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The Ombudsman in Nigeria: A Jurisprudential Overview

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Abstract- The Ombudsman or Public Complaints Commission which came up in the 19th century is a body established by law to address administrative radicalism and injustice in public institutions. This body was of boisterous use in the Scandinavian countries in Europe to address administrative injustices without resorting to courts of law. In Britain, it is called Parliamentary Commissioner. In Russia, it is called Prosecutor General, and in Nigeria, it was introduced in 1975 as Public Complaints Commission and attached to the legislature as the supervising agency. This body is recognized by the 1999 Constitution of Nigeria but its performance appears to be unnoticed because of certain bottlenecks. This paper intends to highlight these gridlocks which include incapacity to give effect to its decisions, financial incapacity and other administrative setbacks. It is our belief that if these bottlenecks are removed the Ombudsman will perform in Nigeria as in other countries where it has favourable conditions.

Keywords: *ombudsman, administrative, injustice, remedies, constitution.*

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Benjamin O. Igwenyi [α], Njideka Helen Ekpe [σ] & Nnamdi P. Ben-Igwenyi [ρ]

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I. Introduction

The Ombudsman or Public Complaints Commission which came up in the 19th century, is a body constituted to deal with administrative radicalism and injustice emanating from public institutions. This body was of boisterous use in the Scandinavian countries in Europe to address administrative excesses without falling back on the courts of law. The body is called Parliamentary Commissioner in Britain. In Russia it is referred to as Prosecutor General while in Nigeria, it was established in 1975 as Public Complaints Commission and attached to the legislature as the supervisory agency. This body is recognized by the Constitution of the Federal Republic of Nigeria, 1999 as amended though its performance is quite unnoticed as a result of some bottlenecks or setbacks. This paper intends to bring to light these short comings to enable us find solutions to the problem of the peoples' advocate.

In the light of the above, we shall commence this work with the meaning of Ombudsman or Public Complaints Commission, its brief history from Sweden to Nigeria and the major provisions of the law establishing it. Then we shall look at the major bottlenecks that negate its operation, a little comparism between the Nigerian Ombudsman, Russian and British practice. Before we conclude with our recommendations.

II. Meaning of Ombudsman

The concept of Ombudsman was first used in Sweden, a Scandinavian State, in 1809. It simply means official appointed by the constituted authority to investigate complaints by individual citizen against administrative injustice by public officers.[1] According to Iluyomade and Eka, Ombudsman implies that citizenry aggrieved by an official action or inaction reserves the right to make his grievances known to an independent body legally authorized to investigate the complaint.[2] Such a system guarantees impartial review of administrative injustice arising from action of public officer as well as abuse of powers.

Writers have various views in relation to the meaning of Ombudsman. According to *Wikipedia,* Ombudsman is an official that represents public interest investigating and addressing complaints of bad administration or breach of rights.[3] It is normally appointed by the government or the parliament as the case may be, with a reasonable level of independence.[4] The word ''Government'' as used in this context, may be national, state or local government.

The core responsibilities of Ombudsman are to investigate complaints and make efforts to address and settle them by way of recommendations. Though in some countries, Ombudsman sometimes finds out what causes administrative bottleneck and maladministration[5], the core idea of an Ombudsman is simply that complaint of maladministration or administrative misrule is investigated or examined by an

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[1] Sambit, "Ombudsman: Origin, Nature, Power and Functions/Public Admin.; <www.yourarticlelibrary.comombu...>, accessed on 4th December 2019.
[2] B.O. Iluyomade, and B.U Eka, *Cases and Material on Administrative Law in Nigeria,* (2nd ed.) (Ife: OAU Press Ltd, 1992), p.455
[3] Wikipedia, "Ombudsman," ?https://en.m.wikipedia.org> accessed on 5th December, 2019.
[4] *Ibid*.
[5] *Ibid.*

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official with appropriate power and clearly independent of the administrative authorities.[6]

Some other writers contribute their own quota in different dimensions. E. Malemi, expresses the view that Ombudsman adopted alternative dispute resolution mechanism such as Mediation, Arbitration, Conciliation and among others in settlement of disputes between parties.[7] Another author described Ombudsman as an institution that directly challenges the decisions and practices of governmental bodies.[8] By necessary implication, it is only when a complaint is brought by an aggrieved individual against public body that Ombudsman performs the function of its office.

