

4. THE VANUATU OMBUDSMAN

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KEY TERMS AND PHRASES

Generic Model

A generic model is a general or standard model or structure that is applied in a number of situations. When talking about laws we sometimes find that ‘generic models’ of particular laws have been transplanted from other legal systems, and maybe modified to fit the particular situation of the jurisdiction adopting the generic model.

Ombudsman

According to the generic model of the ombudsman, an ombudsman is an independent person appointed by and responsible to either the Head of State or the parliament of a jurisdiction. The ombudsman acts on the complaints of members of the public and has powers of investigation. The focus of the ombudsman’s jurisdiction is the fair and efficient administration of the laws.

INTRODUCTION

The 1980 Vanuatu *Constitution* provides a number of features that are common to many other constitutional democracies. These include entrenched individual rights and freedoms, an independent judiciary and a democratically elected government. The *Constitution* also includes provision for an ombudsman. In 1994, fourteen years after the *Constitution* came into effect, the first Ombudsman was appointed in Vanuatu. Since then, the Office of the Ombudsman has had a high profile in the country, exposing misconduct, corruption and mismanagement within the government and public sector and, in the process, creating widespread controversy. In this short time the Office of the Ombudsman has undergone a number of changes. In 1999, the first Ombudsman's term of appointment expired and a second Ombudsman succeeded her. There have also been two *Ombudsman Acts* since 1995 and a term of approximately a year during which the Ombudsman operated without any supporting legislation apart from the *Constitution*.¹ This chapter describes the mandate and the role of the Office of the Ombudsman in Vanuatu and the environment in which it has operated during its first 6 years of operation. It also examines some types of misconduct that it has revealed. Particular emphasis is placed on the relationship of the Ombudsman and the politicians and other leaders of Vanuatu.

What is an Ombudsman?

The International Bar Association defines 'ombudsman' as, "an office established by Constitution or statute, 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 employers, or who acts on his own motion, and has the power to investigate and recommend corrective action and issue reports."² This definition describes what might be referred to as the generic model of the ombudsman's office. In this model an ombudsman provides a means for people to bring to the attention of an official who is independent of the government complaints about any unfair treatment by the government or any unfair ways in which laws have been applied to them. An ombudsman then provides assistance in the form of information, mediation or recommendations to the relevant authority. In most jurisdictions, the ombudsman also publishes reports exposing problems and recommending solutions. In most stable democracies the existence of an ombudsman's office is largely an uncontroversial feature of governance.

The offices of ombudsmen in numerous jurisdictions are based on this model. The scope of inquiry of an ombudsman operating in such a model is restricted in certain ways. For instance, the Head of State and the judiciary are usually beyond the jurisdiction of most ombudsmen.³ An ombudsman typically has a mandate to make reports and recommendations arising from complaints but does not have the jurisdiction to enforce recommendations or engage in criminal prosecutions.⁴ An ombudsman is either appointed or elected by the government or Head of State. To be effective, an ombudsman must be free of political pressures in the conduct of

investigations and reporting. It is also important that an ombudsman be seen to be neutral, of high integrity and equipped with the expertise and courage to tackle issues which may not be politically popular. As we shall see, Vanuatu's Office of the Ombudsman has, under both Acts, been largely based on the generic model.

The first country to have an Office of the Ombudsman was Sweden. The Swedish Parliament elected the first Ombudsman in 1809. His role was to supervise the observance of laws and regulations by all officials and judges.⁵ More than a century later, the appointment of a Danish Ombudsman spurred interest in other countries.⁶ New Zealand appointed an Ombudsman in 1962. Canada and Australia established Offices of the Ombudsman in the 1960's and 1970's. Since that time ombudsman's offices have been established in over 80 countries.

The ombudsman model is no longer limited to a role of 'government watchdog' and has been applied in a wide range of contexts. For instance, there are ombudsmen whose mandate is restricted to housing, long term care, funerals, victim-offender disputes, hospitals, health care, insurance, investments, pensions and police. There are also private mediators who offer their services in particular areas. 'Ombudsman' as a keyword in any search of the World Wide Web produces an abundance of examples.

The Vanuatu context

Although Vanuatu has adopted the generic model of the ombudsman, its unique colonial history, development status, geography and cultural roots create a challenging environment for the Office of the Ombudsman to operate within. Vanuatu is a small South Pacific country comprising approximately 65 inhabited islands and more than 100 indigenous languages. It is one of the most culturally diverse nations in the world. The cultures of Vanuatu are deeply rooted in traditional beliefs and ways of living. A majority of the population lives in tribal, non-urban and largely subsistence communities. Kinship is an important factor in social relationships. The influence of the modern world, technology and the cash economy is centred in Port Vila, the capital of Vanuatu, together with several other smaller towns.

For 73 years, until independence in 1980, the British and the French ruled the islands jointly as a condominium, in one of the more unique arrangements in colonial history. Neither colonial power had exclusive sovereignty. The legacy of these two competing foreign powers is still strongly felt today with political parties and the education system divided along old colonial lines. In addition, language, culture and economic disparities continue to be divisive factors in Vanuatu society. As is the case with other Pacific island countries, foreign donors continue to play a significant role in the economy.⁷

The President is Head of State and there is a Parliament consisting of 52 elected representatives. Elections are held every 4 years. This model of government (and indeed the notion of a nation state itself) is foreign to the pre-existing social and political fabric of Vanuatu society. While the model of government incorporates the major features of the colonisers' own governments and most 'western' democracies,

it was, and to a large extent continues to be foreign to a large proportion of ni-Vanuatu people. The process of social and political adjustment to the new order is a continuing one.

Since 1995 the Government of Vanuatu has been particularly unstable, with several cabinet shuffles, the formation of new political parties, the re-alignment of others, an election, no-confidence motions, frequent changes of government, changing alliances among political parties and the kidnapping of the President. There appears to be an increasing inability or unwillingness on the part of government to provide for the social needs of the population, which is resulting in unemployment, inequity and poverty.⁸ There have been numerous instances of abuse of political power for personal or political reasons. It is in this environment that the Ombudsman of Vanuatu operates.

The Constitutional foundation of the Ombudsman

The *Constitution* of Vanuatu creates a generic model for the Ombudsman in Vanuatu. Article 65 provides for the independence of the Ombudsman and his or her freedom from supervision and control. The Ombudsman is appointed for a 5-year term by the President, on advice from the Prime Minister and leaders of other political parties.

