-face interviews. Research has shown that in some jurisdictions, OIs were initially established due to diminished levels of trust in the judiciary. Consequently, OIs became accessible mechanisms for dispensing justice. OIs have been able to process large volumes of cases that would have been dealt with by courts of law using simplified and timely procedures and processes. Given their ability to deal with complaints in an informal, timely and simplified manner, OIs have the capacity to reduce hurdles and obstacles often experienced through court processes to ensure their accessibility. OIs can achieve legitimacy by adopting the litmus efficiency tests: accessibility, predictability, equitability, transparency and comparability with human rights (UNGP 31). Compliance with the litmus tests requires that disputing parties be furnished with relevant information and records concerning the dispute and the procedure to be followed within the ADR process. The information and records should be disclosed to all parties involved. The parties should be assisted in accessing the ADR process.

In order to remain relevant and useful ADR mechanisms, OIs should validate their ability to be accountable, transparent, independent, accessible, objective and administratively efficient. OIs should, therefore, regularly conduct impact assessments and evaluation studies to determine their level of administrative efficiency and their ability to consistently uphold the highest degree of ethical standards in exercising their duties and responsibilities. Impact assessment studies could potentially review the effective implementation of corrective measures; measure the impact of investigations; assess standards interpersonally, organisationally and in the external environment to ensure they are of the highest degree; and assess the value-add of OIs as ADR mechanisms. Impact assessment studies are useful in a number of ways: appreciating the impact and value of OIs as ADR mechanisms, evaluating the effectiveness of investigations to detect unlawfulness and impropriety, understanding the value-add of implementing principle-based OIs, and comprehending the levels of efficiency within OIs. It is of critical importance for OIs to play a preventive or active role in averting complaints. They should not only function as “firefighters” by being reactive and waiting for complaints to be lodged. They should become “fire-preventers” who implement positive measures to avert complaints from occurring. Some of the positive measures to reduce complaints

entail conducting awareness campaigns, conducting education on human rights, and conducting systemic reviews to identify areas of maladministration.

Inefficiently administered OIs have the potential to breed undesirable conflict in the organisation, resulting in considerable financial, employee, reputational and legitimacy costs. Unfortunately, a large number of organisations do not implement systems and processes to measure the associated costs. When this happens, administrative efficiency and compliance with the underlying ethical principles suffer severely. Buss (2011) argues that effective conflict management requires some form of cost measurement and proposes a cost visibility and measurability matrix as a tool to assist organisations in identifying relevant conflict costs. A study by KPMG on conflict management costs published in 2009 (cited in Papica 2011) distinguishes between functional and dysfunctional conflict costs. Functional costs are “positive” conflict costs that benefit an organisation, and dysfunctional costs refer to detrimental and avoidable “negative” conflict costs (Buss 2011). OIs should implement policies, systems and procedures to create a culture of accountability, transparency, integrity and fairness. OIs should design and implement policies, systems, and procedures to eliminate harassment, prevent fraud, corruption, and maladministration, and protect whistle-blowers and the codes of ethics. Effective implementation and adherence to these policies, systems and procedures requires sensitisation and learning programmes. An integrated principle-based approach to the rendering of OIs’ services should be viewed as a sine qua non in achieving overall administrative efficiency and enhancing individual and organisational performance. Research has shown that efficiently administered OIs are capable of managing internal conflict and creating a favourable environment (Buss 2011).

CONCLUSION

This paper advocates for the consistent use of alternative dispute resolution (ADR) mechanisms proffered by OIs instead of court processes. OIs’ ADR processes are usually informal and timely and, therefore, sensible to invest in as an alternative to resolving disputes

using court processes. Usually, OIs proffer services free of charge as opposed to unaffordable legal costs if aggrieved parties were to approach courts to resolve their disputes. OIs, therefore, need to increase their levels of administrative efficiency if they are to be afforded legitimacy. As revealed by this paper, the underlying good governance principles, if integrated transversely, have the combined effect of increasing administrative efficiency levels, thereby increasing OIs' legitimacy and trust amongst existing and prospective complainants.

The pursuit of justice is a basic human desire. The failure of OIs to adhere to this important principle and other underlying standards can result in inefficiently administered OIs, leading to substantial financial, employee, reputational and legitimacy costs. This could be exacerbated by the lack of underlying good governance principles that are crucial to the optimal functioning of OIs. They need to create more knowledge about the importance of creating a principle-based organisational ethos by inculcating an organisational culture that values these key principles at the interpersonal, organisational and external environment levels.