Having examined the views of various writers, we can therefore say that Ombudsman, is a body established by law, conferred with power to investigate cases of administrative misrule or abuse of power brought to it by an aggrieved citizen with the sole intent of resolving the dispute between the parties independent of government interference. Ombudsman has two vital roles, investigation of complaints and improvement of standard of services rendered by governmental bodies and the non governmental bodies alike.

III. Historical Development of Ombudsman

Corruption has been a cankerworm that eats deep into the social, economic and political systems of most countries of the world. There is no gainsaying that poor masses suffer the end product of corruption the most. Research has shown that the problem of corruption is always severe in developing countries.[9] Government was only interested in maintenance of law and order in the past while in the modern society, government cares about welfare of the citizens. This has greatly increased the level of interaction between the government and the governed. Overtime, there has been a tremendous expansion of bureaucratic measures and this negates traditional method of control.[10]

The cases of administrative inefficiency and abuse of power increased with increased powers and functions of governmental agencies and bureaucratic mistakes follow suit. Thus, the need for establishing an independent body to enforce and ensure administrative accountability.[11] Experience has shown that courts and tribunals owing to the expense of time and cost involved, do not ensure accountability in administrative departments.[12] This is the propelling force to establish an institution that can effectively tackle problems of corruption and mal administration and to which the citizens may have recourse to without much cost and formality.[13]

The concept of Ombudsman took its origin from Sweden, in 1809 i.e more than two centuries ago. Other European States started drawing inspiration from Sweden at the inception of the twentieth century. For example, the institution of Ombudsman was established in Finland in 1919, Denmark created its own in 1955 while in 1961 Norway established her own.[14]

The British government was in dare need of institution that would remedy peoples' grievances against maladministration and misuse of power. As a result of this, it appointed a Parliamentary Commissioner in 1966.[15] Swedish government established Ombudsman with the central intent of protecting citizens' rights and privileges.

Ombudsman no doubt serves as a lubricant to any democratic system and without it, ordinary citizens cannot control the government or public administration.[16]

IV. Nigerian and Ombudsman

Several atrocities were committed in Nigeria as the aftermath of the Civil War that lingered from July, 1967 to January, 1970. Arbitrary use of administrative powers was common place that those in higher authority wielded so much power to the peril of the poor masses and the junior officers in the public service. Rules of public service were breached with impunity as the moral of public servants was at the lowest standard.[17] Citizens were living in pains of maladministration and misuse of power by public officers. For this reason therefore, the masses called on the government of the day to address the situation to enable them enjoy their rights and freedoms. This demand propelled the Gowon-led Federal Military

[6] P. Leyland and T. Woods, *Textbook on Administration Law* (2nd ed) (London: Blackstrone Press Ltd, 1999). P. 48

[7] E. Malemi, *Administrative Law* (2nd ed.) (London: Blackstone Press Ltd, 1997) p.48.

[8] E. Gilligan. "*The Human Right Ombudsman in Russia: The Evolution of Horizontal Accountability*" in Human Right Quarterly, 2010 Vol. 32, pp. 578-579.

[9] See Stephen Nancoo, "Administrative Theory and Bureaucratic Control: A study of the Ombudsman Idea in Trinidad and Tobago," *in India Journal of Public Administration,* 1977, Vol. Xxiii, No. 2, pp 244-248.

[10] Meenakshi Kulkani, *Ombudsman the Institution of Lokayukta and Upalokayuka,* (Dattsons: Nagpur, 2004). P.11

[11] Shodhganga, "Origin and Evolution of the Ombudsman," <shodhganga.infl:bnet.ac:in>, accessed on 10th December, 2019.