Article 62 provides that an inquiry may be conducted by the Ombudsman into the conduct of any level of the government, public service or public authorities with the exception of the judiciary and the President. Inquiries may be commenced on the basis of a complaint by a member of the public, a member of parliament, the National Council of Chiefs, a local government or on the Ombudsman's own initiative.⁹

Article 63 of the *Constitution* provides that where the Ombudsman finds that conduct being investigated was defective a report of the findings shall be made to the Prime Minister and the person in charge of the relevant public service. A decision and reply is required of the Prime Minister or the person in charge.¹⁰

With two notable exceptions, the Office of the Ombudsman, as shaped by the *Constitution*, contains few provisions specific to the circumstances of Vanuatu. Article 64 imposes responsibility on the Ombudsman with respect to the three official languages of the country.¹¹ A person who is aggrieved in connection with the use of an official language may complain to the Ombudsman who is obliged to launch an investigation. The Ombudsman also reports to the Parliament on a yearly basis about the observance of multilingualism.¹² Article 62(1)(b) is also specific to the circumstances of Vanuatu in providing that an Ombudsman's inquiry may be launched at the instance of the National Council of Chiefs.

OMBUDSMAN ACT 1995

Vanuatu's first Ombudsman was appointed in 1994.¹³ The first *Ombudsman Act* came into force on August 18, 1995, nearly a year after the first Ombudsman had been appointed. It both strengthened the independence of the Ombudsman and provided tools for the effective investigation of complaints.¹⁴

Independence

The Act enhanced the independence of the Ombudsman in three ways. Firstly, he or she could have no political affiliations or trade or profession during his or her term. Secondly, it provided protection against dismissal except on specific grounds such as bankruptcy, a criminal conviction or gross misconduct.¹⁵ Independence was further enhanced with the provision that staff be appointed directly by the Ombudsman rather than through the Public Service Commission.¹⁶

Scope of inquiries

Section 14 of the 1995 *Ombudsman Act* articulated and expanded the method of inquiry provided by Article 62 of the *Constitution*. The Ombudsman could inquire into any government body or body supported mainly out of public moneys, or any employee of such a body. Such inquiry could be into any defects in any law or administrative practice or any alleged discriminatory practice or any suspected breach of the Leadership Code.¹⁷

Powers and procedures

The 1995 Act provided the power to compel testimony and the disclosure of documents in the course of an inquiry. It also created powers of search and seizure pursuant to a warrant.¹⁸ Obstruction of the Ombudsman in the exercise of his or her duties was made an offence.¹⁹

Where an inquiry concluded that conduct was contrary to section 63(2) of the *Constitution*, was discriminatory or that a law or practice was defective, section 22 directed that the relevant authority be notified. It also required that reports be forwarded to the Prime Minister, the President and in some cases to the head of the department of the public service or to the Leader of the Opposition.

The 1995 Act ensured that inquiries and reports of the Ombudsman could not be ignored by the government. In response to a report the Prime Minister was required to provide not only a decision but also information about the steps that were proposed in relation to the Ombudsman's recommendations.²⁰ Where there was no response to the Ombudsman's recommendations, she or he was empowered by section 30 to apply to the Supreme Court for an order that the recommendations be implemented.²¹ These provisions provide the Ombudsman with significant powers of enforcement that are beyond those found in the generic model described above.²²

THE FIRST OMBUDSMAN – A NEW PRESENCE

The first Ombudsman, Marie-Noelle Ferrieux Patterson, is a naturalised citizen of Vanuatu, originally from France. She lost no time in commencing inquiries in response to complaints. The resulting public reports were unprecedented in the short history of Vanuatu. Never before had leaders been subjected to such scrutiny and, in some cases, to such unflinching and sustained criticism. The number of complaints that fell within the Ombudsman's jurisdiction dramatically increased from 59 in 1994/1995 to 542 in 1998/1999.²³

At the time of her appointment, the first Ombudsman had no office, no staff and few resources.²⁴ This state of affairs continued during the first year of the first Ombudsman's appointment and created a challenge for her. This itself became a public issue. In describing the efforts to make suitable arrangements for the accommodation of herself and her office the Ombudsman lashed out at the government for its ineptitude and resulting waste of energy and time.²⁵ This set the tone for the ensuing relationship between much of the governing elite and the Ombudsman.

The lack of resources was, however, only temporary. It is worth noting by way of comparison that while the Ombudsman's staff quickly grew to more than 20 full time employees and occupied 2 floors of a downtown Port Vila office building, the Office of the Public Solicitor, which is constitutionally responsible for providing legal assistance to "needy persons",²⁶ has continued to work with less than 5 staff. Similarly, the Office of the Public Prosecutor, responsible for all criminal prosecutions within the country, has continued to work with a handful of staff. Much of the funding that has allowed the Office of the Ombudsman to grow so rapidly has come from the international donor community who obviously saw a significant need for such an institution.²⁷

The Ombudsman as an outsider

This outside funding has, in part, contributed to a perception that the Office of the Ombudsman is an imposed institution, serving foreign interests. The first Ombudsman placed considerable importance upon the need to maintain an environment that will attract foreign assistance and investment:

It is vital for the public to face the fact that it is foreign money which constitutes the only hope in Vanuatu's present financial crisis. Foreign aid from such countries as Australia and others makes up almost 50% of Vanuatu's entire budget (recurrent plus development). This aid is in danger of being drastically reduced as a result of the irresponsible antics of some leaders here. It is therefore vital for us citizens to be aware of who our best friends are, and who are actually our biggest enemies and drawbacks.²⁸

The obvious interest by the first Ombudsman in attracting foreign investment and the favour of foreign donors may be justified. However it provided a potential for characterising her as an outsider with outsider's interests. This view has indeed been evident among members of the political elite. For example, one senior bureaucrat, Father Leymang, after an unsuccessful legal challenge to the right of the Ombudsman to compel disclosure of information pursuant to section 30 of the 1995 Act, wrote a letter that was published in the *Vanuatu Trading Post* on February 18, 1998. In it he called for the confiscation of the Ombudsman's passport and her deportation (notwithstanding that she is a ni-Vanuatu citizen). He stated further that:

