

# Concluding Remarks

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Ladies and gentlemen,

We have, over the last couple of days, had a most interesting discussion on a subject of great relevance i.e. The Role of the Ombudsman in a Changing Socio-Economic Environment

The socio-economic environment within which the ombudsman functions is indeed in a state of constant flux and change. The pace of change may differ from country to country but nothing remains static in human affairs. The world is changing around us. And unless the ombudsman adapts to the realities of such change, his office is likely to be viewed as less than relevant in the prevailing environment.

The important dimensions and issues emanating from socio-economic change that countries of the Asian region are facing today have been brought out succinctly by the speakers in the conference. Developments such as demographic shifts in a society, liberalization of national economies through deregulation and privatization, empowerment of marginalized and disadvantaged groups, and increasing degrees of democratization, are some of the developments that generate demands from the environment as well as administrative responses that are of close concern to a national or a sub-national ombudsman.

The environment obviously evolves differently in different countries.

For instance, the demographic issue in Japan, as in a number of other countries, is an ageing population. On the other hand, In my country, Pakistan, a demographic bulge has developed over the years that now accounts for over 50% of the population falling in the children and youth category. This has made the protection and promotion of the rights of children an important component of public policy. Being a signatory to the UN Convention on the Rights of the Child, Pakistan has made a national plan of action to

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put into effect its commitments under the Convention. With a view to overseeing progress on this key social issue, the Pakistan Ombudsman, in collaboration with UNICEF, has established the Children's Complaint Office as a part of the Ombudsman's office. You will note this step necessarily puts the Ombudsman in a pro-active mode-in the sense that, apart from being a recipient of individual complaints regarding children, he is now looking at whether the government is neglecting to take the administrative steps to implement the Convention commitments. Since neglect falls under the definition of maladministration under the Pakistan Ombudsman's law, he has used his jurisdiction to look at whether the state is living up to its commitments in the light of a significant change in the country's social environment.

The important point here is that it is now essential for the ombudsman-if he is to address such challenges of change-to shift from a purely reactive individual complaint taker to a more pro-active overseer of policy implementation.

Another big social change evolving in Pakistan is the growing profile of women in the political sphere as well as at the workplace. Today, in Pakistan by law, women's representation in the legislative bodies, at the national, sub-national and local body levels, is a full 33%-apart from a 10% quota in the civil services. Also, a law has recently been passed against women harassment at the workplace. The increasing prominence of women in the country's national life has brought the matter of women's rights to the fore and the response of the state has been to set up an office of a woman's ombudsman in Pakistan to open the doors for redress for a socially vulnerable group in Pakistani society.

The office of a woman's ombudsman is not uncommon in the international community of ombudsmen, but its existence in Asian countries is low. In a number of western countries the office is called the office of equal opportunity or gender equality. However, as women are generally a disadvantaged group with a traditionally unequal relationship with men in the cultures of developing countries, it is perhaps more important in such countries to provide for a specialist office for their welfare.

This highlights the growing importance of providing for specialist ombudsmen. As the socio-economic environment becomes more complex and demands more focused and professional attention on the issues it generates, it is likely that there will be felt a growing need for specialist or single-purpose ombudsmen. This would be especially important in areas of state priority in the economic and social sectors. For instance, in most developing countries, the education and health sectors stand out as critical to the goals of national development. Yet hardly any country in Asia has single-purpose ombudsmen in these social sectors.

Elsewhere, on the other hand, such specialist ombudsmen do exist. The Health Services Ombudsman in England and Wales, the Health Ombudsman in Austria, France, Germany, as well as in some Australian states, and in some US states and cities are examples of such ombudsmen. Examples of education ombudsmen at the tertiary education for quality assurance include the Office of the Independent Adjudicator for Higher Education in the UK, the Austrian Student Ombudsman in Europe, as well some state ombudsmen in the United States.

But what we come across as one of the major issues in providing ombudsman services in today's changing environment is that most entities in these sectors are increasingly operating in the private sector. This presents the challenge today to extend the ombudsman to the private sector to enable him to remain relevant in the changing circumstances.