[12] S.I. Verma, ''Bureucracy and the Common Man" in the India Journal of Public Administration, 1978, vol. Xxiv, P.1131.

[13] Shodhganga, *op.cit*. P.2

[14] Sambit, "Ombudsman: Origin, Nature, Power and functions/Public Administration," <www.your a rticleslibrary.com>, accessed on 16th December, 2019.

[15] *Ibid*.

[16] *Ibid*.

[17] O. Ohaegbu, "Historical Background of the Public Complaint Commission in Nigeria'' https://gjalegal.com.ng/articles/historical-background-of-the-public.complaints-commission in Nigeria, accessed on 17 – 12 – 2019.

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Government to set up the Civil Service Reform Panel,[18] headed by late Chief Jerome Udoji in the year 1972.

Upon enquiry, the Commission discovered that the masses had suffered different forms of injustices in the hands of public officers without remedy. The Commission amongst other things recommended that the government should establish an Ombudsman to give aggrieved citizens opportunity to report their grievances to an independent institution empowered to investigate such complaints.[19]

The then Military Government was still contemplating on whether to establish Ombudsman or not, when the North- Central State (now Kaduna and Katsina States) took a bold step and established the first Public Complaints Commission in Nigeria on May 20th 1974 under the name "Public Complaints Bureau." This was done pursuant to the *Public Complaints Bureau Edith* 1974. An independent Commissioner was appointed to oversee the administration of the Bureau.[20]

He could only be removed from office by the Military Governor on grounds of misconduct, neglect of duty or disability.[21] Having seen the pioneering success of the system in the then North- Central, Kwara State enacted her own *Public Complaints Bureau Edict*[22], 1975 and established the institution in her capital Ilorin. It was after this that the Federal Ministry Government of Nigeria established the Ombudsman under the name 'Public Complaints Commission.[23]

The Commission was designated to checkmate the pervasive incidence of administrative arbitrariness and injustice as well as to fill the gap in our system of administrative justice emanating from the inadequacy of the traditional investigation and adjudicatory process.[24] The Commission was also charged with the duty to receive and investigate complaints from the citizens against mal- administration and mal- practices at federal and state levels.[25]

Following the adoption of democratic rule in Nigeria in 1999, the Commission was retained through the *Public Complaints Commission Act*[26] and empowered to investigate complaint brought by members of the public against maladministration by public officers, corporate bodies or their officials and other matters ancillary there to.[27]

a) Legal Framework Establishing Public Complaints Commission in Nigeria, Major Provisions, Loopholes and other Bottlenecks

i. *The Public Complaints Commission Act*[28]

The Public Complaints Commission is an Act of the National Assembly and has a total of twelve (12) sections. Section 1 (1) of the Act established the Public Complaints Commission and referred to it as the 'Commission.' The later consists of a Chief Commissioner and some other Commissioners as the National Assembly may determine. The National Assembly equally determines the establishment of the Commission's branches in the States of the Federation.[29]

ii. *Appointment of Commissioners, Tenure and Removal from Office*

The National Assembly is saddled with the obligation of appointing the Chief Commissioner and other Commissioners subject to the provisions of the Act.[30] A tenure of office of a Commissioners is three years subject to re-appointment at the expiration of first tenure. This implies that no Commissioner stays in office beyond six years.[31] The National Assembly is empowered by the Act to remove a Commissioner from office at anytime without more.[32]The power given to the National Assembly to remove a Commissioner from office without any justification is absolute and dangerous. By logic and analogy, Commissioners live under the life saving machine of the National Assembly. The later can remove a Commissioner in bad faith since no condition is attached to the exercise of the power conferred on it, because absolute power corrupts absolutely.

iii. *Powers and Duties of Commissioners*

All Commissioners are answerable to the National Assembly while the Chief Commissioner co-ordinates the work of all other Commissioner.[33] A Commissioner has power to conduct investigation either on his own volition or in relation to a complaint lodged by another person, any administrative action taken by;

a. Any department of Ministry of the Federal or any State or any Local Government authority;
b. Any statutory corporation of public institution set up by any government in Nigeria;
c. Corporate bodies registered under Companies and Allied Matters Act, whether owned by government or private individual in Nigeria or otherwise.