Mrs Marie Noelle Ferrieux Patterson stands there like a European-style teacher, stern and harsh, wielding a big stick fashioned by foreign powers to punish the young Melanesians (the politicians).²⁹

The public acceptance of the Ombudsman's findings and recommendations have eroded in accordance with the degree that this view of her as an outsider, imposing outsiders' views and promoting their interests, is perceived to be correct. One of the justifications for the repeal of the first *Ombudsman Act* used this characterisation. The Prime Minister, interviewed on television in connection with the repeal of the Act stated that indigenous people should run their own country and not allow "former colonialists" to decide their future.³⁰ Again, this characterisation is not without its foundations.³¹

Being a woman undoubtedly also had an impact on how the first Ombudsman was perceived in a society where the preponderance of political power is wielded exclusively by men. This was evident in the Parliamentary debate during the repeal of the *Ombudsman Act* 1995. Mr Barak Sope, a Minister who had been subjected to intense scrutiny and criticism by the Ombudsman, defended his support of the Bill to repeal the first *Ombudsman Act* because, in his view, Melanesian culture does not allow women to criticise men.³² It is questionable that this view of Melanesian culture is in fact correct in any event.³³

The moral imperative

The reports of the first Ombudsman do more than dispassionately and objectively reveal wrongful conduct. The tone of the reports themselves is bombastic, combative and moralistic.³⁴ The reports contain mention of the personal revulsion of the Ombudsman and severe moralistic reprimands of those found to be corrupt or criminally responsible for their actions. Reports were routinely prefaced with biblical quotes.³⁵ The implication of the biblical quotes together with other editorialising, particularly in the preambles of the reports, is that the Ombudsman has the role of a moral judge supported in her opinions by biblical authority. The first Ombudsman has been criticised for taking on this role.³⁶ However, she made no secret of her moral approach to her duties. In her 1996 Annual Report, she had this to say at page 5:

I expect to be attacked again for attempting to "lecture" the public, but I make no apology for sounding out these warnings in an attempt to secure the enlightenment and education of the public in these important matters. It is of course one of the specific duties of the Ombudsman to inform the public of what is done "officially" in their name. It is not a **political** revolution that is needed in my opinion, but a moral and ethical one.

The first Ombudsman's legal battles

The struggle between the first Ombudsman and the political elite was also played out in court. There have been several attempts by the Ombudsman to compel the disclosure of information pursuant to section 30 of the first *Ombudsman Act*.³⁷ There has also been an application by the Ombudsman to have her recommendation made enforceable by order of the court pursuant to section 30. This concerned an attempt to force the repayment of *ex gratia* payments to certain politicians.³⁸ In response, the Council of Ministers (which included many of those who were the subject of the

section 30 application) attempted to dismiss the Ombudsman from office by resolution. This resolution was challenged in court by the Ombudsman and was eventually held to be “invalid in law and thus unlawful and of no legal or other effect.”³⁹ This entire episode attracted media attention throughout the region.

THE REPLACEMENT OF THE OMBUDSMAN AND A NEW OMBUDSMAN ACT

The first Ombudsman’s style was tenacious and in her reports, she provided no quarter to her *opponents* — those among the political elite of the country whose conduct formed the basis of her reports. In disclosing the existence of corruption and incompetence, she left little opportunity by which those involved could save face.⁴⁰ On June 26, 1998, after three years of operation, the exposure of widespread corruption and misuse of power, and vigorous opposition from the Council of Ministers, the *Ombudsman Act* of 1995 was repealed by Parliament. Given the opposition among the political elite to the Ombudsman personally and to her role this drastic action is not surprising. Notwithstanding this, the Ombudsman continued to operate, solely on the basis of the Constitutional provisions and her continuing appointment.

After a period without any specific legislation, a new Act came into force on January 11, 1999. Later that year, the first Ombudsman’s 5 year term of office expired and, despite her application to have her position renewed, Mr Hannington Alatoa, an indigenous citizen, was appointed as Vanuatu’s second Ombudsman. The appointment of the second Ombudsman created a division of opinion between supporters of the first Ombudsman’s rigorously investigative approach and those who favoured a more conciliatory approach.

THE SECOND OMBUDSMAN ACT

In several respects, the new legislation lacks the force of the first Act and therefore represents less of a potential threat to those whose conduct is likely to be scrutinised.

No longer are appointments to the staff of the Ombudsman made directly by the Ombudsman and independently of the Public Service. Under the new Act, employees are appointed as part of the Public Service and subject to the same control as are other government employees who are appointed through the Public Service. This creates the potential for employees of the Ombudsman to be intimidated where their work is critical of or threatens someone who has control over the employment of public servants.⁴¹

The new Act restricts the use of inflammatory language and prohibits allegations of criminal wrongdoing without stating the alleged offence and providing evidence to support the allegation.⁴² Interestingly the Act does not specify what form the evidence must take or what standard of proof must be satisfied in order to make an allegation of criminal wrongdoing. It is reasonable to conclude, however, that this provision found its way into the new Act in response to the many comments of the first

Ombudsman which could be construed as inflammatory and the many allegations of criminal wrongdoing made by her. Whilst reports published by the first Ombudsman prior to the second *Ombudsman Act* coming into force do not hesitate to draw unequivocal conclusions that leaders breached the Leadership Code, those published after the passing of the second Act qualify allegations with the phrase, “may have” to condition a conclusion that the Code was breached.⁴³

Another significant change made by the second *Ombudsman Act* is the requirement that notice be given to the person in charge of the relevant government agency or the relevant leader before an inquiry is launched, except where the Ombudsman has reasonable grounds for believing that to do so would interfere with his or her inquiry.⁴⁴ Such notice could serve to give the agency or leader being investigated an opportunity to take steps to minimise the effectiveness or impact of an inquiry.

The 1995 Act provided that the Ombudsman could apply to the Supreme Court for an order giving effect to a recommendation of the Ombudsman where the Prime Minister (or other relevant person required to do so) did not respond to the Ombudsman’s recommendations with a decision and an indication of what steps were to be taken to deal with the recommendations. This power is lacking in the new Act. This change (which represents a retreat to the generic model) alters what might be considered to be the balance of power between the Ombudsman and the government in favour of the government.

