

Motto



To Champion the Rights of the people, to ensure
that Justice always prevails.

Mission Statement

The Office of the Ombudsman pledges with God's guidance to faithfully serve the Nation of Antigua and Barbuda by impartially and efficiently investigating complaints of members of the public against unjust administrative decisions of officers of Government or Statutory Bodies with a view to righting wrongs and so contribute to good governance and the further development of the democratic process in the Country.

Table of Contents

	Page
Motto and Mission Statement	1
1. Introduction.....	4
2. Summary of Activities	4
i) Investigations of Complaints	4
ii) Preparation of the Report.....	7
iii) Training of Staff	7
iv) Commonwealth Secretariat Course	7
v) Meetings attended	8
3. Staff.....	13
4. Miscellaneous.....	13
5. Summary of Selected cases	14
i) Ministry of Agriculture	14
ii) Antigua Public Utilities Authority	15
iii) Ministry of Health / Medical Benefits Scheme.....	17
iv) Ministry of Health	18
v) Holberton Hospital / Ministry of Health	19
vi) Ministry of Public Works	20
vii) Ministry of Public Works & Communications / Ministry of Social Transformation	21
viii) Public Works Department	22
ix) Ministry of Public Works	24
x) Accountant General	28
xi) Other Complaints.....	28
6. General Comments	29
7. Acknowledgements	30
8. Conclusion	31
9. Appendices.....	32

	<u>Page</u>
I. Report on Study Programme Trust in Government: Promoting Ethics, Integrity and Professional Standards in Public Service, Public Administration International, London by Dr. Hayden Thomas	32
II. Communiqué – Commonwealth Regional Policy Seminar St. Kitts on “The Role of the Ombudsman in Fostering Good Governance and Democracy in the Caribbean Region”	36
III. Keynote Address by Sir Probyn Inniss at the Caribbean Regional Policy Seminar on the Role of the Ombudsman in the Fostering of Good Governance and Democracy.....	39
IV. Remarks by Dr. Hayden Thomas at the Opening Ceremony of a Caribbean Seminar on the Role of the Ombudsman in the Fostering of Good Governance and Democracy.....	48
V. Establishment of New Offices in the Caribbean: Experiences and Guidelines from the Antigua and Barbuda Point of View by Hayden Thomas.....	54
VI. Curaçao Declaration	65
VII. Staff List	67

1. INTRODUCTION

It is once again my pleasure to present my annual report which outlines the activities of the office of the Ombudsman for the year 2004. As in the past, they were varied and interesting but above all they contributed in many ways to good governance in the country. Our contribution also extended to the wider Latin American and Caribbean region and to the International Ombudsman community.

2. SUMMARY OF ACTIVITIES

i) Investigations of Complaints

The Office received 77 written complaints and 104 verbal complaints during 2004. This compares with 88 written complaints and 114 verbal complaints received during the previous year. The decrease could have been due partly to a reduction of our public awareness campaign caused by the absence of an Investigations Officer. It should be noted, however, that an appointment is expected to be made by the time this report is published. We would then be in a position to re-double our efforts which we hope will in turn lead to an increase in the number of cases to previous levels.

Table I summarises the number of complaints received during the period 2002-2004 while Table II provides an analysis of the complaints made against various Government institutions during the same period.

Table I

Complaints Received in 2004 compared with 2003 and 2002

	<u>2004</u>	<u>2003</u>	<u>2002</u>
Number of written complaints	77	88	148
Number of verbal complaints	104	114	129
Total number of complaints	181	202	277
Number of written complaints investigated	75	88	138
Number of written complaints awaiting processing	02	0	10
Number of cases completed	52	74	113
Number of written complaints still under investigation	23	14	25
Number of written complaints found justified	30	51	57

Table II**Analysis of Complaints Made Against Various Ministries and Departments**

	<u>2004</u>	<u>2003</u>	<u>2002</u>
Ministry of Agriculture, Lands & Fisheries	10	08	14
Antigua Public Utilities Authority	04	09	15
Ministry of Civil Service Affairs	01	-	-
Ministry of Education, Culture & Technology	01	05	10
Ministry of Finance	04	06	10
Ministry of Health	09	10	07
Ministry of Information	02	-	01
Ministry of Justice & Legal Affairs	13	30	35
Ministry of Labour	05	06	04
Prime Minister's Ministry	07	04	13
Ministry of Public Works & Communication	09	03	02
Ministry of Social Transformation	02	-	-
Ministry of Sports & Youth Development	-	-	02
Ministry of Tourism & The Environment	-	-	02
Ministry of Trade	-	-	02
Miscellaneous	10	07	31
Total	77	88	148

ii) **Preparation of the Report**

The 2004 Annual Report, as was the case with previous Reports, was to a large extent prepared on our computer in-house. We depended on the Government Printery mainly for the preparation of the covers and the stapling together of the pages. On this occasion we were able to complete the first 50 to enable us to send these to Parliament in a more timely manner. The bulk of the remainder was subsequently compiled by the Printery and these will be later distributed by us to the general public locally and posted overseas mainly to other Ombudsman and Human Rights organizations from whom we get reports. Copies will also be sent to various libraries in Antigua and Barbuda and to our regional libraries e.g. those of the University of the West Indies and the Law schools.

iii) **Training of Staff**

Several short courses sponsored by the Training Division were attended by members of staff. These included:-

- a) Stores Management Workshop
- b) Retirement Planning Workshop
- c) Strategic Planning and Programme Budgeting Workshop
- d) Women and The Law in Antigua and Barbuda
- e) Spanish for Public Servants
- f) Industrial Relations Workshop
- g) Accounting for Stores Workshop.

iv) **Commonwealth Secretariat Course**

I attended a Commonwealth Secretariat Course in London entitled “Trust in Government: Promoting Ethics, Integrity and Professional Standards in Public Service”. This proved extremely enlightening in light of the recent

passage of relevant legislation in Antigua and Barbuda introduced by the Government. These were:-

- a) The Integrity in Public Life Act
- b) The Prevention of Corruption Act
- c) The Freedom of Information Act.

Other participants of the Commonwealth Secretariat Course came from:-

Anguilla, Barbados, Bolivia, Croatia, Cyprus, Gambia, Ghana, Kenya, Malawi, Malasia, Namibia, Palestine, Tanzania and Zambia. A copy of my report is shown in Appendix I.

v) **Meetings Attended**

a) **CAROA Meeting in St. Kitts**

One of the mandates of the Caribbean Ombudsman Association (CAROA) is “to maintain and promote the institution of Ombudsman and to encourage its development throughout the Caribbean by ensuring that the people are served by independent and effective Ombudsman and other similar human rights institutions.” With this in mind, a Caribbean Regional Seminar was held in St. Kitts January 12-15, 2004 under the sponsorship of the Commonwealth Secretariat in London with a view to encouraging the establishment of an Office of the Ombudsman in St. Kitts and Nevis and other countries in the region that do not yet have one. The theme was “The Role of the Ombudsman in the Fostering of Good Governance and Democracy.” It was attended by Caribbean Ombudsmen as well as representatives from the International Ombudsman Institute (I.O.I.) the CARICOM Secretariat, the

Commonwealth Secretariat, the Organisation of American States (O.A.S.) the Inter-American Institute of Human Rights, the Inter-American Commission for Human Rights and the African countries Ghana and Mozambique.

The Opening Ceremony was addressed by the Governor-General of St. Kitts and Nevis His Excellency Sir Cuthbert Sebastian, the Ag. Prime Minister the Hon. Sam Candor and the President of I.O.I. Mr. Clare Lewis Q.C., who is also the Ombudsman of Ontario, Canada. The Keynote address was delivered by the former Governor of St. Kitts and Nevis, Sir Probyn Inniss.

A communiqué issued at the end of the Seminar appears in Appendix II. Also appearing in the appendices are:-

- a) The Keynote address by Sir Probyn Inniss (Appendix III)
- b) Remarks by Hayden Thomas (Appendix IV)
- c) Paper by Hayden Thomas on “Establishment of New Offices in the Caribbean: Experiences and Guidelines from the Antigua and Barbuda Point of View (Appendix V)

Several other papers were delivered e.g. by Sir Dwight Venner Governor of the Eastern Caribbean Central Bank and Prof. Victor Ayeni of the Commonwealth Secretariat.

b) **CAROA’s Third Regional Biennial Conference**

CAROA’s Third Regional Biennial Conference was held in Jamaica May 10 - 14, 2004 under the theme “The Ombudsman, A

Champion of Social Justice and Human Rights”. It was sponsored by the Government of Jamaica and the Commonwealth Secretariat, the host being Mr. Howard Hamilton, Q.C. Public Defender of Jamaica and Vice-President of CAROA. In addition to regional participants there were representatives from the Commonwealth Secretariat, the Inter-American Institute on Human Rights, Sierra Leone, Nigeria, Canada and the U.S.A. The Feature Address at the opening ceremony was delivered by His Excellency the Most Honourable Sir Howard Cooke, Governor-General of Jamaica.

Papers presented at the various sessions were of a high standard and included such topics as:-

The Public Relations role of the Ombudsman – by Mr. Roy Saatchi of Saatchi & Associates, U.K.

The Adaptation of the Ombudsman Concept to the Caribbean – by Hon. A.J. Nicholson, Q.C. Minister of Justice/Attorney General Jamaica.

Balancing Security and Human Rights – by Mr. John Hucker Former Secretary-General Canadian Human Rights Commission.

The Ombudsman and Parliament – by Dr. Trevor Monroe, Senator and Lecturer in Government and Politics, U.W.I.

The Role of the Political Ombudsman – by Bishop Herro Blair, Political Ombudsman, Jamaica.

The Impact of the Ombudsman on National Development – by Hon. Delano Franklyn Senator and Minister of State, Ministry of Foreign Affairs and Trade, Jamaica.

Innovations in the Promotion of Social Justice & Human Rights – by Professor Rex Nettleford Vice-Chancellor U.W.I.

The Experiences of the Ombudsman Inside and Outside the Caribbean – by Ombudsmen inside and outside the region.