[18] Popularly known as "Udoji Panel"
[19] *The Public Service Panel Report* 1974, pp 181-189
[20] See sections 3(2) and 9 (2) of the Edict
[21] *Ibid* section 4(1) & (3)
[22] Edict No. 12 of 1995
[23] Subsequently referred to as the ''Commission''
[24] B.O. Nwabueze, *Military Rule and Constitutionalism in Nigeria*, (Ibadan: Spectrum Law Pub., 1992) p. 161
[25] M.C. Okany, *Nigerian Administrative Law* (Onitsha: African First Pub. Ltd, 2007) P. 408.
[26]. Cap p 37 Laws of the Federation of Nigeria, 2004
[27] E. Malemi, *Administrative Law* (4th ed) (Logos: Princeton Pub Co, 2012) P. 313
[28] Subsequently referred to as "the Act''
[29] See section 1 (2) of the Act.
[30] *Ibid* section 2 (1) Any person to be appointed must be of unquestionable and proven integrity
[31] *Ibid.* section 1(2)
[32] *Ibid*. Section 2(3)
[33] *Ibid.* section 5 (1)

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d. Any officer or servant of any of the aforementioned bodies.[34]

By virture of section 5 (3) of the Act;

a. The Chief Commissioner has the power to decide the manner by which complaints are brought.
b. A Commissioner has power to decide in his absolute discretion whether or not to notify the public of his action or intended action as well as the manner to do same.
c. A Commissioner shall have access to all information necessary for the efficient performance of his duties and may visit and inspect premises belonging to any person or body corporate.

A Commissioner has power to investigate with special care administrative acts which are:

i. Contrary to any law or regulation
ii. Mistaken in law or arbitrary in the ascertainment of fact
iii. Unreasonable, unfair, oppressive or inconsistent with the general functions of administrative organs;
iv. Improper or based on irrelevant consideration;
v. Unclear or inadequately explained

A commissioner shall be competent to investigate any administrative procedures of any court of law in Nigeria.[35]

When concurrent complaints are lodged with more than one Commissioners, the Chief Commissioner's decision on who handles the matter is final.[36] All Commissioners and staff of the Commission have duty of secrecy on matters designated to be so.[37] A Commissioner is not subject to control of any person while exercising the powers conferred on him under the Act.[38]

iv. *Limitations on the Powers of the Commission*

A commissioner has no power to investigate any matters that:

a. Is clearly outside his terms of reference
b. Is pending before the National Assembly, the Council of State or the President
c. Is pending before any court of law in Nigeria
d. Relate to anything done or purported to be done in respect of any member of the armed forces in Nigeria.
e. The complainant has not exhausted all the available legal or administrative procedures in the opinion of the Commissioner.[39]
f. The complainant has no personal interest.[40]

v. *Recommendations after Investigation*

After due investigation of a complaint, a Commissioner may make any of the following recommendations to the appropriate authority.
Further consideration of the matter;

a. That offending administrative or other act be modified or cancelled.
b. That a regulation be altered;
c. That full reasons behind a particular administrative or other act be given.[41]
d. He may refer to the National Assembly or State House of Assembly in case he feels that the existing laws or administrative regulations or procedures are not adequate.[42]
e. He may report his findings to an appropriate authority or recommend that a person be prosecuted if he discovers that a crime has been committed.[43]
f. He may recommend that a disciplinary action be taken against a person by the appropriate authority.[44]