The Ombudsman’s access to restricted or “prohibited information” is limited by section 27 of the new Act. This is defined in the Act to include “information that is prohibited or restricted under or by any recognised duty of professional confidentiality or privilege.” This definition begs questions concerning the nature of “professional confidentiality or privilege” which have yet to be clarified by any judicial consideration.

Mediation

Another significant way in which the new *Ombudsman Act* 1998 differs from the 1995 Act is its inclusion of provisions enabling the use of mediation in the resolution of disputes arising from complaints to the Ombudsman. Although mediation has been informally used by other ombudsman offices, Vanuatu appears to be the first jurisdiction to formally include it within the scope of an ombudsman’s powers and duties.⁴⁵

The Ombudsman is required to mediate where requested to do so and where practicable.⁴⁶ If the Ombudsman believes that it would not be practicable to mediate, he or she must give reasons in writing to the person who requested mediation. The use of mediation has not yet become widespread in the work of the Ombudsman. However, it is expected to increase as a means of resolving complaints in appropriate cases.⁴⁷ In order to facilitate the use of mediation, the image of the Ombudsman as an adversarial presence, which was created in the first 5 years of the existence of the Ombudsman’s office, will require moderation. The more like an accuser or adversary

the Ombudsman is, the less effective he or she will be in the role of a neutral agent who is able to facilitate the resolution of disputes.

It has been suggested that mediation, as a means of conducting the work of the Ombudsman, is inappropriate.⁴⁸ The basis for this criticism is that an invitation to mediate early in an investigation would give the party to the mediation whose conduct is being investigated an opportunity to hide or destroy incriminating evidence. It has also been suggested that common sense favours the view that a conciliatory approach would not work in cases where there has been an apparent misuse of official power. While this may be so in some cases, mediation could provide a useful tool in cases where these factors are not present.

New image

The second Ombudsman has in fact begun to cultivate an image consistent with the use of mediation and at variance with that cultivated by the first Ombudsman. The use of biblical quotes in prefaces of public reports has been discontinued. Personal reactions of the Ombudsman, particularly expressions of outrage, are less apparent in the text of public reports than was previously the case. As indicated above, categorical judgements about the commission of offences by leaders and politicians are no longer included in the text of public reports. There is less evidence of moral indignation and a greater emphasis on co-operation and the implementation of mediation as a means of resolving appropriate disputes. Accompanying these changes is a discernable lessening of public attacks by politicians and others on the Office of the Ombudsman and the Ombudsman personally.

PATTERNS OF MISCONDUCT REVEALED

Before the end of 2000, the Ombudsman published more than 70 public reports arising from individual inquiries. Not all of the reports deal with deliberately improper conduct. Many reports reveal systemic weaknesses and deficiencies in administrative practice and procedure. Examples of these types of reports include inquiries into the condition of prisons and the use of disciplinary procedures in prisons.⁴⁹ Others include inquiries and reports concerning the incompetence of the Vanuatu Fire Service⁵⁰ discrimination inherent in the *Citizenship Act* [Cap 112],⁵¹ the language of instruction at a particular school,⁵² and discriminatory criteria applied by the National Exam Board for admission into grade 7.⁵³

However, a large proportion of investigations and public reports do reveal improper conduct, particularly on the part of politicians and senior public servants. It is difficult to neatly categorise this conduct as the revelations of single reports often include a wide range of improper conduct. However, using several reports as examples, it is possible to identify some recurring themes. Some of the major ones are illustrated below.

The rule of law under attack

One aspect of improper conduct that is revealed by the public reports of the Ombudsman is the degree to which political leaders consider themselves to be free to make decisions and engage in conduct without regard to the bounds of their statutory powers. Ministers of the Government have, on numerous occasions, made decisions that purportedly bind the government (particularly involving the spending of public money) without a legal foundation for doing so. Proper procedures are often bypassed in order to achieve results. The Minister of Finance, in response to an investigation by the Ombudsman, puts a couple of revealing rhetorical questions in which he justifies his actions with an appeal to what he considers to be democratic principles:

Why doesn't the Office of the Ombudsman ask here the real question? Must a Minister of the Government, an elected member of the People always obey a civil servant (the Attorney General who is a civil servant). Who is governing Vanuatu: the elected of the People who govern Vanuatu and take their decision or the civil servants?⁵⁴

This response indicates that degree to which the Big Man syndrome appears to play a role in the politics of the country. Big Man is an expression, usually used disparagingly, that derives from the customary power of chiefly authority. It is used in the countries of Melanesia to refer to a person whose power, although not necessarily derived from chiefly source, is nevertheless exercised as if it is. It has been asserted that the expression as it has been applied and understood in a political context is not authentic but is the result of a process that 'manufactures' custom. Politicians are accorded the same status as chiefs to reflect their importance and contributions. Because of this perceived status they are reluctant to accept criticism and consider it as contrary to custom. However, it has been pointed out that there is really nothing in custom which prevents criticism or sanctioning of inappropriate behaviour by leaders.⁵⁵

Political appointments of unqualified people

A number of reports have disclosed the appointment of people to senior positions, either within the public service, onto the board of a public enterprise or as an employee of a public enterprise. A typical case is that of the hiring of a Deputy General Manager of the Vanuatu National Provident Fund (VNPf).⁵⁶ The VNPf received a number of applications from qualified candidates for this position. However, no appointment was made by the VNPf Board until consultations took place with the Finance Minister. The Finance Minister strongly "recommended" an unqualified politician who had recently lost his seat in Parliament. An application was submitted by this person after the closing date, his application was considered and he was "hired" by the Board at a meeting without a quorum. The report on the VNPf matter publicised the political hiring of an unqualified person and identified the lack of independence and relevant knowledge on the part of Board members of the VNPf.

Other examples of this type of conduct are revealed in the Public Report on the Appointment of Senior Public Works Staff⁵⁷ where the Prime Minister, in breach of procedure, directly appointed persons, based on the political affiliations of the persons, without consultation with the Public Service Commission or the Department of Public Works and despite the appointees' lack of proper qualifications. The Public Report on Mismanagement of the Vanuatu Livestock Development Ltd,⁵⁸ reveals that an unqualified political appointee (the brother in law of the Agriculture Minister) with a criminal record for misappropriation was hired, in preference to a qualified candidate as Manager of Vanuatu Livestock Development Ltd, a government owned enterprise. The company suffered disastrous financial consequences as a result of highly incompetent mismanagement by the appointee.