The Police Complaints Authority and the Ombudsman – Necessary Partners in Promoting Social Justice by Justice Lloyd Ellis, Chairman, Police Public Complaints Authority, Jamaica.

Women’s Rights – The Convention on Elimination of all forms of Discrimination against Women – by Mrs. Evangeline Garcia Prince.

I was re-elected at the Annual General Meeting as President of CAROA for a final term.

c) **Special Fund for Ombudsman and National Human Rights Institutions in Latin America and the Caribbean**

I attended meetings in Geneva, Switzerland and Caracas, Venezuela in the capacity of Vice-Chairman of the Fund. As mentioned in my previous report, the Fund was established through contributions from donor countries in Europe with the aim of strengthening bi-regional cooperation within the area of democracy and human rights. It will support activities concerned with the creation, consolidation and strengthening of Ombudsman and National Human Rights Institutions in Latin America and the Caribbean. Some funds have already been disbursed for the carrying out of projects in Latin America. The Chairman of the Fund is Dr German Mundarain Hernandez, Ombudsman of Venezuela and the Director is Dr. Alejandro Carrillo.

d) **Meeting on “A Regional Ombudsman”**

This meeting was held October 24-26, 2004 in Curaçao with a view to determining the possibility of establishing a Regional Ombudsman. It was sponsored by the Latin American Ombudsman Institute through its Secretary-General Mr. Isaac

Hochman in collaboration with the Government of Finland and the Government of Curaçao. The Ombudsman of Curaçao Mr. Frederik Wiel was the main coordinator.

A copy of the Curaçao Declaration appears at Appendix VI.

e) **I.O.I. Meetings in Quebec City, Canada**

I attended the VIIIth International Conference of the I.O.I. held in Quebec City, Canada, September 7-10, 2004 under the theme “Balancing the Obligations of Citizenship with the Recognition of Individual Rights and Responsibilities”. The conference is held once every four years, the previous one being held in Durban, South Africa in 2000. The 2004 Conference was attended by some 430 persons from around the world.

I had the honour and privilege to chair a Workshop session on “Cultural Diversity”, the speakers being the Director of the Doctoral Programme in Applied Social Sciences, University of Montreal and the Parliamentary Commissioner for National and Ethnic Minority Rights, Hungary. I was re-elected a Member of the Board of Directors of the Institute representing the Caribbean Region. Meetings of the Board held before and after the conference were attended by me. Antigua and Barbuda was confirmed as the venue for the 2005 Board Meeting and the necessary planning has already begun. Member countries represented on the Board are Antigua and Barbuda, Argentina, Australia, Austria, Botswana, Burkina Faso, Canada, Finland, Hong Kong, Macau (China), Mexico, Northern Ireland (U.K.) Papua New Guinea, Pakistan, Slovenia, South Korea, U.S.A. and Tunisia. My thanks are hereby expressed to the Government of Antigua and Barbuda for sponsoring my participation.

3. **STAFF**

The Staff List appears at Appendix VII. There is a reduction in number as compared to 2003 due to the retirement of the Administrative Assistant Ms. Persephone Birkett. The duties were distributed between other staff members. It is expected that it will be necessary to have a replacement soon. The opportunity is taken to publicly express our sincere thanks to Ms. Birkett and to Mr. Haynesworth Buckley former Investigations Officer who has now also retired, for the services they rendered to our Organisation while they were in post.

4. **MISCELLANEOUS**

- a) The Office continued to provide information to various persons in the community including school children studying the role of the Ombudsman. We also accommodated an intern from the Antigua State College for six weeks on a work attachment programme as part of the requirements for the award of a Certificate in Business. This has proved to be mutually beneficial to the student and to us.
- b) Visitors to the Office this year included Ms. Janice Marshall, Senior Regional Protection Officer of the United Nations High Commissioner for Refugees (U.N.H.C.R.), Washington D.C., U.S.A. accompanied by Mr. Gerald Price, Director of the Antigua & Barbuda Red Cross who is the local Liaison Officer of U.N.H.C.R. Also visiting was Mr. Selwyn Ryan of the St. Augustine Campus, University of the West Indies, Trinidad. In each case useful discussions were held which proved to be mutually beneficial.

5. **SUMMARY OF SELECTED CASES**

A number of selected cases are highlighted below. These include the following:-

(i) **Ministry of Agriculture**

A complainant wrote to me in February, 2004 explaining tremendous difficulties he had been experiencing with the Ministry of Agriculture in obtaining a lease on certain lands owned by the Government. He said that he had made an offer in January 1997 to purchase the shares of a Company which had a lease on the lands in question. The lease application was duly submitted in February, 1997 to the Permanent Secretary for consideration by the Cabinet. The lease renewal was approved in May, 1997 and some 93% of the shares was purchased by the complainant. He, therefore, immediately applied to the Permanent Secretary for the lease extension, and provided copies of what he considered to be all of the relevant documentation.

He was advised by his lawyer that the lease documents were signed and could be picked up at Inland Revenue. The relevant taxes and fees were paid on May 7, 1999 and copies of the signed lease were sent to the Land Registry. At that stage the complainant was told by an officer that 3 parcels of land were involved but that one of them no longer existed since the Cadastral Survey system was introduced and that a re-survey would have been necessary. They also said that a substantial fee would have been payable to the survey team. He decided to offer the job to private surveyors instead who charged much less. From that point the complainant said he ran into many difficulties going back and forth to the Lands Division and the Lands Registry. At one time enquiries made at the Lands Division revealed that the file was lost in the office of the Lands Officer. The Cabinet Decision was also said to be lost and the whole procedure had to be repeated. The matter had to be dealt with again by the Permanent Secretary and

the Legal Adviser. The file was eventually found but the lease document was missing. He was advised to start the lease renewal process all over again. By this time the old lease was up and the complainant was operating without a lease. This affected his ability to obtain the necessary financing by way of loans from the Bank.

He became convinced that an individual or individuals were obstructing the course of business with respect to his lease renewal. He therefore requested my assistance. On March 25, 2004 I wrote to the Permanent Secretary on the matter thus:-

“ I feel that I would be failing in my duty if I did not thoroughly investigate this problem especially bearing in mind how long it has been outstanding.

I take this opportunity to mention that from reports many more citizens have been experiencing similar problems....”

I am pleased to say that by April 2, 2004 I received a letter from the complainant stating that the instruments for the lease extension had been delivered to the Land Registry. He expressed thanks to us and everyone who assisted in this effort for their support.

(ii) **Antigua Public Utilities Authority (A.P.U.A.)**

A landlord who leased his property for two years reported that over the period the tenant who ran a business accrued arrears to the tune of thirteen thousand, seven hundred and ten dollars (\$13,710.00). Only when he gave up the premises did the problem come to light. The landlord was told that she was liable and would have to clear the account before utilities could be restored.

In this regard it is instructive to quote from a relevant section of the lease agreement which states:-

“The tenant covenants with the Lessor...to arrange with the suppliers of electricity, water and telephone services to transfer these services into the name of the Tenant and thereafter to pay all charges for electricity, water and telephone services supplied to the Demised Premises...” The services were transferred to the tenant accordingly.

The landlord stated that she was therefore shocked since she felt that A.P.U.A. had neglected their duty in calling in the arrears over such a long period of time. It appeared, she said, that this tenant was given favourable treatment and a blind eye was turned for him again and again. “APUA has his name on the account and bills were sent out to him monthly in his name. How then can I be expected to pay your demands because of your maladministration...?”

As a result of the landlord’s queries, A.P.U.A. suggested a compromise where she would pay half of the arrears in question. She, however, felt that this was unreasonable as she should not have to pay for their errors and she, therefore, asked that I intervene on her behalf.

I fully agreed with her position and wrote A.P.U.A. accordingly. In my letter to them I stated:-

“I agree that A.P.U.A. should take a much greater part of the responsibility for allowing the arrears to build up to such an extent. Numerous cases have been reported in which utilities have been cut off for much smaller bills accrued over much shorter periods. It is hard for the owner to be penalized through no fault of her own.... The tenant should be the one personally responsible for payment.”

After various discussions it was learnt that the tenant had left the country, the amount in dispute was waived and the utilities were restored which enabled her to rent the property to a new tenant.

I was pleased that the matter was eventually brought to a satisfactory conclusion but felt that it should have been settled by A.P.U.A. in a much shorter time.

(iii) **Ministry of Health / Medical Benefits Scheme**

A complainant who had a medical problem reported that she was referred by her doctor to a Gastroenterologist overseas for specialist treatment. A diagnosis was arrived at following colonoscopy and biopsies. She was advised by the specialist that these procedures should be carried out annually. Medication was prescribed which was unavailable in Antigua. Moreover, she said it was very costly, two weeks supply costing some US \$305.49, in addition to US \$562.10 for the colonoscopy and biopsies.

She said that previously she had been applying successfully for reimbursement of sums paid for the procedures and medication. She said, however, that when she went for her yearly check recently, she applied as usual for reimbursement of amounts paid but that her application was denied by the new Ag. Chief Medical Officer (C.M.O). The CMO said that her decision was based on the fact that the Government had spent thousands of dollars to purchase colonoscopy equipment for the Hospital.

The complainant reported, however, that her father had been in the Hospital earlier and that the doctor had requested colonoscopy. He had to pay to have it done at the Doctor's private office. She said that she knew of another similar situation with another patient.

She mentioned that her problem made her a high risk for colon cancer so it was vital for her to receive her yearly checks. She highlighted the fact that she, her husband and son were all contributors to the Medical Benefits Scheme and could not understand why her claims were being denied. She, therefore, sought my assistance in the matter.

I wrote to the Chief Medical Officer seeking advice as to how decisions were made with respect to reimbursement for medical treatment overseas so that I would be in a position to respond appropriately to this and other similar complaints. I am pleased to say that I received a very prompt reply from the Chief Medical Officer explaining that persons who paid for treatment overseas were refunded if the treatment was not available at the Holberton Hospital. She had been of the mistaken view that colonoscopies were being done at the Holberton Hospital since the Government did indeed obtain the necessary equipment some time ago. Following enquiries she, however, learnt that colonoscopies were not being done because the equipment was not functioning. The Chief Medical Officer said that she was grateful that the matter was brought to her attention. She said “The aim of the Ministry of Health is to deliver care in an equitable manner and to make the best use of scarce resources. The Ministry will have to ensure that colonoscopies are available at the Holberton Hospital in the near future.”