Additionally, OIs can play an active role in preventing the occurrence of complaints by implementing a wide range of strategies. They can aid in preventing systemic problems and challenges, resulting in the reduction of complaints. By being actively involved, they can help increase administrative efficiency and strengthen human rights protection in the public administration and their different jurisdictions. Their good governance should be characterised by the following underlying principles: availability of operating systems, policies, regulations and processes, as well as adherence to the highest degree of standards. Efficiently administered OIs should be driven by the following: being service-oriented, having a system of notifying the disputing parties about their rights and decisions taken, administering complaints fairly and justly, being exemplary by practising servanthood, and being ethical in posture and outlook.

OIs should improve their administrative efficiency, objectivity, accountability, accessibility, openness and transparency at organisational, interpersonal and external levels by promoting a people-centred approach and advancing justice. They have an inimitable task

of detecting systemic problems and challenges affecting their constituencies. The combined effect of inculcating good governance principles enables them to minimise maladministration. Maladministration is defined as acts, omissions, rulings, and recommendations that create ineptitudes, improprieties, poor service delivery and bad management.

This paper has focused on the need to increase the administrative efficiency of OIs by using underlying ethics and principles at the interpersonal, organisational and external levels. The implementation of ethics and principles has the combined effect of increasing administrative efficiency. Additional research should be undertaken to explore other complex relationships between adherence to the highest degree of standards and other equally important variables connected to the functioning of OIs. More specifically, a number of issues call for additional attention regarding enhancing the administrative efficiency of OIs, such as adopting a systems-based approach towards administering efficiently managed OIs and designing and implementing appropriate models to advance OIs efficiency and good governance.

BIBLIOGRAPHY

- Adams, J.S. (1965). Inequity in Social Exchange. In L. Berkowitz (Ed.). *Advances in Experimental Social Psychology*. New York: Academic Press.
- Afegbua, S.I. and Adejuwon, K.D. (2015). Ombudsman and Ethical Dilemma in Nigerian Administration: From Rising Expectations to Dashed Hopes. *Review of Public Administration and Management*, 3(7): 100-114.
- Abedin, N. (2010). The Ombudsman in Developing Democracies: The Commonwealth Caribbean experience. *International Journal of Public Sector Management*, 23(3): 221-253.
- Allesandra, T. and O'Connor, M.J. (1996). *The Platinum Rule: Discover the Four Basic Business Personalities and How they can Lead You to Success*. Victoria, Canada: Warner Business Books.

- Anderson, W.D. and Patterson, M. (2010). The Role of Psychological Distance in the Formation Fairness Judgments. *Journal of Applied Social Psychology* 40(11): 2888-2903.
- Aristotle (1976). *The Nicomachean Ethics* (Abbreviated as N.E., Translated by J.A.K. Thomson, Revised with Notes and Appendices by H. Tredennick, Introduction and Bibliography by J. Barnes. Harmondsworth: Penguin.
- Avgar, A.C. (2011). The Ombudsman's Ability to Influence Perceptions of Organisational Fairness: Toward a Multi-Stakeholder Framework. *Journal of the International Ombudsman Association*, 4(1): 7-17.
- Batalli, M. (2015). Role of Ombudsman Institution over the Administration. *Academic Journal of Business, Administration, Law, and Social Sciences*, 1(1): 231-240.
- Bies, R.J. and Moag, J.F. (1986). Interactional Justice: Communication Criteria of Fairness. *Research on Negotiations in Organisations*, 1: 43-55.
- Buss, H. (2011). Controlling Conflict Costs: The Business Case of Conflict Management. *Journal of the International Ombudsman Association*, 4(1): 54-62.
- Colquitt, J.A., Conolon, D.E., Wesson, M.J. and Porter, C.O.L.H. (2001). Justice at the Millennium: A Meta-Analytic Review of 25 Years of Organisational Justice Research. *Journal of Applied Psychology*, 86(3): 425-445.
- De Cremer, D., Broccker, J., Fishman, A., Van Olffen, W.M. and Mayer, D.M. (2010). When do Procedural Fairness and Outcome Fairness Interact to Influence Employees' Work Attitude and Behaviours? The Moderating Effect of Uncertainty. *Journal of Applied Psychology*, 95(2): 291-304.
- Drucker, P. and Maciariello, J.A. (2008). *Management*. Rev. ed. New York: Collins.
- Gottehrer, D.M. (2009). *Fundamental Elements of an Effective Ombudsman Institution*. World Conference of the International Ombudsman Institute, Stockholm.