Conflict of interest

A number of reports also reveal instances of improper conduct that involves conflict of interest. In the Nambawan Bottle Shop case⁵⁹ the Ombudsman found that the Minister of Finance, as a partner in a private business enterprise, used his influence to bypass a number of statutory prerequisites to establish a retail liquor outlet. A license (on unprecedented terms) was granted for the operation of this outlet on a 24-hour basis, contrary to the terms of legislation governing the sale of alcohol and contrary to the legal opinion of the Attorney General. The report discloses various other instances of improper behaviour or inaction by officials in relation to this scheme.

Conflict of interest is also illustrated in two public reports involving the lease of government land. In the first case, the Minister of Lands used his power to grant 15 leases in favour of himself, his wife, wantoks, driver and house girl. Proper procedures, including the valuation of the leases, approvals, application fees and other requirements were not followed.⁶⁰ Four of the 5 leases that the Minister granted to himself were granted free of any premium (purchase price) and the remaining leases were granted at less than the market value. The Ombudsman's report concluded that the Minister, using his position, had misappropriated property. In the second case, the same Minister again leased a number of properties using an improperly constituted tenders board, one member of which submitted a bid which he subsequently considered as a member of the tenders board (his bid was successful).⁶¹ The leases were fraught with other irregularities and were granted contrary to the advice of the Department of Finance and the Solicitor General.

The Public Report on the Sale of the M. V. Yasur⁶² revealed a further instance of conflict of interest. The vessel M.V. Yasur, owned by the government, was leased to a private company. The Secretary General of the Council of Ministers (the cabinet) made arrangements relating to the leased vessel, including the release of two public servants to work on the vessel. At the time he was also an active partner of the company leasing the vessel.

Perhaps the most notorious instance of conflict of interest is revealed in the Public Report on the Vanuatu National Provident Fund Housing Loan Scheme.⁶³ Many politicians, senior public servants and members of the VNPF Board used their

positions to gain preferential treatment in a low interest housing loan scheme from which they benefited at the expense of the 33,000 members of the VNPF whose trust fund was being used to finance the scheme.

Bad business deals

Several public reports show how politicians have, ostensibly acting in the best interests of Vanuatu, become involved in business schemes with foreign interests. The conduct which has been involved in these schemes has been found to be improper in a number of respects. These business arrangements were all entered into in breach of proper procedures which, if followed, would have prevented the risk of unfortunate results.

One notable example of such conduct involves the Bank Guarantee case.⁶⁴ The Prime Minister, the Minister of Finance and the Governor of the Reserve Bank arranged for bank guarantees to be drawn up in the sum of US\$100,000,000 and provided to an expatriate businessman, together with a diplomatic passport and A\$50,000. There was no apparent consideration for these benefits except for the apparently naïve expectation that the guarantees could be invested and return a profit in the order of US\$250,000,000 in two years.

Another example of this type of conduct is revealed in the case of the transfer by the Finance Minister of ownership of all of Vanuatu's assets to a secret trust established in Mauritius, contrary to the advice of the Attorney General. The reason for the ministerial order giving effect to this transfer is not clear. Fortunately it was made without the necessary authority and was cancelled by the incoming government.⁶⁵

The Cybank venture provides another example of an improvident business deal with foreigners.⁶⁶ The Minister of Finance entered into negotiations with an Australian businessman for the Republic of Vanuatu to invest in an online internet bank and casino. The arrangements were hastily finalised without the necessary approval of the Council of Ministers. The funds for the investment were to come from the VNPF. Cybank was to receive preferential license fees, tax rates and priority access to telecommunication facilities in Vanuatu. Neither Telecom Vanuatu Ltd (which was obliged to provide some of these concessions) nor the VNPF (which was to provide the financial investment) took part in the negotiations. No independent evaluation was obtained before the Finance Minister committed to the investment and a number of necessary procedural prerequisites for such an investment by the government were not followed.

These reports and the matters they reveal demonstrate the extent to which naïveté and corruption are sometimes difficult to distinguish. It should be stressed that the Ombudsman made no finding that there had been bribery in either case. The need to stress this fact stems from the ease with which one might make an unwarranted assumption that it was.

FURTHER OBSERVATIONS AND CONCLUSIONS

The work of the Ombudsman in Vanuatu is largely concerned with the advancement of good governance. It is difficult to accurately assess the effectiveness of the Ombudsman in bringing about good governance within Vanuatu. Many of the matters inquired into by the Vanuatu Ombudsman are themselves of an order of significance that are unlikely to be tackled on a regular basis by ombudsmen of most other jurisdictions. Further, the police and prosecution branches of law enforcement in Vanuatu are relatively weak and unable or unwilling to follow up with prosecutions as recommended by the Ombudsman.

Many of the recommendations arising from the Ombudsman's reports call for the non-reappointment or dismissal of appointed board members, employees of the government or publicly owned companies and the resignation or dismissal of politicians. Others call for the prosecution of those whose conduct has either been concluded or suspected to be criminal. However, few, if any, prosecutions have been initiated on the basis of an Ombudsman's report. A number of politicians have been found to have been in breach of the Leadership Code (some on several occasions) and yet have gone on to further leadership positions contrary to the Ombudsman's recommendations. No politician has resigned over revelations of misconduct and although several charges have been laid, no conviction has, to date resulted from any of revelations of wrongdoing alleged in any Ombudsman report.⁶⁷

Other recommendations call for new or amended laws and procedures to correct deficiencies or fill gaps. Some of these recommendations have been adopted. The passing of the *Leadership Code Act* in August 1998 is one example. However, it is questionable whether the Ombudsman's recommendations were instrumental in getting the laws amended. The move to amend or create the laws in relation to the Leadership Code predated the Ombudsman's office, and new laws may well have been created regardless of her recommendations.