The complainant was asked to re-submit her application for re-imburement. This, she did and she subsequently confirmed with thanks that she received the money. I wrote the C.M.O commending her for her final decision on the matter.

(iv) **Ministry of Health**

A Medical Practitioner wrote asking for my assistance in getting some vouchers paid for money owing to him since 1992 for work done at the Holberton Hospital. He said “Sustained efforts over the years have resulted in the payment of most of

the vouchers, but there remains a number of outstanding payments which I am still trying to get addressed. Some of the vouchers are identified and floating in the system. Others they have now not been able to locate, as they have volleyed between the Treasury and the Hospital for a decade. The Accountant General and the Hospital Administrator agree that if they are not found, they would need to be redone and re-submitted, but little progress is being made in that area....I have found the follow-up and investigation of these problems frustrating, time-consuming and distracting. As each new hurdle materializes my faith in the system diminishes.”

I have to say that this type of complaint had been very familiar and I therefore wrote to the Permanent Secretary, Ministry of Health on the matter and copied my letter to the Hospital Administrator and Accountant General. Both the Permanent Secretary and Hospital Administrator replied positively and a subsequent check with the complainant revealed hat he had since received his money.

(v) **Holberton Hospital / Ministry of Health**

I received copy of a letter sent to the Matron of Holberton Hospital by children of a patient who was hospitalized with a stroke and who subsequently died. She was 89 years old. The letter was also copied to the Consultant Physician, Medical Superintendent, Hospital Administrator, Chief Medical Officer, Minister of Health and Permanent Secretary.

The letter detailed various events which occurred during hospitalization of the patient. In short it was felt that “the complacent, nonchalant, indifferent, resistant and careless/non-caring attitudes and actions of several of the people and systems” with which their mother came into contact have in some way contributed to her distress during her extended stay in hospital following a second stroke and her ultimate demise on the evening of April 5, 2004. They requested some action by the authorities but did not wish it to be discussed in a public forum

“e.g. gossipy discussions amongst staff in general, newspaper articles and / or using the issues for personal aggrandisement on political platforms etc.”

No reply was received from the Matron by August 20, and a second letter was, therefore, sent by the family members.

I intervened by discussing it briefly with the Matron who said that she had difficulty dealing with it in a “strictly privileged and confidential way” as requested by the complainant.

I urged the Matron to at least acknowledge receipt of the letter of complaint and to carry out an internal investigation into the matter and send me a copy of her findings.

On making further enquiries I was advised that the investigations were being carried out and were nearing completion after which I would be given a copy of the report. I am now anxiously awaiting this report and following its receipt and study will determine the next step.

(vi) **Ministry of Public Works**

A complainant wrote to me concerning problems he had been encountering with the Ministry of Public Works in receiving monthly rentals for a property leased to them in keeping with agreements. In one case, there was “a succession of excuses including lack of funds, incorrectly completed vouchers and inability to find vouchers” he said he had been going back and forth to the Permanent Secretary Ministry of Public Works, the Accountant General and the Ministry of Finance but that every time he appeared to be getting somewhere, a problem was pulled out of the hat which left him totally frustrated.

I intervened as requested by writing the Permanent Secretary, Ministry of Public Works, The Financial Secretary and Accountant General. I have since been advised by Public Works and the complainant that payments are now being made.

(vii) **Ministry of Public Works and Communications / Ministry of Social Transformation**

The owner of a property adjacent to the building housing the National Office of Disaster Services (NODS) tried unsuccessfully to resolve a problem between them and so referred the matter for my intervention.

The complainant reported that some years ago his property was the unauthorized dumping site for soil, debris etc. In an effort to halt this practice he cleaned up the site and installed large boulders along the perimeter of his property. He said that the boulders along with surveyors marks were partially removed by NODS without authorization during their construction of a building. Moreover, they “dumped derelict vehicle, equipment and unwanted materials” on his property. He, therefore, expressed his concern to the Director and Deputy Director of NODS and requested that they clean the area and return it to the original status. There were no results. Boulders were again put along the perimeter but they were once again removed hence his appeal to me for assistance in the resolution of the matter.

I requested that the complainant’s land be re-surveyed. This was done and a copy of the plan was forwarded to me. I then visited the site in the presence of the complainant, the Deputy Director of NODS (in the absence of the Director) and our Assistant Investigations Officer. The Surveyor’s marks revealed that the disputed property was the complainant’s which would give him the right to fence it off if he so desired. This would, however, block off the entrance to NODS which would indeed be a disaster. I, therefore, recommended to the Permanent Secretary Ministry of Social Transformation that the matter be discussed with the

complainant with a view to arriving at an amicable settlement. I was also advised that the property would be up for sale which made the matter an urgent one.

The Permanent Secretary, Ministry of Social Transformation wrote to the Permanent Secretary, Ministry of Public Works and Communication at least three times urging that some action be taken. In one letter she wrote:-

“(The) owner of the adjacent property has again blocked the way in and out to the National Office of Disaster Services (NODS). This is extremely dangerous especially at this time of year – the hurricane season, when the traffic should flow freely rather than being hindered.

In this regard, I am requesting that action be stepped up so that a settlement can take place soonest.”

Regrettably, I have to say that despite all these attempts at arriving at a resolution, up to the time of writing this report there has not even been an attempt by the Ministry of Public Works to respond to the urgings of the Ombudsman or the Permanent Secretary of the Ministry of Social Transformation. Unfortunately this sort of situation often causes people to seek solutions by other means e.g. by publicising the problem on radio call in programmes or even less desirable means.

The recommended solution is for Government to purchase the land which is being offered for sale while it is confirmed that none of it is Crown Land. Time is, however, of essence.

(viii) **Public Works Department**

A private contractor obtained a job from the Ministry of Public Works to construct sidewalks at a triangle in the vicinity of the Clare Hall Secondary School.. He said that in the past he was paid without any problem but that in

recent times difficulties had arisen to the extent that arrears of payment had reached some ninety-nine thousand dollars (\$99,000.00). Because of this, he was in default with his repayments on a Bank Loan and the Bank had advertised his property for auction.

The contractor came to me in distress requiring my assistance in any way possible to avert the sale.

Investigations concerning the contract revealed that the complainant received instructions from the Deputy Director of Public Works and a Public Works Engineer. Both had left office and the matter was now in the hands of the Director of Public Works and the Permanent Secretary. I spoke to the Director and he said that a complication had arisen in that the job should in the first place have gone out to tender. I pointed out, however, that the Deputy Director who dealt with the matter should have been able to advise at the time on the proper procedure. The complainant reported that he was told that he should speak to the present Minister of Public Works but he said that he could do nothing and instead kept referring him to the former Prime Minister for a letter before he could be paid. He pointed out to the Public Works officials that he did not get the job from the former Prime Minister; he received it from Public Works.

The Permanent Secretary did write the Bank seeking an extension of time for the complainant to settle his outstanding indebtedness with a promise to pay him in installments.

I, too, contacted the Bank's Loan Officer on receipt of the complaint, seeking an extension of time. He promised to hold off for a limited time while efforts were re-doubled to get Public Works to pay the sums due.

I am pleased to say that Public Works eventually settled the bill which in turn enabled the complainant to pay the Bank thus averting the sale of his property.

I was pleased that there was a happy ending, bearing in mind the disastrous consequences that would have arisen if the property had been auctioned.

(ix) **Ministry of Public Works**

A businessman – an environmentalist who deals with tree planting, mulch supply and a green cart service – complained to this office about the felling of about 17 mahogany trees on a site prepared for the construction of a new Parliament building at Queen Elizabeth Highway. His concern was whether or not planning permission was received and in any event the need for saving the trees felled by re-planting them elsewhere. He mentioned that the Environment Division was also very much concerned.

Doubts were expressed as to whether the trees could have been successfully transplanted bearing in mind their age. However, the complainant said that he would attempt to save the felled trees. He got permission to do so by the Director of Public Works who represented Government on the Project. The complainant said that in seeking to clear the site and recoup his costs, he accepted an offer to purchase the trees.

In the meanwhile another issue arose as to whether the Development Control Authority (D.C.A.) had given building permission or whether permission was obtained from the Forestry Division to fell the trees.

Bearing in mind the various queries, I interviewed the Chief Environment Officer, the Chief Town and Country Planner and the Director of Public Works. I also tried unsuccessfully to contact the Director of Agriculture (Also Chief Forestry Officer) but later learnt that she was at the time out of the country.

Issues were raised concerning financial transactions by the complainant with regard to the removal and transplanting of the trees. It is understood that some of

the trees were sold. This was confirmed with the explanation that those were not in a good state to be successfully transplanted.

Since the felling of the trees was already a *fait accompli* I was more concerned with the future e.g. the roles of the Environment and Forestry Divisions and the D.C.A. In my report I commented as follows:-

“1. **Role of the Development Control Authority**

Authorisation for the construction of buildings is vested in the Development Control Authority. Investigations revealed that an application for planning permission for the construction of the new Parliament Building was submitted by the contractor on 7th July, 2004. No evidence has been found to indicate that any permission had been given when the site preparation began on or about July 19th. This is a breach of the law which should not be allowed whether the builder is Government or a private citizen. In fact it behoves Government to set an example by complying with the laws which it enacts.

2. **The Environment**

Trees undoubtedly play an important role in enhancing the environment. With this in mind measures were put in place through the Forestry Act Cap 178 to ensure that trees are not indiscriminately removed. The importance of trees in minimizing soil erosion, in attracting rain, keeping the environment cool, and generally improving the appearance of the landscape through the greenery provided is well known. The felling of

trees wherever possible should therefore certainly be avoided. Unfortunately this is not always fully appreciated and there have been consequently many instances where there has been clearance especially on hillsides by the use of backhoe without proper supervision which has led to severe environmental degradation. Both Government and private citizens have been guilty in the past.