- Harrison, T.R., Hopeck, P., Desrayaud, N. and Imboden, K. (2013). The Relationship between Conflict, Anticipatory Procedural Justice and Design with Intentions to Use Ombudsman Processes. *International Journal of Conflict Management*, 24(1): 52-72.
- International Ombuds Association. (2022). *Standards of Practice for International Ombud Association*. Hillsborough: IOA.
- Katsara, O. (2015). The Use of the Ombudsman's Services for Alleviating International Students' Difficulties. *Journal of International Students*, 5(3): 260-270.
- Lavelle, J., Rupp, D.E. and Brockner, J. (2007). Taking a Multifoci Approach to the Study of Justice, Social Exchange, and Citizenship Behaviour: The Target Similarity Model. *Journal of Management*, 33(6): 841-866.
- Luo, Y. (2007). The Independent and Interactive Roles of Procedural, Distributive and Interactional Justice in Strategic Alliances. *Academy of Management Journal*, 50(3): 644-664.
- Mbiada, T. (2017). The Public Protector as a Mechanism of Political Accountability: The Extent of its Contribution to the Realisation of the Right to Access Adequate Housing in South Africa. Retrieved from <http://dx.doi.org/10.17159/1727-3781/2017/v20n0i1382.pdf>.
- Office of the Hong Kong Ombudsman. (1997). Retrieved from http://www.ombudsman.gov.hk/publications_1997_04a.shtml.
- Papica, G.R. (2011). The Ombudsman's Guide to Fairness. *Journal of the International Ombudsman Association*, 4(1): 26-34.
- Pegram, T. (2008). Accountability in Hostile Times: The Case of the Peruvian Human Rights Ombudsman: 1996-2001. *Journal of Latin American Studies*, 40(1): 51-82.
- Poole, W.L. (2007). Organisational Justice as a Framework for Understanding Union-Management Relations in Education. *Canadian Journal of Education*, 30(3): 725-748.
- Reif, L. C. (2004). *The Ombudsman, Good Governance and the International Human Rights System*. The Netherlands: Martinus Nijhoff Publishers.

- Reif, L.C. (2011) Transplantation and Adaptation: The Evolution of the Human Rights Ombudsman. Retrieved from <http://lawdigitalcommons.bc.edu/twlj/vol31/iss2/3>.
- Saloranta, J. (2021). Establishing a Corporate Responsibility Ombudsman: Enhancing Remedy through State-Based Non-Judicial Mechanisms. Retrieved from <https://journals.sagepub.com/doi/full/10.1177/1023263X20981367.pdf>. Accessed 20 July 2022.
- Shelton, R.L. (2011). Justice as Basis of Equity and Fairness in Ombudsman Practice. *Journal of the International Ombudsman Association*, 4(1): 18-25.
- Simons, T. and Roberson, Q. (2003). Why Managers Should Care about Fairness: The Effects of Aggregate Justice Perceptions on Organisational Outcomes. *Journal of Applied Psychology*, 88(3): 432-443.
- Smurl, J. (1994). *The Burdens of Justice*. Chicago: Loyola University Press.
- Constitution of the Republic of South Africa. (1996). Pretoria, Government Printers.
- Stuhmcke, A. (2012). Evaluating the Effectiveness of an Ombudsman: A Riddle, Wrapped in a Mystery Inside an Enigma. 10th World Conference of the International Ombudsman Institute Wellington, New Zealand.
- Sturm, D. (1988). *Community and Alienation — Essays on Process Thought and Public Life*. Notre Dame, Indiana: University of Notre Dame Press.
- Velasquez, M., Andre, C., Shanks, T.S.J. and Meyer, M.J. (1990). Justice and fairness. Retrieved from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/.pdf>.
- United Nations. (1999). *United Nations Guidelines on Consumer Protection (unGCP) 31*. United Nations: New York.