This issue has drawn attention of states world-wide and some very innovative approaches have been adopted in various countries which Asian states can take note of. The general approach has been to create what are called hybrid ombudsmen-statutory ombudsmen who operate both in the public and private sector. Different models have been adopted through legislation putting in place ombudsman's schemes for specific private sector services.

One type of model, for instance, makes membership of private sector service providers as mandatory in the hybrid ombudsman's scheme. Another makes it voluntary. One model provides for financing the office from the government; another from levies on member service providers; a third from case fee for each case adjudicated; and yet another from cost sharing amongst service providers.

An example of a mandatory scheme is the Banking Ombudsman in Pakistan where the law gives him jurisdiction over both public and private scheduled banks. Similarly, the Insurance Ombudsman in Pakistan has jurisdiction over all insurance companies that are registered with the Securities and Exchange Commission. The Financial Ombudsman's Service in England also covers all businesses regulated by the Financial Services Authority. The Insurance Ombudsman scheme in India-which actually comprises twelve ombudsmen with regional jurisdictions-is also mandatory for insurance providers but restricts coverage to contracts not exceeding a specified amount.

A variation on such mandatory schemes is where membership is voluntary. For instance, the Commonwealth Ombudsman in Australia also acts as the Ombudsman for private post operators, but it is voluntary for the post operators to register or not register with the ombudsman scheme. So only those entities that voluntarily register submit to the Commonwealth Ombudsman's jurisdiction. Another example-an Asian example-is the Insurance Ombudsman in Sri Lanka where it is voluntary for insurance

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providers to participate in the scheme. The same is the case with the Financial Ombudsman scheme in Sri Lanka where participation by financial institutions and business is voluntary.

Still another model of the ombudsman's extension to the private sector is a participative one. For example, the Financial Ombudsman Service in Australia has the structure of a limited company. It has a board of directors which has representatives from the service providers as well as consumers. The Ombudsman is appointed by the board but is independent. The Telecommunications Ombudsman in Australia is also in the form of a limited company. But here membership of the scheme for all service providers is mandatory. The Financial Ombudsman's Service in the UK is also registered as a limited company with membership that is mandatory.

We see, therefore, many examples where governments are cognizant of the importance of the ombudsman retaining his relevance in the face of a changing environment. It is clear that with a changing socio-economic environment, there is a case for the ombudsman to redefine his role.

Another important, and related, aspect discussed in the conference has been the matter of the human right of freedom to information. Its importance has rightly been emphasized as critical to socio-economic development in any society. This freedom is imperative to enable people to assert their interests and claim their socio-economic rights, and is necessary to secure full public participation in the process of social and economic development. It works both ways. While freedom of information induces social change, social and economic change itself generates increased demand for access to information.

But here also, an important aspect to consider is the fact that that over time the private sector has assumed a prominent role in the delivery of public services which raises the question of how far its operations affect the economic rights of citizens and , consequently, to what degree the private sector should remain insulated from the right of citizens to demand information that affects the public interest. Again, a number of countries have carried out FOI reform—among them the UK, France, Poland, Finland, Turkey and some African and South American states—and this reform extends the FOI laws to the private sector, but makes the laws mostly applicable to entities providing public functions or those receiving public funds either through sub-contracting or outsourcing. This, in my opinion, is the right step to ensure that FOI reform keeps pace with economic reform, and the right of the citizen to information is not lost in the process of liberalization, deregulation and privatization.

So, as we can see, there is much to learn from each other in the area of ombudsmanship, promotion of human rights and accountability mechanisms, and the deliberations of the conference have highlighted many of the significant areas that need our attention to address the issues emanating from the constantly

changing environment in which the ombudsman functions. We need to closely study models already in existence and assess to what degree we can adapt them to our circumstances. This is what organizations such as the AOA stand for—for learning and leveraging on wisdom that exists within the ombudsman community and facilitating the use of it for its member states.

I would like to thank the Asian Ombudsman Association for inviting me to this conference. It has been a pleasure to attend the conference and a privilege to address this esteemed gathering.

I thank our hosts for their generous hospitality; and I extend my best wishes to the AOA and look forward to seeing it grow as a forum for the promotion of ombudsmanship in Asia.

Thank you.