I recommend that laws such as the Forestry Act be strictly enforced in the future.

In the case under consideration there should have been consultations with the Forestry and Environment Divisions before the mahogany trees were removed. Where it was found absolutely essential to remove some of the trees in the interest of the project, proper plans should have been in place for successful transplanting. I therefore recommend that the transplanting (and any future felling) be carried out under the supervision of the Ministry of Agriculture which encompasses both of the Divisions mentioned above.

I also fully support the recommendation of the Environment Division with respect to the remaining trees that: (a) “larger trees be replanted at another suitable location, at a ratio of three (3) to every one removed from the site” and that the cost be borne by the contractor. (b) that the project

should be halted until all necessary permits have been obtained. In this way Government and the contractor would be demonstrating a firm commitment to the rule of law.

In conclusion it should be mentioned that as has happened in the past there will often be competing interests between “development” and environmental considerations. What is necessary is for sober consideration and discussion to take place with a view to arriving at satisfactory solutions which will in the long term be beneficial to the nation as a whole.”

At a subsequent meeting convened by the Director of Agriculture in her capacity as Chief Forestry Officer at which all of the concerned parties were present, it became clear that there was a lack of “cross-sectional consultation” between the appropriate Ministries and the Contractor in the first instance.

It was agreed that although an application was made to D.C.A. for approval of plans, this was not yet given but approval was given for site preparation. The D.C.A. representative mentioned that there was need for minor change of a few things, hence a speedy approval would be granted. The reminder was given by the Chief Forestry Officer that according to law the approval for removal of trees in a forested area must be given which means that Technical Officers of Forestry and the Environment should be consulted.

It should be mentioned that the complainant agreed to submit costs incurred so as to indicate that he did not profit from the venture.

(x) **Accountant General**

Two persons who worked for a Security Firm complained to me that they were suffering financial hardship due to the fact that they did not receive their wages for several weeks.

I was informed that the problem arose because Government was indebted to the firm which had been contracted by them to carry out security services at various Ministries.

I called the proprietor and he confirmed the above. On checking with the Treasury I was told that non-payment was due to a “fiscal imbalance” but promised to alleviate the situation in some way.

I subsequently checked again and was advised that a small amount of money had been received since my intervention and that they would continue to press for their payments.

(xi) **Other Complaints**

It should be emphasized that in addition to the cases highlighted above we have received and / or dealt with others as shown by the following examples.

1. Loss of package sent by boat from a neighbouring island.
2. Complaint by Public Servants transferred or sent on forced vacation.
3. Complaints concerning child maintenance arrears.
4. Complaints by personnel against the Coast Guard.

5. Complaint against Public Works re lack of a road to access property.
6. Complaints against Ministry of Health re
 - (a) Stagnant water
 - (b) Offensive odour from a neighbour's chicken house
7. Problems in getting a hearing expeditiously by the Labour Department.
8. Nuisance caused by a drug addict in a neighbourhood.
9. Problem encountered from immigration authorities by someone wishing to enter the country.
10. Complaint by an officer against the Ministry of Justice and Legal Affairs re non-payment of an allowance in lieu of private practice.
11. Complaint by two persons against the Surveyors Board for not granting them a Surveyor's Licence for which they applied.

6. **GENERAL COMMENTS**

1. As can be seen in Table II this Office continues to receive a wide range of complaints against the various Government institutions. Resolutions undoubtedly contributed to the further development of good governance and democracy. It is important however, to point out that I do receive complaints from time to time which fall outside of my jurisdiction. I refer, for example, to complaints against Banking institutions and the legal profession. By mutual agreement I still try to assist wherever possible.

I recommend that some consideration be given to the establishment of a Financial Services Ombudsman which could deal with complaints against Banks, Insurance Companies etc. In the case of the legal service, one is aware that there is some

self-regulation in keeping with the Legal Profession Act where the Bar Association deals with such complaints. It is often felt however that self regulation is somewhat anachronistic.

Some countries have additional Oversight Bodies such as a Police Complaints Commission and a Human Rights Commission. Costs could however be a limiting factor in a small country such as ours. I suggest that serious consideration be given to having a hybrid organization where these specialized departments could be included.

2. Every effort is being made to speed up case handling. In this regard, it is anticipated that we will be able to increase the staff complement. It is hoped, too, that the Office will soon be able to establish a computerised Case Management System as well as a Website for dissemination of information. Plans are well under way.

7. **ACKNOWLEDGEMENTS**

I must give thanks to God for His continued guidance and assistance throughout the year. Without His help we would have achieved nothing. Many thanks must be expressed to my staff for all the support given to me despite drawbacks caused by shortages as well at times of an uncomfortable working environment due to malfunctioning air conditioning units. Special thanks must go to Mrs. Samuel, who had to double up as Investigations Officer and often as computer operator. We are also grateful to Ms. Richards our Senior

Clerk and Mrs. Patrick Petty Officer for their assistance given to Mrs. Samuel in ensuring the smooth running of the Office. Special mention must be made of Miss Richards' expertise in the typing and printing of this report. Appreciation is extended to all my other members of staff for their assistance and cooperation throughout the year.

We are grateful to the Government of Antigua and Barbuda and especially to the Office of the Prime Minister, the Ministry of Finance Headquarters, Establishment Division, Training Division, the Treasury, Ministry of Public Works and the Government Printery for all assistance rendered.

This opportunity is taken to say thanks to my regional and international colleagues for their cooperation and support throughout the year. These include members of CAROA, the Commonwealth Secretariat, the Special Fund for Ombudsman and Human Rights Institutions and the International Ombudsman Institute.

8. **CONCLUSION**

In conclusion, I express thanks to all who have come forward with their complaints and have given us the opportunity to serve for the past nine and a half years. The office will continue to serve the public to the best of its ability in any way possible by God's help.

Dr. Hayden Thomas
OMBUDSMAN

APPENDIX I

Report
On
Study Programme
Trust in Government: Promoting Ethics, Integrity and Professional
Standards in Public Service, Public Administration International, London
November 8 – 19, 2004
By
Dr. Hayden Thomas
Ombudsman

I was nominated to attend the Study Programme “Trust in Government: Promoting Ethics, Integrity and Professional Standards in Public Service which was conducted by Public Administration International (P.A.I) at the Thistle Bloomsbury Hotel, London during the period November 8-19, 2004.

Other participants were high level officials from Anguilla, Barbados, Bolivia, Croatia, Cyprus, Gambia, Kenya, Malawi, Malaysia, Namibia, Palestine, Saint Lucia, Sierra Leone, Tanzania and Zambia.

The course was organized in association with the Governance and Institutional Development Division of the Commonwealth Secretariat who kindly sponsored my participation by providing travel, accommodation, meals and the course fees. I take this opportunity to express my sincere thanks to Prof. Victor Ayeni of the Commonwealth Secretariat, Messrs. Rob Packham and Neil McCallum Programme Directors and Ms. Clair Cameron, Clare Walters and Mr. George Bardwell Programme Facilitators, the Government of Antigua and Barbuda through the Office of the Prime Minister and Training Division for all courtesies rendered.

The main aims and objectives of the programme were:-

- “ 1. To assist participants in developing practical strategies for establishing, promoting and sustaining ethical standards in their public service;
2. To make a positive contribution to fighting corruption in the public service.”

The programme consisted of seminar sessions, discussions, case studies and action planning as well as visits to local government offices in Coventry, Parliament, and the Cabinet Office.

The presentations were very interesting and informative and included the following topics:-

1. Ethics and public sector reform
2. A model for promoting ethics, integrity and professional standards in public services.
3. Introduction to action planning
4. Participants informal presentations
5. The work of the Commissioner for public appointments
6. Civil service ethics
7. Implementing core values at organizational level: the UK police service as a case study
8. Ethical dilemmas: case studies
9. The legal and democratic framework of local authorities
10. Investigation and counter fraud
11. Corporate governance: improvement and trust in local government
12. Recruitment, selection and control in human resources
13. Effective procurement

14. Financial standards, audit and control
15. Tackling corruption in public procurement
16. Problem solving: practical cases and exercises
17. Implementing ethical codes and professional standards: a Latin American comparison
18. Anti-corruption law - UK and international
19. Prosecuting corruption cases
20. The work of the new Independent Police Complaints Commission
21. Accountability and standards: external scrutiny
22. Making whistle-blowing work.

Presenters included the Programme Directors and Facilitators, the Policy Advisor to the Commissioner for Public Appointments, Leader of the Coventry Council, a Procurement Specialist, the Parliamentary Commissioner for Standards and the Head of corruption and Fraud Law Section of the Home Office among others.

The papers presented were all of a high standard. I was particularly impressed with the work of the Commissioner for Public Appointments who outlined the system used in the U.K. for the appointments to Boards and Committees. The Commission makes the appointments independently and presents names to the Government for their approval and ratification. Also interesting and adaptable to the Antigua and Barbuda situation is the enforcement of procurement rules and the details given of the work of the new Independent Police Complaints Commission and on whistle blowing. With the current emphasis of the Government on transparency, integrity in public life and freedom of information as indicated by the passage recently of the Prevention of Corruption Act, the Integrity in Public Life Act and the Freedom of Information Act much could be shared in common. It should here be mentioned that the programme enabled participants to compare legislation with those of other countries.

The participants were also given the opportunity to visit Oxford University, Sir Winston Churchill's birthplace at Blenheim and to see the theatrical performance of Joseph and his Technicolor coat.

For follow-up action in Antigua and Barbuda, I have proposed the holding of a local seminar to discuss and implement codes of ethics for public officers. The seminar is to be entitled "Promoting Integrity, ethics and professionalism in the public service of Antigua and Barbuda." It is expected that the seminar will be planned in collaboration with the Director of the Public Sector Transformation Unit and will take place by June, 2005.

Suggestions have also been made by Caribbean participants for the holding of a regional seminar on Trust in Government: Promoting Ethics, Integrity and Professional Standards in Public Services". P.A.I. has shown keen interest and is hoping that the necessary funds can be secured from the Commonwealth Secretariat, the European Union or other Funding Agency. Such a seminar would allow many more people from the region to benefit from the programme and should therefore be encouraged. Should this materialize, I would urge Government to send as many people as possible.