However, although there may have been few formal actions arising from the recommendations in the Ombudsman's reports, the Office has had an impact on politicians and society. As has been indicated, the powerful have felt threatened by the Ombudsman's power. The former Minister of Finance, Willie Jimmy, in response to a preliminary report in the Nambawan Bottle Shop case stated that "[the] Ombudsman does not know that the law does not give her the power to act as a Policeman, Judge, Jury and Executioner."⁶⁸ While there may be an element of hyperbole in this statement, in a sense it is true that the first Ombudsman assumed the role of a judge. The many conclusions of criminal conduct, the illegality of particular actions and the invalidity of others read like judicial pronouncements. This quality is highlighted in the paucity of judicial pronouncements on the type of conduct that the Ombudsman has investigated and reported on. In respect of the allegation of the Ombudsman being an executioner, it can be said that on at least one occasion, the first Ombudsman did, inadvertently and indirectly, assume this role. The public reaction to revelations contained in the Public Report on the Vanuatu

Provident Fund Housing Loan Scheme included rioting and extensive damage to the office building housing the VNPF and to private property thought to belong to some individuals whose conduct was judged wrongful in the report. Figuratively therefore, one might consider the first Ombudsman to have indirectly wielded the authority of the Old Testament passages which are included in the prefaces of the public reports and to have been indirectly associated with the retributive moral consequences to which they refer.

It may be argued that, compared to many countries with an Ombudsman, the importance of the Vanuatu Ombudsman is greater, given the relative lack of civic awareness and no established tradition of independent investigative journalism. It might also be argued that the lack of these features has increased the difficulty that the Ombudsman encounters in discharging his or her responsibility and gaining the confidence and respect of the political class.

Just as there is very little in the model of the Ombudsman that has been adopted by Vanuatu which is adapted to the specific circumstances of Vanuatu, so there is nothing in any of the reports which addresses the cultural differences of the nation or takes into account how these might provide an understanding of the conduct of the leaders and public servants whose actions are being investigated. It is also notable that the National Council of Chiefs, which is specifically entitled to make a complaint and thereby launch an inquiry has yet to avail itself of this opportunity.

However this does not lead to the conclusion that the reports of the Ombudsman have been without effect. Although it is not possible to conclude that the behaviour of leaders of the country has changed as a result of the presence of the Office of the Ombudsman, it is clear that the Ombudsman has raised the level of consciousness among both the general population and the political class. It is also clear that, even under the new *Ombudsman Act*, there is sufficient power for the wrongdoings of politicians and other government and public officials to be investigated and made public. The challenge now is for the Ombudsman to remain effective in revealing misconduct but, at the same time, to induce those who have power to do so to make changes in accordance with the Ombudsman's recommendations. Ideally, this process will incorporate more consultation and cooperation between the Ombudsman and the powerful than has been evident to date.

ENDNOTES

- 1 *Ombudsman Act* No. 14 of 1995 (Vanuatu) and *Ombudsman Act* No. 27 of 1998 (Vanuatu).
- 2 Ferris, C. Goodman, B. and Mayer, G. 1980. *Brief on the Office of the Ombudsman* Ombudsman Committee of the International Bar Association. p 2.
- 3 This is not universally the case. In the Philippines, the Ombudsman is able to inquire into the judicial branch of the government: see September 14 1999. Hon. Aniano A. Desierto. Republic of Philippines Ombudsman Briefs Sydney business on fight against corruption. *Emanila News*. September 14 1999 www.emanila.com/news/community/desierto.htm (Accessed 30/10/01). In Finland it is also the case that actions of the head of state and judiciary are within the jurisdiction of the ombudsman. See <http://www.eduskunta.fi> (Accessed 6/11/01).
- 4 However, an exception to this is found in the Philippines where the Ombudsman does have the power to prosecute. See *Emanila News* above n 3.
- 5 Lundvik, U. 1981. The New Zealand Ombudsman. *Occasional Paper* #7. Alberta: International Ombudsman Institute.
- 6 International Ombudsman Institute. 1982. *Ombudsman Office Profiles* Alberta: International Ombudsman Institute.
- 7 Luteru, P. 1994. *Aid and Development in Relation to Customary Land Tenure: Some Social and Educational Implications in Land Issues in the Pacific*. Suva: Institute of Pacific Studies.
- 8 Huffer, E. and Molisa, G. 1999. Governance in Vanuatu: In Search of the Nakamal Way. State, Society and Governance in Melanesia Project *Discussion Paper* 99/4. Canberra: Research School of Pacific and Asian Studies, Australian National University.
- 9 The National Council of Chiefs is a consultative body established under Chapter 5 of the *Constitution* of Vanuatu that is concerned with the use and preservation of custom and may make recommendations for the preservation and promotion of ni-Vanuatu culture and languages.
- 10 Any limitation period that applies to the complainant's right to a legal remedy is delayed until such a reply is made.
- 11 These languages are English French and Bislama.
- 12 This is a feature is not unique to Vanuatu. Canada, a country with more than one official language, safeguards their status in part by the *Official Languages Act* RSC 1985 c. 31. It provides for a Commissioner of Official Languages whose duties include the investigation of complaints regarding the use of official languages and reporting to Parliament.
- 13 The Ombudsman was the last Constitutional position in Vanuatu to be filled; Vanuatu Ombudsman. 1995. *Annual Report*. p 14.
- 14 These aspects can be considered to be the sword and the shield of the Ombudsman. Both are necessary for the effective discharge of duties by any Ombudsman, see de Jonge, A. 1998. The Pacific Ombudsman's Complaints Function: Comparative Perspectives on Fiji, Papua New Guinea and Vanuatu. Delivered at Corruption and Accountability in the Pacific Workshop, State, Society and Governance in Melanesia Project, Australian National University 6–9 November 1998.