vi. *Offences and Penalties*

It is an offence punishable with a fine of N500 or 6months imprisonment or to both such fine and imprisonment for any person except a Commissioner to make public any complaint lodged before the Commission.[45] Same ridiculous punishment is meted out to any person who upon requirement by the Commission refuses to furnish information or gives false information in material particular.[46] Any act of willful obstructions, interference assaults of Commissioner in the execution of his duty under the Act attracts a punishment with a fine of N500 or 6 months imprisonment or both.[47] Any false statement in maternal particular to a Commissioner while lodging a complaint, attracts a one year term of imprisonment.[48]

vii. *Immunity from Legal Action*

Commissioners have immunity under the Act that they cannot be sued for any act or omission committed in the due discharge of their duties under the Act.[49]It is imperative to state that records, statements or other communications or records of any meetings, investigation or proceeding made by a Commissioner, officer or servant in the course of due discharge of their functions under the Act, is privileged. This implies that

[34] *Ibid.* section 5 (2) (a-e)
[35] *Ibid* section 5(3) (d)
[36] *Ibid* section 5 (2)
[37] *Ibid* section 5 (5)
[38] *Ibid* section 5(6)
[39] *Ibid* section see generally section 6 of the Act
[40] The issue of locus standi is already a settled case. By virtue of Order Xiii rule I of the Fundamental Rights (Enforcement Procedure) Rules 2009, any person who desires to be heard by a court of law shall be granted audience whether or not he has interest in the matter.
[41] see sec. 7 (1), *op.cit*
[42] *Ibid.*, section 7 (2)
[43] *Ibid.* section 7 (3)
[44] *Ibid.* sec. 7 (4)
[45] *Ibid.* section 8 (1). Fine of N500 is such a ridiculous amount that will not deter potential offenders
[46] *Ibid* S. 8 (2)
[47] *Ibid* . S. 8 (2)
[48] Ibid . S.8 (4)
[49] *Ibid* S. 10(1)

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such information cannot be produced in any court of law.[50]

viii. *Loopholes in the Law and other Bottlenecks*

1. The biggest problem of the Commission according to the new Chief Commissioner,[51] is issue of visibility. This he said during an interview with *Daily Trust Newspaper*, 2020 that the comparative knowledge of the Commission among Nigerians is low despite that it was established over 46 years ago. He substantiates his position with the fact that the Commission treats less than 10 million petitions in each year whereas Nigerian population is close to 200 million.[52]

The submission of the Chief Commissioner is correct because many Nigerians are unaware of the existence of the Commission.

2. Another challenge militating against the performance of the Commission is inadequate funding. This issue was rightly pointed out by the Chief Commissioner that the Federal Government does not fund the Commission adequately to enhance its performance in discharging its responsibilities.[53]
3. The punishment provision under the Act establishing the Commission makes it a toothless bull-dog. The punishment or sanction for any breach under the Act is so ridiculous that one may choose to breach the law as many times as he desires. Imagine a fine of N500 or 6 months imprisonment for a breach of the provision of the Act. This cannot deter any potential offender.
4. Removal of a Commissioner by the National Assembly at any time without any justification does not guarantee the office of a commissioner. This leaves the fate of Commissioners in the hands of the Federal Law Makers, who can remove them even in bad faith and will equally make a Commissioner vulnerable.
5. Non enforcement of its decision is a heavy blow on the Commission. The later only carries investigation on complaints lodged before it and thereafter makes recommendations without binding force. This makes the Commission nothing but a toothless bulldog. How can the Commission spend its time, finance, expertise and intellectual resources on complaints only to arrive on recommendations that may be dumped inside files without due consideration.
6. The provision of the Act that says that a complaint should not be lodged to the Commission expect all the available remedies are exhausted poses a challenge to complainant. The reason being that one might not have the zeal to lodge a complaint to the Commission after having tried other legal remedies.