I end by again saying thanks to all who made my participation possible. It was certainly a worthwhile experience.

APPENDIX II

Communiqué

Commonwealth Regional Policy Seminar St. Kitts on “The Role of the Ombudsman in Fostering Good Governance and Democracy in the Caribbean Region”

A Commonwealth Regional Policy Seminar on “The Role of the Ombudsman in Fostering Good Governance and Democracy in the Caribbean Region” took place from the 12-15 January 2004 in St. Kitts and Nevis. Opening Remarks were made by His Excellency Sir Cuthbert Sebastian Governor-General of St. Kitts and Nevis, Professor Victor Ayeni Director of the Governance and International Development Division of the Commonwealth Secretariat, Dr. Hayden Thomas Ombudsman for Antigua and Barbuda and President of the Caribbean Ombudsman Association (CAROA), and Mr. Clare Lewis, QC, Ombudsman for Ontario, Canada and President of the International Ombudsman Institute. The seminar was declared open by the Deputy-Prime Minister of St. Kitts and Nevis Hon. Sam Condor and a Keynote Address was delivered by Sir Probyn Inniss, former Governor of St. Kitts and Nevis. The Attorney General of St. Kitts and Nevis, Hon Delano Bart, made the closing remarks.

The Seminar which was sponsored by the Governance and Institutional Development Division of the Commonwealth Secretariat in collaboration with the Caribbean Ombudsman Association (CAROA), was hosted by the Office of the Prime Minister in St. Kitts and Nevis.

The seminar brought together ombudsmen from Antigua and Barbuda, St. Lucia, Guyana, Trinidad and Tobago, Belize and a former Ombudsman from Barbados as Advisor. Representatives of governments from St. Kitts and Nevis, Bermuda, and Montserrat and from the African countries Ghana and Mozambique also attended. The seminar provided an opportunity for representatives of regional organizations like CARICOM, the OAS, the Inter-American Commission on Human Rights of the OAS and the Inter-American Institute of Human Rights to share perspectives and experiences.

The main objective of the seminar was to encourage, offer support and share information with countries contemplating the establishment of an Office of the Ombudsman.

The seminar reviewed the performance of the ombudsman and its role in the governance architecture of the region and considered appropriate models of implementation of such institutions in small States.

The seminar provided an opportunity for promoting public knowledge and understanding of the Ombudsman concept in the Caribbean and a deeper appreciation of its integral role in good governance.

It gave civil servants and other key stakeholders, and representatives of civil society a platform to learn and share experiences for modalities of implementation.

The seminar called upon Governments of the region to support the promotion of the Ombudsman as an integral part of good governance and democracy and urged them to establish offices in countries where such institutions do not now exist.

The seminar recognized the lack of awareness of the concept of the Ombudsman and lack of understanding of its role and benefits to Caribbean people and Governments, and proposed ways how strategic partners like civil society, the media and Non-Governmental Organisations (NGOs) could be involved in promoting the concept.

The seminar identified and proposed strategies for mobilizing local, regional and international agencies in the promotion of the concept and in support of the establishment of such offices in the region.

The seminar recognized the need for the promotion of human rights and encouraged its incorporation into the ombudsman mandate.

The seminar recognized the critical role that the Commonwealth Secretariat has played in promoting the concept of the Ombudsman in the region, and called on the other regional and international organizations to emulate this role.

The seminar urged regional and international organizations to continue their active support for Caribbean member states wishing to establish offices of the Ombudsman through training, facilitation of consultation, strengthening of networks, provision of technical assistance, and to promote activities geared to sharing of best practice.

The organizers and participants of the seminar conveyed their profound gratitude to the Government and people of St. Kitts and Nevis for hosting this seminar and for their warm hospitality extended to them which contributed to the outstanding success of the seminar.

Basseterre, St. Kitts
January 15, 2004.

APPENDIX III

**Keynote Address by Sir Probyn Inniss at the Caribbean Regional Policy
Seminar on the Role of the Ombudsman in the fostering of Good
Governance and Democracy
Basseterre, St. Kitts and Nevis
12 January, 2004**

It gives me much pleasure to welcome to St. Kitts and Nevis all of the distinguished Ombudsmen and other Public Servants who have come from the Caribbean region and beyond to participate in this important Seminar, which is sponsored by the Commonwealth Secretariat and hosted by the Government of St. Kitts and Nevis.

I thank the Caribbean Ombudsman Association for honouring me by inviting me to deliver the Keynote Address at this Seminar on the “The Role of the Ombudsman in Fostering Good Governance and Democracy.” Your coming here is timely and salutary, because without getting involved in any way in the affairs of this Federation, your presence will contribute to the on-going dialogue about “Good Governance and Democracy”.

I have been asked to address you on the topic “Governance in the Caribbean”. This is a wide brief. In preparing this address, I have been struck by the similarities and the differences which characterize the Caribbean. The one common denominator is the Westminster model which we have all inherited from the colonial masters. Beyond that, each island, territory or nation is a unique entity. Consequently, I will avoid making any generalizations about the Caribbean.

This year-2004-should be an historical one for the Caribbean, because, it marks the bicentenary of the political independence of Haiti - the first Afro-Caribbean Nation to attain sovereignty. The history of Haiti over the past 200 years has many lessons to teach. As we observe a sister Caricom nation being torn apart by conflict in the midst of

what should be historic celebrations our thoughts and prayers go out to the long suffering people of that nation.

Notwithstanding the experiences of Haiti, The Caribbean region has a well earned reputation for constitutional government based on respect for the Rule of Law, free and fair elections held at regular intervals, respect for the sanctity of life and for the rights and freedoms of individuals.

Professor Jorge I. Dominguez of Harvard University has opined that “no other region in what has been called the Third World has had, for so long, so many liberal democratic polities”.

Compared to the other parts of the world, the Caribbean has been almost totally free from military coups and civil war.

However, democracy in the post – Independence Caribbean during the past 40 years has been haunted by many of the legacies of colonialism.

William Faulkner, the American author contends that “The past is never dead. It is not even the past”.

Gordon K. Lewis in his book “Main Currents in Caribbean Thought” makes a similar observation with specific reference to the Caribbean. He writes, “In the Caribbean, there is a very special sense in which the legacy of the past plays the role of a brooding omnipresence to the present”.

I am not suggesting that we in the Caribbean are passive prisoners of the past or that we are hostages to history. Rather, what I am emphasizing is that we need to be acutely conscious of the historical forces which continue to retard development, undermine good governance and rob democracy of its potency. In charting the course for the future, we need a great deal of wisdom in choosing what to reject and what to retain and what to

repudiate and what to perpetuate. We have to avoid throwing out the proverbial baby with the bath-water.

On the credit side, colonialism has bequeathed to the Caribbean many democratic ideals and institutions including:

The concept of the Rule of Law

Ideas of Freedom of Speech, Discussion, Worship and Assembly.

Independent Courts

Impartial Civil Service

Electoral System based on universal adult suffrage.

On the debit side, Colonialism has bequeathed to the Caribbean a predisposition to the following:

Authoritarian rule

Intolerance for dissent

Divisiveness

A distrust of opposition

Centralized government, based on command and control.

It is evident that the brand of democracy which has evolved in the post-Independence Caribbean has been strongly influenced by many of the negative values bequeathed by colonialism.

According to Professor Trevor Munroe, 40 years ago in Jamaica, 80% of the people preferred what he called “authoritarian democracy”. Today, however, he says, the ratio is practically reversed with nearly three – quarters wanting more participatory decentralized government.

Not only in Jamaica but throughout the Caribbean there is an urgent demand for the deepening of democracy so that government will be more responsive to the needs of the people and more inclusive of all the people.

There is a widespread realization that the adversarial/ first-past-the-post system often operates in a manner which does not promote good governance. Sometimes the first-past-the-post system produces outcomes which are at variance with the electoral results. It has happened in some countries that an opposition party has garnered over 30% of the popular vote but picked up one or two seats or no seats at all.

The process is further distorted where there are no opposition members in the House to represent an alternative viewpoint, or where there are no backbenchers in the House to enable the parliamentary committee system to work so as to provide vital oversight of Public Finances by means of the Public Accounts Committee.

The Winner-takes-all formula leads to extreme polarization in small societies. Because so much hinges on the outcome of an election each party will do almost anything to gain or regain power.

I share with you this lament of one Caribbean Prime Minister. “My fellow Citizens” he intoned, “as we confront another new year, the greatest threat to our continued peace and stability; the greatest deterrent to our social advancement and economic prosperity can be summed up in one word “polarization”. Where for some, nothing good can be, or is being done, and where for others, nothing worthy of note can emanate from any source other than the party they support”.

Ms Billie Miller then Deputy Prime Minister of Barbados in advocating inclusion and consensus building declared, “Our societies are too small and our human resources too limited to allow us to continue to prosper under a system that emphasizes polarization and adversarial politics, while failing to embrace the full capacity of our citizenry in the process of governance”.

Christopher Hackett, a UNDP official speaking at an OAS/UNDP sponsored Conference on Constitutional Reform in the Caribbean in January 2002, noted that “observers have increasingly been speaking of a crisis of governance in the Anglophone Caribbean, as manifested in the growing incidences of political conflict, instability and, in some instances, a discernible decline in public commitment to the political order and respect for the rule of law”.

The West Indian Commission in its Report entitled TIME FOR ACTION published 12 years ago addressed some of the issues which contribute to the decline in the standards of governance and erosion of the quality of civil society. The commission did point out that even though complaints reflecting Disaffection with governance did not come from everywhere, “it was evident in too many parts of the Region for us not to detect an unhealthy trend”.

The litany of complaints throughout the Caribbean reflects the widespread dissatisfaction with the existing politics. I list a few of the demands which are constantly being made in order to enhance governance:-

The need to decentralize government

The need for greater transparency

The need for greater accountability on an ongoing basis

The need to establish Integrity Commissions

The need to tackle corruption in public life

The need to promote a more consultative and consensual form of Government

The need to foster a culture in which dialogue and debate are the norm:

The need to integrate civil society in the Political Reform Process and Governance.