- 15 Dismissal must result from the deliberations of a tribunal comprising 3 persons including the Chief Justice; section 9, *Ombudsman Act* 1995 (Vanuatu).
 - 16 *Ombudsman Act* 1995 (Vanuatu) s.35.
 - 17 The Leadership Code forms Chapter 10 of the *Constitution* and is set out below:
 66. (1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to:
 - (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
 - (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub-article (1)
 67. For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.
 68. Parliament shall by law give effect to the principles of this Chapter.
- 18 *Ombudsman Act* 1995 (Vanuatu) sections 17 and 21 respectively.
 - 19 Section 22(2)(c).
 - 20 Section 25(2).
 - 21 An application pursuant to this section was made in connection with the investigation and ensuing report recommending that illegal ex gratia payments made to politicians be repaid to the government. Vanuatu Ombudsman, 1996. Public Report on Ex Gratia Payments. June 4, 1996. Although the Ombudsman is given standing to apply to the court for orders enforcing recommendations, it was not clear who the “responsible person” mentioned in section 30 is and therefore is unclear who, if anyone, an order should be directed to. Further difficulties could arise in relation to such applications where the recommendations are too general to be framed as an enforceable order of the court.
 - 22 Pakistan’s Office of the Ombudsman has similar deviations from the generic model. Crossland, K. 1998. Interpretation of the Ombudsmen role by Vanuatu’s first Ombudsman. Presented at Corruption and Accountability in the Pacific. Workshop: State, Society and Governance in Melanesia Project, Australian National University. 6–9 November 1998. <http://rspas.anu.edu.au/melanesia/crossland.html> (Accessed 6/11/01)
 - 23 Vanuatu Ombudsman. 1999. Annual Report of the Office of the Ombudsman. Table 3.4, page 23.
 - 24 Vanuatu Ombudsman. 1995. Annual Report. p 7, 11.
 - 25 “What occurred in this situation was a first-hand example of maladministration of the very type my Office is repeatedly called upon to investigate by complainants” Vanuatu Ombudsman. 1995. Annual Report. p 12.
 - 26 *Constitution of the Republic of Vanuatu*, Article 56.

- 27 Direct contributions in the form of money, manpower or other resources have been made to the Ombudsman by the governments of Australia, Canada, Denmark, France, New Zealand and Papua New Guinea. In addition, the Association des Ombudsmans et Mediateurs de la Francophonie, the Commonwealth Secretariat, the European Union, the United Nations Development Program and the Economic and Social Commission for Asia and the Pacific (ESCAP) have also made contributions to the Ombudsman. See Vanuatu Ombudsman. 1996, 1998 and 1999. Annual Reports.
- 28 Vanuatu Ombudsman. 1996. Annual Report. p 5.
- 29 As quoted in Crossland, K. 1998. Above, note 22.
- 30 As cited by Crossland, K. 1998. Above, note 22.
- 31 See for instance, Vanuatu Ombudsman. 1997. Public Report on the Improper interference with a Land Lease by the Former Minister of Foreign Affairs, Mr. Amos Bangabiti. July, 17, 1997, at p 2. In this report, the Ombudsman refers to a major recurring problem, that of expatriates wrongfully becoming the victims of envy and persecution by indigenous ni-Vanuatu.
- 32 Anti Corruption Ombudsman under attack from Parliament. *Pacific Islands Monthly* Jan 1998 Vol 68 (1) p 14–15.
- 33 There is really nothing in custom that prevents criticism or sanctioning of inappropriate behavior by leaders. Rather, it is the manufacturing of a *second class* of custom that is used to consolidate the power of the ruling elite. Huffer, E. and Molisa, G. 1999. Above, n 8 at p 7.
- 34 Dozens of examples abound. For example: “It has been depressing for the Ombudsman’s Office to see repeated again and again the selfish and greedy actions of those who put personal gain before public service with such regularity that it is with heavy hearts that the growing pile of complaints is surveyed. Cause for sadness, too, in that those charged with offences have chosen not to follow the path of confession and potential forgiveness but of denial or silence.” Preamble to Vanuatu Ombudsman. 1998. Final Report on the Purchase, Repair, Management and Operation of the Prince II. December 2, 1998. Another example is taken from the preamble from Vanuatu Ombudsman. 1998. Public Report on the Multiple Breaches of the Leadership Code by Barak Sope. Once more the Ombudsman Office finds itself reporting yet another clear example of contempt for legal and honest procedures by a leader so desperate to hold on to power that he was prepared to intervene and interfere in the vital matter provision of food.
- 35 Three random selections serve as an illustration: How long will ye judge unjustly and accept the persons of the wicked? Defend the poor and fatherless do justice to the afflicted and needy: rid them out of the hand of the wicked”, Psalm 82 v 2; Vanuatu Ombudsman. 1997. Public Report on the Sale of the M.V. Savin Fana. June 26, 1997; “Do ye thank that the Scripture saith in vain “The spirit that dwelleth in us lusteth to envy” James 4 v 5; Vanuatu Ombudsman. 1997. Public report on the Improper Interference with a Land Lease by the Former Minister of Foreign Affairs Mr. Amos Bangabiti; [t]he getting of treasures by a lying tongue is a vanity tossed to and from then that seek death.” Proverbs 21 v 6; Vanuatu Ombudsman. 1997. Public Report on Illegal Passport Scheme and Resort Las Vegas. December 3, 1997.
- 36 Van den Bergh, N. I. C. 1998. An Analysis of Some Preambles to the Reports From the

Ombudsman's Office, Vanuatu. University of the South Pacific School of Law staff seminar. October 21, 1998. In this paper, it is argued that the quotes are taken out of context and that they imply to the reader that the leaders of Vanuatu act against Gods will and laws, that they are sinful, debased and corrupt. Professor Van den Bergh points out that nowhere in the quotes which form part of the preambles does one find "words of encouragement, of reconciliation, of forgiveness, concepts which form the heart of Christianity."

- 37 *Ombudsman v Fr. Gerard Leymang*, Unreported, Supreme Court of the Republic of Vanuatu, Civil Case No. 3 of 1997 25 August 1997.
http://www.vanuatu.usp.ac.fj/paclawmat/Vanuatu_cases/Volume_O-Q/Ombudsman_v_Leymang.html (Accessed 7/11/01)
- 38 *Ombudsman V Willie Jimmy, Maxime Carlot Korman et al*, Unreported, Supreme Court of the Republic of Vanuatu, Constitutional Case no. 104 of 1997 4 May 2001.
http://www.vanuatu.usp.ac.fj/paclawmat/Vanuatu_cases/Volume_OQ/Ombudsman_v_Batick.html (accessed 7/11/01)
- 39 *Ombudsman v The Attorney General & anor*, Unreported, Supreme Court of the Republic of Vanuatu, Constitutional Case No 114 of 1997, 30 Oct 1997.
- 40 Although those implicated have an opportunity to respond to a preliminary report before a public report is released and, although their response is included in the public report, the first Ombudsman typically responded to the responses, often in a dismissive or incredulous manner and thereby maintained a position of having the last word.
- 41 It was strongly recommended by the advisor from Ombudsman Commission of Papua New Guinea that the hiring of Ombudsman's employees be separate from the Public Service in order to avoid this very possibility. Vanuatu Ombudsman. 1995. Annual Report. p 12.
- 42 Section 6 (1).
- 43 For example, in the Vanuatu Ombudsman. 2002. Public Report on the Failure of Some Leaders to File Annual Returns to the Clerk of Parliament, the facts revealed that 24 leaders had failed to file an annual return. Sections 19 and 31 of the *Leadership Code Act* No. 2 of 1998 make failure to file a return by March 1 each year. Despite these clear and undisputed facts, the factual finding of the Ombudsman was that the Leadership Code "may have" been breached.
- 44 Section 21.
- 45 In Fiji, in the early 1980's at a time when the Fiji Ombudsman had been in operation for roughly the same length of time as the Vanuatu Ombudsman now has, there was an informal initiative to engage in a process which was described as mediation. See Scott, I. 1982. The Ombudsman in Fiji, Patterns of Mediation and Institutionalization. *The Ombudsman Journal* No.2: p. 1.
- 46 Section 13.
- 47 The Ombudman has indicated to the writer on several occasions that the use of mediation will expand in the work of the Ombudsman.
- 48 Crossland, K. 1998. Above note 22, at pp 9 to 11.