b) Ombudsman in the United Kingdom

i. *Appointment and tenure*

In Uk, Ombudsman is referred to as Parliamentary Commissioner. The appointment of the later is done by Her Majesty. The core function of a Parliamentary Commissioner is to conduct investigations into administrative actions carried out on behalf of the Grown.[54] A Parliamentary Commissioner holds office for a period not more than seven years[55] and he may be relieved of his office under the following circumstances;

a. If the Commissioner resigns from office.
b. He may be removed by Her Majesty on the ground of misbehavior, pursuant to an address from both Houses of Parliament.[56]
c. If the Queen declares his office vacated upon satisfaction that such a Commissioner is incapable for medical reasons to perform the duties of his office.[57]

ii. *Jurisdiction of Parliamentary Commissioner*

The Act under discussion applies to government department, corporations and unincorporated bodies listed in Schedule 2 to the Act.[58] A Commissioner may investigate any action taken by or on behalf of a government department or other authority subject to the Act, in any case where an individual makes a written complaint to a member of the House of Commons, claiming to have suffered injustice arising from maladministration in connection with the act complained of. The complaint is thereafter referred to a Commissioner for investigation.[59] Any act compliant against must be failure to perform a relevant duty impose by law.[60]

iii. *Limitations*

The Commissioner shall not conduct investigation under the Act in respect of the following matters:

a. Any action in respect of which the aggrieved person has or had a right of appeal, reference or review to or before a tribunal established by law.

[50] *Ibid*. S. 10 (2)
[51] Barrister Chille W. Igbawua
[52] Mustapha Suleima, 'Some Provision in PCC Act Challenging for Operations,'< www.daily trust.com.ng/some-provisions-in-pcc-act-at-challenging for-operaton. Htm,>I accessed on 26th February, 2020
[53] *Ibid*.
[54] See section 1 of the Parliamentary Commissioners Act, 1967, which is the law regulating the operations of the Parliamentary Commissioners in the United Kingdom
[55] *Ibid*. Section 1 (2) (a)
[56] *Ibid. Section 1 (3) (a & b)*
[57] *Ibid.* S. I (3)
[58] *Ibid* S. 4 (1)
[59] *Ibid* S. 5 (1)
[60] *Ibid* S. 5 (3) (b)

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b. Any action in which the complainant has or had remedy by way of proceedings in the court of law, provided that the Commissioner may conduct an investigation notwithstanding that the person aggrieved has had such right or remedy if satisfied that in such a case, it is not reasonable to expect him to resort or have resorted to it.[61]

A member of the public can only bring a complaint by himself or through his personal representative if he is late.[62] A complaint must be brought to a member of the House of Common within twelve months from the date on which the aggrieved person had noticed of the matter alleged in the complaint or else it will not be investigated except to the extent allowed by the Act.[63]

iv. *Powers of the Commissioner During Investigation*

For the purpose of an investigation pursuant to the Act, the Commissioner shall have the same powers as the court in respect of the attendance and examination of witnesses and production of documents,[64] provided that such document(s) or evidence could be produced in the court upon summon.[65] Every person appearing before the commissioner should be given fair hearing.

v. *Obstruction and Punishment*

Act of Obstructing a Commissioner in the performance of his functions without lawful excuse is an offence under the Act and the Commissioner shall refer such act or omission to the High Court which after hearing the witness shall deal with such a person in any manner in which the court could deal with him if he had committed the like offence in relation to the court proceedings.[66]

vi. *Findings and Remedies*

At the conclusion of investigation, a Commissioner sends the report of his findings to the member of the House of Common through whom the complaint was referred to him or to such member of that House if the member who referred the complaint to him is no longer in the Parliament or make a report to each Houses of the Parliament depending on the circumstances of each case.[67]

vii. *The Prosecutor General of the Soviet Union*

The State Prosecutor's office was established on 26th June, 1922 by the third session of the Central Executive Committee of the Byelorussian with the aim of supervising observance of laws as well as curtailing crimes.[68] It is within the powers of Persecutor General to examine the legality of actions of the public institutions, public service and private organizations and citizenry alike.