The West Indian Commission was careful to point out then - and I do so now – that these are not criticisms of any particular Government or any Single Party. What is truly remarkable is that all parties are agreed about these things; it is only that they sing or whistle one tune when in opposition and another tune when in government.

Perhaps, the best evidence of this Caribbean-wide preoccupation with enhancing governance can be gleaned from the fact that in 2001 no fewer than 11 Caricom Nations had embarked on or were considering reform of their Constitutions. The fact that many of these Governments had asked for and received from the United Nations Development Programme (UNDP) and the Organisation of American States (OAS) assistance in carrying out the process indicates how vitally important is good governance from an international perspective as well.

However, there is need for a word of caution. It happens too often that a “new” or “reformed” Constitution is viewed as a panacea for the political and social ills of a country-as if a “new “Constitution will by magic invest the leaders and their followers with the attitudes, behaviour patterns and the will to cooperate and collaborate where previously they have not done so. I prefer the approach adopted in Belize which embarked on a process of “political reform”, recognizing that reforming the constitution is only part of the process and that not all reforms to improve democratic governance require constitutional change.

However, even before the process of writing Constitutions can begin we need to ask and answer this fundamental question about our respective countries – What kind of Society are we trying to build? Is it a fair and just society in which the rights and dignity of each individual will be respected? If this is so, then I submit that the institution of the ombudsman is uniquely qualified to contribute to the building of such a society.

The Ombudsman is an institution to which in addition to the Courts, a citizen may turn when he considers himself deprived of his rights in order to seek redress. A person who is aggrieved who cannot afford or risk the expense and aggravation of going to court, can have his complaint heard and investigated and obtain some relief, where appropriate.

The roles of the Court and the ombudsman are different. Whereas the Judge decides what is or is not lawful and follows a prescribed set of rules of procedure in arriving at decisions, an ombudsman operates in a more informal setting and decides what is

immoral or unfair. Usually the process is comparatively speedy and involves no cost to the citizen. Because the Ombudsman is not clothed with the full panoply of power of the Judge he/she has to have a great deal of courage and tact in handling complaints by citizens about unfair treatment by government agencies, usually in delicate situations.

I pause to pay tribute to all of the Ombudsmen here present-and their worthy predecessors-who have been promoting Good Governance and Democracy in spite of the odds. We owe a debt of gratitude to the men and women who have been characterized as being “imbued with a vision, burning with a mission, motivated by a passion to “let justice roll down as the waters and righteousness as a mighty stream”. Thanks to the integrity, impartiality and sturdy independence of these men and women, Ombudsmanism is doing well in the Caribbean.

The International Bar Association in 1974 provided an excellent summary of the Common features of Ombudsmanship in this definition:

“An office provided for by the constitution or by 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 persons against government agencies, officials and employees or who acts on his own motion and who has the power to investigate, recommend corrective actions and issue reports”.

It is remarkable how an idea and an institution which had its origins in Scandinavia in the 19th century has taken root in all parts of the world. The Ombudsman has achieved world – wide acceptance in over 100 countries and all continents. Neither language, culture nor ideology has been a barrier to the concept of the Ombudsman. It was adapted to the needs of Communist Poland. Quebec has its Protecteur du Citoyen; Nigeria has its Public Complaints Commission. Puerto Rico too has its Ombudsman.

The institution of the Ombudsman was imported to the Anglophone Caribbean from 1966 when a provision was made for the office in Guyana’s independence constitution.

Curiously the first British ombudsman was not created until 1967. The office was subsequently established in Trinidad and Tobago in 1976, Jamaica in 1978. St. Lucia in 1979, Barbados in 1980, Antigua in 1995, and Belize in 1999. Other countries in the Caribbean are showing a keen interest in establishing the office.

The Ombudsman has been effective in those Caribbean countries where it has been established. In Jamaica, for example, the society moved, within a decade, from a single Ombudsman structure to a highly successful, but not problem-free “SYSTEM” embracing several structures.

An interesting innovation in Jamaica has been the creation of the office of the Contractor-General by an Act of 1983. This is considered as a best practice design to facilitate greater accountability and transparency in the Political system. The Contractor-General is supposed to investigate government contracts on an ongoing basis to ensure that they are awarded on merit. The office operates on a basis similar to the Ombudsman.

In parenthesis, I have to mention that the idea of the ombudsman has been adapted to the needs of private enterprise. A few weeks ago, I picked up a brochure at one of the Banks doing business here in Basseterre only to find that those who have a complaint against the Bank which is not satisfactorily resolved by Customer Service are encouraged to appeal to the Ombudsman. The office of the Ombudsman has been established “to provide customers with an appeal mechanism for unresolved issues and to ensure that all parties involved in a dispute receive a fair and impartial hearing, that customers are treated with consideration and respect and that everyone involved in the proceeding retain their dignity and privacy”.

Experience suggests that if given adequate resources and the “proper climate in which to develop”, the ombudsman can become a powerful force for good in our Caribbean societies and a “mighty bulwark against injustice”.

The role of the Ombudsman is not to oppose Government in decision-making. On the contrary, Parliamentary support is absolutely essential to the success of the office. The Ombudsman is not intended to replace the Courts. Experience has proved that it is a vital complement to the Courts.

The Ombudsman can only operate within the scope of the powers given by the Law. He operates by safeguarding the right of the individual, but in the process he contributes to a greater public awareness of the general need for fair dealing and Justice in Society.

At a time when there is growing disaffection with political systems as reported by the West Indian Commission, what can be more effective in fighting apathy and convincing individual citizens that there is a mechanism to redress their complaints and possibly restore some confidence in democratic ideals?

Victor Hugo it was who said, “there is one thing stronger than all the armies in the world: and that is an idea whose time has come”.

It is my hope that during this first decade of the 21st Century, the idea of the Ombudsman will come into its own in the Caribbean because of its proven track record in fostering good governance and democracy in all parts of the world.

Distinguished Ombudsmen, Ladies and Gentlemen, I wish this Seminar resounding success.

APPENDIX IV

Remarks

by

Dr. Hayden Thomas

President of the Caribbean Ombudsman Association at the Opening
Ceremony of a Caribbean Seminar on the Role of the Ombudsman in
the Fostering of Good Governance and Democracy

Basseterre, St. Kitts

January 12-15, 2004

Good Morning Everyone.

Let us all stand for a moment of silence to pay tribute to the late Prime Minister of Dominica, Hon. Pierre Charles who showed interest in our organization and to the late Justice Vincent Meerabux of Bermuda, one of our founding members who drafted our Constitution.

Mr. Chairman, Your Excellency Sir Cuthberth Sebastian – Governor-General of St. Kitts and Nevis, Hon. Sam Condor – Deputy Prime Minister of St. Kitts and Nevis, other Ministers of Government, Permanent Secretaries, Sir Probyn Innis – Former Governor of St. Kitts and Nevis, Sir Dwight Venner – Governor of the Eastern Caribbean Central Bank, Professor Victor Ayeni – Director Governance and Institutional Development Division of the Commonwealth Secretariat, Mr. Clare Lewis – President of the International Ombudsman Institute, other representatives of Regional and International Organisations, Pastor Benjamin Browne, Members of the Judiciary, Members of the Diplomatic Corps, Colleague Ombudsmen, Ladies and Gentlemen.

On behalf of the Caribbean Ombudsman Association (CAROA) please permit me Mr. Chairman to express sincere thanks to you and His Excellency the Governor-General for your very warm words of welcome. Let me also say to you and to the Government and people of St. Kitts and Nevis as a whole how much we appreciate your kind hospitality. We feel very much at home in your beautiful country. This is even more so for me

personally because when I look around the room I see many friends that I have known for a long time.

We are very pleased that the Government kindly accepted our invitation to host this important seminar/workshop. Before I proceed, I must say special thanks to Prof. Ayeni who was very instrumental in accessing the funds from the Commonwealth Secretariat. Prof. Ayeni please stand. Prof. Ayeni has been working with us over the past five years. Previously we addressed him as Assistant Director of the Governance and Institutional Development Division. Today we are pleased to say that he was recently promoted to the post of Director. Heartiest congratulations. Your promotion was well deserved. Let us give him a round of applause. I also take this opportunity to express our appreciation to two other members of his Commonwealth Secretariat team present with us; Mrs. Rebecca Scott, who hails from Sierra Leone and Ms. Noreen John who is from Dominica.

This is in an appropriate time for me to say a few words about CAROA, so that those who do not yet know can learn something about our journey to date.

When I was appointed the first Ombudsman for Antigua and Barbuda in 1995, I had a short attachment with the Office of the Ombudsman in Barbados where I had the opportunity to meet various officials. Referring to this in my first Annual Report, I stated:-

“.....I also held discussions with key officials including His Excellency Sir Denys Williams Ag. Governor-General (substantively Chief Justice), Mr. Justice Errol Chase who assisted in drafting the Barbados Ombudsman Act, other officers of the Court and members of the Ministry of Legal Affairs, Sir Frank Blackman the first Ombudsman for Barbados who previously had a distinguished career in the Civil Service, retiring as Cabinet Secretary and Mr. Justice Eric Bishop formerly O.E.C.S. Appeal Court Judge who had also served as Judge in Antigua and Barbuda. On several occasions the need was identified by many of the persons mentioned above for a regional Ombudsman’s Association to discuss areas of mutual concern. Although “a new boy on the block”, so to

speaking, I heartily endorsed the sentiments expressed and would be pleased to contribute in anyway possible towards the realization of this goal.”

I subsequently met Prof. Ayeni at Conferences in the U.K and South Africa and encouraged him to hold a regional conference in Antigua. This took place in March 1998 and I am pleased to say that representatives of the various countries and institutions signed a declaration supporting and endorsing a resolution to establish the Caribbean Ombudsman Association. One of the persons who was present and who signed the document was Mr. Oaklyn Peets who is now Permanent Secretary in the Office of the Prime Minister of St. Kitts & Nevis. Congratulations Mr. Peets.