- 49 Vanuatu Ombudsman. 1999. Report on Prison Conditions and Mismanagment of Prison Budget. September 16, 1999 and Vanuatu Ombudsman. 2000. Public Report on the Unlawful Solitary Confinement of Three Prisoners by Prison Authorities. March 13, 2000.
- 50 Vanuatu Ombudsman. 1999. Public Report on the Vanuatu Fire Service Failure to put out the fire on 6 1998 at Paris Shopping, Snoopy's, Au Peche Mignon and Frank King Tours. May 12, 1999.
- 51 Vanuatu Ombudsman. 1999. Public Report on the Illegal and Unconstitutional Discrimination in the Citizenship Act. May 18, 1999.
- 52 Vanuatu Ombudsman. 1999. Public Report on Conversion Into Anglophone School of French Speaking Public Primary School at Mangliiu (North West Efate). September 9, 1999.
- 53 Vanuatu Ombudsman. 1999. Public Report on the Discriminatory Crieteria of the Vanuatu National Examinations Board for Admission to Year 7. August 13, 1999.
- 54 Vanuatu Ombudsman. 1998. Public Report on Illegal Creation of CVDC SA and the People of Vanuatu Trust and breach of the Leadership Code by Hon. Vincent Boulekone, Minister of Finance. March 13, 1998.
- 55 Huffer, C. and Molisa, M. 1998. Above, note 8, at p 7.
- 56 Vanuatu Ombudsman. 1996. Public Report on the Appointment of the Deputy General Manager of the Vanuatu National Provident Fund. November 15, 1996.
- 57 Vanuatu Ombudsman. 1999. Public Report on the Improper Appointment of Senior Public Works Department Staff. March 11, 1999.
- 58 Vanuatu Ombudsman. 1999. Public Report on the Mismanagement of the Vanuatu Livestock Development Ltd. By the Former Manager Selwyn Leodoro in 1992–1993 and Illegal Conduct of the Former Chairman of the Board Tom Kalorib. July 23, 1999.
- 59 Vanuatu Ombudsman. 1996. Public Report on the Numbawan Bottle Shop Case. August 20, 1996.
- 60 Vanuatu Ombudsman. 1999. Public Report on the Granting of Leasses by the Former Minister of Lands Mr. Paul Barthelemy Telukluk to Himself, Family Members and Wantoks. April 22, 1999.
- 61 Vanuatu Ombudsman. 1999. Public Report on the Mismanagement of the Tender Sale of Ten Deportees' Properties by the Former Minister of Lands Mr. Paul Telukluk. May 28, 1999.
- 62 Vanuatu Ombudsman. 1996. Public Report on the Sale of M. V. Yasur. September 23, 1996.
- 63 Vanuatu Ombudsman. 1997. Public Report on the National Provident Fund Housing Loan Scheme. December 17, 1997.
- 64 Vanuatu Ombudsman. Public Report on the Provision of Bank Guarantees Given in the Sum of US\$100,000,000, in Breach of the Leadership Code and Section 14 (f) the Ombudsman Act and Related Matters Thereto. July 3, 1996.
- 65 Vanuatu Ombudsman. 1998. Public Report on Illegal Creation of CVDC SA and the People of Vanuatu Trust. March 28, 1998.
- 66 Vanuatu Ombudsman. 1996. Public Report on the Conduct of Barak Sope and the VNPF Board in a Proposed Investment in the Internet Bank "Cybank" Venture. October 16, 1996.

- 67 Information provided by former Ombudsman, Marie Noelle Ferrieux-Patterson, July 2001.
- 68 As quoted by Crossland K. 1998. above, n 22.

Review questions

1. Do you think that corrupt activities can be justified in some situations?
2. Do you think that what is corrupt in one country is not necessarily corrupt in another due to cultural differences?
3. In what ways do you see constitutional legitimacy compromised or challenged in your country? What do you think can or should be done to improve constitutional legitimacy?
4. What do you think is the relationship between constitutional legitimacy and corruption?
5. Do you think that the generic model of the Ombudsman, as developed in European and other western countries, is effective in a developing country like Vanuatu?
6. What powers or duties do you think an Ombudsman would need in order to be effective in reducing corruption within PICs?
7. Do you think that combating corruption is a good use of limited resources in PICs?

Further readings

Botchwey, K. (ed) 2001. *Fighting Corruption, Promoting Good Governance: Commonwealth expert group on good governance and the elimination of corruption*. London: Commonwealth Publications.

Habermas, J. 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge: Polity Press.

Hassall, G. & Saunders, C. 2002. *Asia Pacific Constitutional Systems*. Melbourne: Cambridge University Press.

Larmour, P. & Wolanin, N. (eds) 2001. *Corruption and Anti-Corruption*. Canberra: Asia Pacific Press.

Regan, A. Jessep, O. & Kwa, E. (eds) 2001. *Twenty Years of the Papua New Guinea Constitution*. Sydney, Law Book Company.

Reif, L. Marshall, M. & Ferris C. (eds) 1993. *The Ombudsman: Diversity and Development*. Edmonton, Canada: International Ombudsman Institute.