viii. *Functions and Powers of Prosecutor General of Russia*

(a) Prosecution in court on behalf of the state.
(b) Representation of the interest of a citizen or of the state in court in cases determined by law.
(c) Supervision of the observance of laws by bodies that conduct detective and search activity, inquiry and pretrial investigation.
(d) Supervision of the observance of laws in the execution of judicial decisions in criminal cases, and also in the application of other measures of coercion related to the restraint of personal liberty of citizens.

ix. *Appointment and Tenure of Office*

The Prosecutor General (PG) is nominated by the President of Russia and appointed by the majority of Federation Council of Russia (the Upper House of the Russian Parliament) the PG is appointed for a term of 5 years and his resignation from office before the end of his term, should be approved by both the majority of Federation Council of Russia and the President. The PG and his office are independent from Executive, Legislature and Judicial branches of government.[69]

x. *Comparative Analysis of the Ombudsman System in Nigeria with Britain and Russia*

The three bodies have supervisory and investigative roles in their respective jurisdictions. They aid in curtailing the excesses of their governments and agencies to ensure accountability and responsive governance devoid of gross abuse of power.

c) Areas of Differences

i. *Appointment and Security of Tenure*

1. *Nigeria:* In Nigeria, Public Complaints Commissioners are appointed by the National Assembly and can as well be removed from office before the expiration of their tenure by the National Assembly without any reason or justification.
2. *Britain:* The appointment of a Parliamentary Commissioner (PC) is done by Her Majesty and holds office for a period not more than 7 years. He can resign from office on his own volition or be removed by Her Majesty on the ground of misbehavior pursuant to an address from both Houses of the Parliament. Her majesty may also declare the office of PC vacant if she is satisfied that

[61] *Ibid* S. 5 (2) (a & b)
[62] *Ibid* S. 6 (2)
[63] *Ibid*. S. 6 (3))
[64] *Ibid* S. 8 (2)
[65] *Ibid*. S. 8 (5)
[66] *Ibid* S. 9
[67] *Ibid* S. 10

[68] Prosecutor General's Office of the Republic of Belarus. < www.prokuraturea.gov.by> accessed on 29-02-2020
[69] Wikipedia, Prosecutor General of Russia, < https://en/miwikpedia.org>, accessed on 29th Febrauary, 2020.

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he is incapable of performing the duties of his office by reason of ill-health.

3. *Russia:* The Prosecutor General (PG) is nominated by the President of Russia and appointed to office by the majority of the Upper House of Russia Parliament. He stays in office for a period of 5years.

d) Accessibility

Nigeria: A complainant has the right to directly lodge a complaint to the Commission through a Commissioner.

Britain: Any person aggrieved by any act of maladministration must vent their grievances by addressing their complaint(s) to a member of the House of Common, who will in turn referrer the complaint to a Commissioner who will investigate same. A complaint must be lodged within 12 months from the first day the complainant became aware of the act or omission complained against.[70]

Russia: The Prosecutor General has power to prosecute cases in court on behalf of state and as well represent the interest of citizens. The PG acts as a supreme authority in the judiciary.

e) Compelling Powers

Nigeria: At the conclusion of investigation, a Commissioner has no power to impose sanction if the person or body against whom the complaint was lodged is in breach, rather he can make recommendation(s) to the National Assembly or the appropriate authority as the case may be.[71]

Britain: The case of Parliamentary Commissioner is not different from that of a Public Complaints Commissioner in Nigeria. The PC after investigation sends the report of his finding to the member of Parliament through whom the complaint was brought or he makes report to each Houses of the Parliament as the case may be.[72]

Russia: The Prosecutor General has wide powers just like the Court of Law to compel an agency to correct its administrative misdeeds.

f) Privacy

Nigerian and Britain: In both jurisdictions, the Commissions operate with a degree of secrecy and thereby operate with minimal publicity to ensure confidentiality of their investigations. This has affected them badly in relation to public awareness. The office of the Prosecutor General is relative known to the public especially in relation to its participation in court proceedings. However, some of their criminal investigations are accorded some elements of secrecy, especially those touching on security of the state.