At a meeting held in Saint Lucia in 2000 an interim Constitution of CAROA was adopted and the final Constitution was ratified at a meeting in Trinidad in June 2002. Let me take this opportunity as Chairman to express my sincere thanks to various persons who have contributed significantly to the development of the Association. I invite those who are present to please stand and be acknowledged.

Those include Prof. Ayeni who has assisted us greatly with funding, the hardworking Secretary/Treasury Ms. Lawrence Laurent former Parliamentary Commissioner of Saint Lucia. She has been a tower of strength. Justice George Edoe, Ombudsman of Trinidad & Tobago who previously served as Vice-President, Mr. Howard Hamilton Q.C., Public Defender of Jamaica who is the present Vice-President, other members of the Executive including Mr. Carl Ince former Ombudsman of Barbados, the late Mr. Selwyn Vincent, former Parliamentary Commissioner of Saint Lucia, the late Justice Vincent Meerabux former Judge of the High Court of Bermuda who drafted our Constitution, Sir Frank Blackman former Ombudsman of Barbados, Justice Shaikh Mohamed, Ombudsman of Guyana, Mr. Paul Rodriguez Ombudsman of Belize and Mrs. Relinda Louisy-Eddy of the Inter-American Commission on Human Rights, Organization of American States.

Some of you would have heard this before but please excuse me for repeating it for the benefit of those who have not yet heard it. The main objectives of the Association as outlined in our Constitution are:-

1. To strengthen offices of the Ombudsman in the Caribbean so as to foster cooperative work, to harness resources of, to network and provide continued enrichment with other Regional, Hemispheric and International offices of the Ombudsman and other similar institutions;
2. To support the promotion and protection of Human Rights Agencies in the Caribbean and the development of governmental and non-governmental institutions relating to human rights;
3. To maintain and promote the Institution of Ombudsman and to encourage its development throughout the Caribbean by ensuring that the people are served by independent and effective Ombudsman and other similar human rights institutions;
4. To develop professionalism in the discharge of the role as Ombudsman and to maintain the integrity of the role of the Ombudsman;
5. To facilitate the exchange of experiences and information for the enhancement of the work of Ombudsman and other human rights agencies in the Caribbean;
6. To sponsor training and enhancement programmes for Institutions of Ombudsman in the Caribbean;
7. To encourage and support study and research regarding the institutions of Ombudsman and human rights agencies , with particular reference to the Caribbean area;
8. To collect, store and disseminate information and research data about Institution of Ombudsman and human rights agencies;
9. To plan, arrange and supervise periodic Ombudsman Conferences.

We are happy that to date the Association has been doing everything possible to carry out its mandate.

An important recommendation coming out of the first workshop was:-

“that the Heads of Government recognize the existence of the meaningful role of the Ombudsman and Human Rights Institutions in the furtherance of good governance and democracy and that encouragement be given to countries to establish such institutions where they do not now exist.” To date, the institution exists in Barbados, Belize, Guyana, Haiti, Jamaica, Puerto Rico, Saint Lucia, Trinidad and Tobago, and Antigua and Barbuda. There is provision for its establishment in the Commonwealth of Dominica and I am aware that there is active consideration for its establishment in the Dominican Republic and Bermuda. Indeed St. Kitts and Nevis is showing keen interest.

The main aim of this seminar which is being organized by the Government of St. Kitts & Nevis in collaboration with the Commonwealth Secretariat and CAROA is to assist countries in the region that do not yet have an Ombudsman to appreciate why they need to establish the institution and the role of policy makers in the decision-making process. Again, no praise is too much for Prof. Ayeni for the important role he has played in ensuring the holding of this seminar/workshop here this week.

After our Executive proposed St. Kitts and Nevis as the host we immediately contacted the Government. This was further discussed with the Hon. Prime Minister and his Permanent Secretary at an OECS Heads of Government Meeting in Antigua last year and I am pleased to say that they immediately gave their enthusiastic support. On behalf of CAROA I express sincere thanks for the hard work put in by Mr. Peets in assisting with the organization of the Conference.

We have held very successful conferences to date in Antigua and Barbuda, Saint Lucia and Trinidad and Tobago. Our next biennial conference will be held in Jamaica in May.

CAROA has also been represented at other important meetings in the wider Latin American region, in the UK, Denmark, Spain and Africa. At present I represent the

region on the Board of Directors of the International Ombudsman Institute. Its headquarters is in Alberta, Canada and we are pleased to have with us its President in the person of Mr. Clare Lewis Q.C. Ombudsman of Ontario. Thank you Clare for gracing us with your presence. I also serve as Vice-Chairman of the Board for a Special Fund for Ombudsman and national Human Rights Institutions in Latin America and the Caribbean and collaborate closely with the Inter-American Institute on Human Rights. It will be represented by Ms Lorena Gonzalez Volio.

Before I close, please permit me to say a special word of welcome to all of the other representatives. I would kindly ask that you stand when the name of your country or organization is called so that you can be recognized appropriately. Ms. Anna Bossman of Ghana; Mr. Nhatitima of Mozambique; Mr. Stanislaus, Parliamentary Commissioner of St. Lucia; Messrs. Warren Jones and David Wilson of Bermuda, Mr. Fraser Hirst and Ms. Claudette Weekes of Montserrat; Mr. Clare Roberts, Antigua, Judge Inter-American Human Rights Court; Messrs Oaklyn Peets and Desmond Hobson and Mrs. Linda Adams of St. Kitts. I know you will all enrich the proceedings.

Thank you ladies and gentlemen for your very kind attention. I am confident that with God's guidance our seminar/workshop will be a success.

APPENDIX V

Establishment of New Offices in the Caribbean: Experiences and Guidelines from the Antigua and Barbuda Point of View

By
Dr. Hayden Thomas

Introduction

The guidelines presented in this paper are largely based on my experiences as the first Ombudsman for Antigua and Barbuda over the past eight and half years. I should emphasise that although certain things are common to most jurisdictions there are certain unique situations specific to a country which means that it would become necessary for one to make certain adjustments.

I will speak on Ombudsmanship generally and also specifically about my experiences and also make recommendations.

I was unanimously appointed Ombudsman by Parliament. Since I was the first Ombudsman to be appointed I considered it absolutely essential to start off on the right footing. Attention was given to Professor Sandler's comments "Wherever the institution has been successfully transplanted its growth has resulted largely from the personality, energy and good sense of the first holder of the office". The great responsibility thrust on me to ensure the development of a successful institution has therefore been always foremost in my mind.

From the very onset:

- 1) I surveyed the Literature
- 2) Read widely on the subject
- 3) Had an attachment in Barbados
- 4) Was careful with staff selection and location of office

- 5) Conducted public awareness Campaigns
- 6) Joined appropriate organizations.

Qualification for Ombudsman

Perhaps one might ask, Who is the ideal person who should be appointed Ombudsman? According to Sir Hugh Wooding a former eminent Chief Justice of Trinidad and Tobago

“There has been a tendency to think that a legal qualification would be an advantage to the holder. This need not be so. Expertise in administrative matters would be perhaps even more important since legal advice can always be sought. The Ombudsman should be a person of known independence, proven integrity and persuasive ability whose reputation will lend prestige to the office in its formative days”.

He envisaged that the appointee would normally be a person who has had a successful career and has earned a reputation in some other field (e.g I was Government Chief Chemist for several years) so that there would be no need to make the office a career appointment as in the public service. He also recommended that his emolument should be the same as for a Justice of Appeal. In most countries including Antigua and Barbuda it is at a level somewhere between that of a High Court Judge and that of a Chief Justice.

The Royal Bank of Canada Newsletter (1971) 52:11 expressed the view that an Ombudsman “must be a person with wide knowledge, high prestige, personal merit, great energy and abundant courage. He must be able to stand against criticism, concerned more about discharging a job of social worth than with personal popularity.”

According to Socrates, “Four things belong to a Judge: to hear courteously, to answer wisely, to consider soberly and to decide impartially”. This has been described as an excellent description of the ideal Ombudsman.

Professor Sandler wrote “The Ombudsman should be so carefully selected that there never would be a question of his honesty, integrity, ability or motive”.

Legal Framework

The establishment of an office is enshrined in the Antigua and Barbuda Constitution of 1981. Section 66 (1) states:-

“There shall be an officer of Parliament who shall be known as the Ombudsman who shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his office”. This is to prevent conflict of interest. I actually resigned as a Director of a Bank when I was appointed Ombudsman. I will quote a few more sections from the Constitution as follows:-

Section (2) *“The Ombudsman shall be appointed by resolutions of each House of Parliament for such terms as may be prescribed therein”*. In my case I was appointed for a fixed term of 10 years. In some jurisdictions the appointment is for 5 to 7 years and renewable.

Section (4) *“Parliament may make provisions for the functions, powers and duties of the Ombudsman”*. This provision is made in the Ombudsman Act as detailed below:

Section (5) *“The Ombudsman may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section”*. It stipulates that removal can only be done after a tribunal has enquired and reported to the Speaker and recommendations have been made to Parliament. This provision is made to ensure security of tenure.

Section (10) *“The Ombudsman shall, in the exercise of his functions under this Constitution, not be subject to the direction or control of any other person or authority”*. This allows for independence - an important characteristic for an Ombudsman’s office.

The Ombudsman Act, 1994 No. 5 of 1994 provides for *“an Ombudsman to investigate administrative decisions and acts of officers of the Government and Statutory Bodies, and otherwise to give effect to section 66 of the Constitution and for other matters connected with or incidental to the foregoing”*.

Let me now highlight some sections of the Ombudsman Act passed in 1994 following which I will comment on the way it has been applied so far.

Section 4 states *“A person shall not be qualified to be appointed as an Ombudsman if he has served as a member of Parliament for two consecutive terms or more immediately preceding the appointment”*. This, no doubt, is to avoid any semblance of politics. An effective Ombudsman has to be neutral if he is to gain the respect of people of all political persuasions.

The functions of the Ombudsman as laid down in Section 5 of the Act are *“to investigate any complaints relating to any decision or recommendation made or any act done or omitted by any officer of the Government or Statutory body in any case in which a member of the public claims to be aggrieved or appears to the Ombudsman to have sustained injustice as a result of the exercise of the administrative function of that officer or body”*.