[70] Section 6 (3) of the Parliamentary Commissioners Act, 1967, *op.cit.*
[71] See section 7 of the Public Complaints Commission Act, *op.cit.*
[72] Section 10 of the Parliamentary Commissioners Act, 1967, *op.cit.*

V. Conclusion and Recommendations

Research has shown that Ombudsman irrespective of nomenclature given to it and the clime where it is established has the primary role of investigating complaints by the members of the public, arising from administrative injustice and misdeed of public officers and private sectors as the case may be. Our comparative analysis of the system in the three different jurisdictions reviews that it works better in the Soviet Union, as compared to Nigeria and Britain.

In Nigeria and Britain, there is a minimal degree of awareness of the Ombudsman among the members of the public due to privacy measures adopted during investigation. Ombudsman in the developing countries, Nigeria, inclusive, lacks adequate government support and funding. It is difficult for one to adequately investigate political and bureaucratic corruption without adequate funding and legal back up.

In the right of our observations, we recommended thus:

1. That the Nigerian government set awareness campaign to bring to the notice of the general public the import, duties of the commission and educate the masses on the need to patronize the Commission.
2. The amendment of some of the provisions of the Public Complaints Commission Act is long overdue. *Section 8 of the Act*, in relation to offences and punishment requires urgent amendment. Despite that the commission does not have power to impose sanction, the payment of N500 or 6 months term of imprisonment upon conviction, makes the whole thing ridiculous. A provision should be inserted so that punishment for an offence should serve as a deterrent to potential offenders. We therefore recommend for a fine of N100,000.00 (One Hundred Thousand Naira) or 6 months imprisonment or both for breach of *section 8 of the Act.* This is to make people take a commission serious as an interventionist agency, because leakage of public secret is a serious matter.
3. The Act should also be amended to accord the Commission adequate powers to implement its decision(s) after investigation. It is quite awkward that a Commission vested with power to investigate political and administrative corruption can only make recommendations. There is no guarantee that such recommendations would be implemented. Consequently, it is our recommendation that recommendations from the commission should have the same effect as arbitral awards which can be converted to court order when the High Court is approached by victim of injustice. Thus, when the Commission makes recommendation after investigation, the victim should have power to go to High Court to have it enforced instead of the current

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situation where the big man has option to obey the commission or refuse to obey and nothing will happen to him.

4. The provision of *section 1 (2) of the Act* should also be amended to guarantee security of office of the Commission. It is disheartening that the National Assembly that appoints a Commissioner on the basis of impeccable character can remove him from office without any other condition attached. Conditions should be attached just like in Britain where a Commissioner may be removed from office subject to certain conditions as contained under the *Parliamentary Commissioner Act.* This will help the Commission to be independent and work fearlessly.
5. The issue of locus stand is already a settled case vis-a- vis the provision of *Order Xiii Rule 1 of the Fundamental Rights (Enforcement Proceeding) Rules,* 2009. The provision of section 6 (1) (g) of the *Public Complaints Commission Act* should be removed for being inconsistent with the provision of the law. Thus, access to the commission should not be hindered for whatever reason.
6. The provision limiting period to which complaint should be lodged to 12 months after the date of the occurrence of the act complained of, should be equally amended. The reason being that, a complainant is required to have exhausted all other available legal remedies before having recourse to the Commission. We all know how sluggish our system is, in which case the processes of looking for local remedies may take more than 12 months and of course prevent the victim from approaching the Commission because 12 months have passed. We recommend that the victim can approach the Commission as soon as he exhausts local remedies. After all it is he who feels the pain of inaction.
7. Finally, the National Assembly should make adequate financial provision for the agency in the budget of the country to make it really independent of any person or body.

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