Other Considerations in the Act:-

1. **Complaints**

These include:-

- a) Any aggrieved national or resident or if he is dead or for any reason unable to act for himself, any person duly authorized to represent him.
- b) Any member of Parliament on behalf of an aggrieved person.
- c) Detainees or convicts.

2. **Basis for Declining Complaints**

- a) If complaint relating to problem of which complainant had knowledge for more than 12 months
- b) Matter trivial, vexatious or not made in good faith
- c) Complainant has not a sufficient interest in the subject matter
- d) If it appears that under the law or existing administrative practice there is an adequate remedy for the complainant whether or not he has availed himself of it.

3. **Matters Not Subject to Investigation By the Ombudsman**

- 1. The exercise of the powers conferred on the Governor-General by the Constitution.

The Constitution stipulates:-

“Where by this constitution the Governor-General is required to perform any function in accordance with the advice of Cabinet, the Prime Minister or any other Minister or leader of the Opposition or any other person, body or authority or

after consultation with any person, body or authority, the question whether the Governor-General had received or acted in accordance with such advice, or whether such consultation has taken place, shall not be enquired into by any court of law.

2. Any action taken by the public officer responsible for the extradition of any person.
3. Any action taken with respect to orders or directions to Antigua and Barbuda Defence Force or members thereof, or any proceedings under the Defence Act.
4. Any decision or action of the Public Service Commission relating to appointment, removal and disciplinary control of any person.
5. Any decision or action of the Public Service Board of Appeal.
6. Any decision or recommendation made or action taken by the Director of Public Prosecutions.
7. Any decision or action of the Public Service Commission relating to the appointment, removal and disciplinary control of any person.
8. Any decision by the Supervisor of Elections in the exercise of the functions under the constitution or any Act.
9. Any decision in respect of the functions of the Director of Audit under section 97 (2), (3), (4), (5) and (6) of the constitution.

In some cases however, I would use my discretion and give advice where deemed appropriate. Sometimes the complainant merely needs someone to listen to him.

The Act also provides that:

“Where during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or violation of a criminal offence on the part of any officer or employee of any government department or division or statutory body, the Ombudsman may refer the matter to the authority competent to take such disciplinary or other proceedings against him as may be appropriate”. There was a case in which it became necessary for me to refer the matter to the Police and Director of Public Persecutions.

To a large extent the cases dealt with involve maladministration which may include delay, bias, unfair discrimination, failure to give proper advice, discourtesy, harassment or failure to follow recognized procedures.

The type of action may involve investigation or mediation. Before investigating, the complaint is examined to determine whether it is within jurisdiction. An opportunity is always given to the principal officer of the Government Department concerned to make representations. Interviews may be conducted and/or records may be examined. Where necessary site visits are made.

Decisions are based on illegal actions, breach of natural justice or due process, tardiness in reply or action. One has to be thorough in his investigation, and persuasive in his arguments leading to sound recommendations. A report is first submitted to the head of Department. If no action is taken, it is submitted to the Minister, Prime Minister and Parliament in that order. It may then be widely publicized in the media in order to bring public pressure to bear. It should be emphasized that the Ombudsman has the power to investigate, criticize and publicize but not to reverse administrative actions. Only in Sweden and Finland does the Ombudsman have the power to impose sanctions or to reverse or question decisions or to order any official to that effect. In most cases, however, because of the respect afforded the Ombudsman officers comply with the recommendations.

Some Guidelines for New Officers

(i) **Staff Selection**

The successful operation of an Ombudsman's office will depend not only on the attributes of the Ombudsman but also on his staff. Our Ombudsman Act states:-

“Subject to the approval of the Governor-General, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office, and may determine their salary and remuneration and terms and conditions of employment”. This is exercised in collaboration with the Chief Establishment Officer and Financial Secretary. Staff required will include Investigators, Legal Counsel, Executive and Administrative Officers and other support staff. Our first Investigator was a former Deputy Commissioner of Police. This is the sort of level one requires. Staff with the knowledge of foreign languages such as French and Spanish would be an asset. Modern equipment is essential. These should include computers with a Case Management Programme, fax machine, photocopier, tape recorder etc. which would all contribute to efficiency.

(ii) **Training**

A few training courses are available. One which comes readily to mind is the Public Administration International Course held in the United Kingdom annually on “The Role of the Ombudsman”. In addition, one should as far as possible attend relevant workshops/seminars and also read available literature on the subject. It is helpful to obtain membership in organizations such as the International Ombudsman Institute, CAROA and the United States Ombudsman Association.

(iii) **Funding**

It is hardly necessary for me to point out that it is important for the office to be properly funded. An inadequate budget can surely restrict the operations of the Ombudsman.

(iv) **Public Awareness Campaign**

The existence of the Office of the Ombudsman is of little value if its role and functions are not widely known by the public it is supposed to serve. We have tried to publicize the office in the following ways:-

1. A brochure has been widely published on “Questions and Answers about the Ombudsman for Antigua and Barbuda” as per copies displayed.
2. Seven Annual Reports and two Newsletters have been published.
3. Lectures on the Role of the Ombudsman have been given in schools, churches, clubs and other community groups. I have also lectured for example to university students, Permanent Secretaries, Civil Service and Police Recruits.
4. Several appearances have been made on National television and I have participated both on TV and radio in various programmes.
5. A short film on the role of the Ombudsman has been shown on television.
6. We have had Open Days.
7. We had an Anniversary Celebration where members of staff attended and took part in a Church service.

(v) **Human Rights Issues**

There is not a Human Rights Commission in Antigua and Barbuda, but we carry out some of the functions to some extent in relation for example to dealing with complaints of police brutality, treatment of prisoners, treatment of the elderly and mentally ill and protection of children's rights to name a few. I deal with several cases concerning child maintenance. Bearing in mind the small size of countries in the region I recommend that future offices of the Ombudsman be made hybrid organizations. They should be empowered by law to carry out the functions of the classical Ombudsman and protection of Human Rights.

(vi) **Legislation**

There should be explicit provisions in the legislation empowering the Ombudsman to make own-motion investigations so that offices can play a proactive role. In this way, systemic weaknesses can be identified and recommendations made for their correction.

(vii) **Location of Office**

The office should be located where it is easily accessible to the public it serves.

(viii) **Jurisdiction**

When a complaint is out of jurisdiction the Ombudsman should be in a position to refer the complainant to other organizations that may be able to help.

(ix) **Alternative Conflict Resolutions Techniques**

Wherever applicable alternative resolution conflict techniques such as conciliation and mediation should be employed.

(x) **Motto and Mission Statement**

These should help to properly inform the public of the offices' vision. For example, our Motto is:-

To champion the rights of the people to ensure that Justice always prevails.

Mission Statement

The office of the Ombudsman pledges with God's guidance to faithfully serve the Nation of Antigua and Barbuda by impartially and efficiently investigating complaints of members of the public against unjust administrative decisions of officers of Government or Statutory Bodies with a view to righting wrongs and so contribute to good governance and the further development of the democratic process in the country.

Conclusion

It should be emphasized that these suggestions are not exhaustive but should serve as a useful guide for best practice. I would be willing to assist in any way possible with the establishment of new offices in the region.

Thanks for you kind attention.

APPENDIX VI

CURAÇAO DECLARATION

ISSUED by the Caribbean Ombudsman Association (CAROA) at the conclusion of the Seminar of the CAROA, held from 24th – 26th October 2004 in Willemstad, Curaçao, Netherlands Antilles, on the theme: “A Regional Ombudsman for Caribbean States?”, and organized by the Office of the Ombudsman of Curaçao in collaboration with the CAROA, while sponsoring of the seminar was provided by the Latin American Ombudsman Institute, the Government of Finland and the Government of Curaçao.

RESOLUTION:

WHEREAS the concerted determination of the Caribbean Heads of Government, to give human rights and access to justice primacy of place on the region’s agenda, has been demonstrated by the coming into effect of the Charter of Civil Society for the Caribbean Community, and

WHEREAS the Caribbean Community has to recognize the present global, social, economic and political circumstances, and

WHEREAS the member states of the Caribbean Community share the common ideals and goals for the best development of our human resources, and

WHEREAS the institution of the office of the Ombudsman has successfully demonstrated the ability to address the needs of Civil Society in promoting good governance, the rule of law, as well as seeking and obtaining redress from maladministration suffered at the hands of Government agencies, and

WHEREAS it is critical that compliance with the Charter of Civil Society be monitored.

BE IT RESOLVED THAT NO EFFORT BE SPARED IN ADVANCING THE ESTABLISHMENT OF THE OFFICE OF A REGIONAL OMBUDSMAN IN THE EARLIEST CONVENIENT TIME POSSIBLE.

NOW, THEREFORE, WE, THE UNDERSIGNED, MEMBERS OF CAROA, DO HEREBY SUPPORT AND ENDORSE THE SAID RESOLUTION AND HERETO AFFIX OUR SIGNATURES:

(Sgd.) Hayden Thomas

Ombudsman of Antigua and Barbuda

(Sgd.) Howard Hamilton

Public Defender of Jamaica (Ombudsman)

(Sgd.) G. A. Edo

Ombudsman of Trinidad and Tobago

(Sgd.) Shaikh Mohamed

Ombudsman of Guyana

(Sgd.) Madison Stanislaus

Parliamentary Commissioner of Saint Lucia

(Sgd.) Frederik Weil

Ombudsman of Curaçao

(Sgd.) Lawrence Laurent

Honorary Secretary/Treasurer, CAROA

Appendix VII

Staff List

Ombudsman

Dr. Hayden Thomas



Investigations Office

Vacant



Assistant Investigations Office

Mrs. Gloria Samuel



Administrative Assistant

Miss Persephone Birkett (retired)



Senior Clerk

Miss Joycelyn Richards



Petty Officer Class III

Mrs. René Patrick



Driver

Mr. Carl Samuel



Cleaner

Miss Olan Pelle



Relief Watchman

Mr. David Robinson



Gardener

Mr. Emmanuel Gordon