



Centre for Democratic Institutions

**Report on the
Indonesian Ombudsman Commission
Study Tour**

Canberra and Sydney
13 – 17 November 2000

INTRODUCTION

The Director of the Centre for Democratic Institutions (CDI), Mr Roland Rich, visited the Indonesian Ombudsman Commission (Komisi Ombudsman Nasional (KON) in April 2000 and met with the President of the KON, Pak Antonius Sujarat and the Vice President, Professor Sunaryati Hartono. They discussed possible linkages between the Commission and CDI which would assist the development of the Commission. Following on from this meeting CDI invited the Commission to send a team to Australia on a study tour to learn about the practical operation of an Ombudsman's office. A party of ten was chosen by the National Ombudsman Commission of Indonesia to undertake a study tour of the Commonwealth and NSW Ombudsman Commissions from 13-17 November 2000.

Objective

The objective of the program was to assist the Indonesian Government in its efforts to establish an effective Ombudsman system. CDI hosted the study tour to Australia for ten individuals who will have a central role in drafting Indonesia's Ombudsman legislation and establishing an Ombudsman system in that country. John Wood, former Commonwealth Ombudsman, was engaged as an expert in this area to assist with the design and delivery of the study tour.

Participants

The group was led by the Vice President of the Commission, Prof. Dr. CFG Sunaryati Hartono, SH and consisted in addition of:

- Mr Masdar Farid Mas'udi, Member of the Commission;
- Mr G Seto Harianto, Member of Parliament for the PDKB (National Compassion Democratic Party);
- Mr Hasto Atmojo, Executive Director, ISSDEM (Institute for Study and Development of Democracy);
- Mr Budiman Tanuredjo, Journalist, KOMPAS morning daily newspaper;
- Mrs Rochmaeni, staff member, KON (Komisi Ombudsman Nasional);
- Ms Elisa Luhulima, staff member, KON;
- Ms Siska Widawati Chatarina, staff member, KON;
- Mr Benemay, SH, MH, staff member, KON; and
- Mr Winarso, staff member, KON.

Program

The program consisted of a two-day workshop at the Office of the Commonwealth Ombudsman, Canberra; transfer to Sydney, and a discussion on issues raised and other matters of interest with the Tour Director; and a two-day workshop at the Office of the NSW Ombudsman. The Study Tour Program is at Appendix 1.

COMMONWEALTH OMBUDSMAN WORKSHOP

Day 1

The Commonwealth Ombudsman, Ron McLeod, welcomed the group and gave a brief introduction to the position of the Ombudsman in the Federal system of government.

Dr Di Nash, Director, Strategic Support Information Management Unit, presented a brief overview of the Office's role, including numbers and the range of complaint work. She was followed by the Office's legal counsel, Paul Bluck, who discussed legal and policy issues of relevance to an ombudsman institution. These included the powers and responsibilities of the Ombudsman, and matters of concern to investigators.

Peter Hassell and Natalie Humphry then explained the information management issues facing the office. They outlined the specification for the complaint management system developed for the organisation, and relevant to other ombudsmen. In the afternoon there were presentations and discussions on personnel and resource management matters, and a discussion on how the Office breaks down complaint work to specialist and generalist teams. For example, they have functional teams for police, defence, tax, and Australian Capital Territory (ACT) matters. In addition there are specialist staff dealing with complaints about Centrelink, the Department of Immigration and Multicultural Affairs, and the Australian Customs Service. The Ombudsman also has a Major Projects team that handles very major investigations or complex own motion investigations.

In the evening the group attended a dinner hosted by the Indonesian Embassy in their honour. The Commonwealth Ombudsman, Mr Ron McLeod, Dr Di Nash, Mr John Wood and Cathy Boyle, Executive Officer of CDI also attended the dinner.

Day 2

The Special Adviser to the Ombudsman on Taxation, Catherine McPherson, told the group about her role in relation to taxation complaints and the purpose in establishing the Ombudsman on Taxation. She told them of the way in which she related to the Australian Taxation Office (ATO) in handling major complaints. She was joined by Claire Nairn, Assistant Commissioner of the ATO, who heads that body's Problem Resolution Service. Claire gave a refreshing perspective from a body subject to investigation by the Ombudsman.

Phyl Crawford, assisted by staff from the Attorney-General's Department and the Public Service and Merit Protection Commission, then discussed public interest disclosures, more commonly described as 'whistleblowing' in Australia. This included the arrangements for reporting, and the protections available to those making such reports. Currently at the Federal Government level this only applies to staff employed under the *Public Service Act 1999*, or to a scheme called Professional Reporting within the Australian Federal Police (AFP).

Nerys Jones explained the police jurisdiction and the role of the Ombudsman in overseeing complaints about the police, reviewing cases, and, if necessary, investigating or reinvestigating a complaint.

Phyl Crawford then talked about the ACT Ombudsman role and the types of complaints about local government activities. These were of particular interest to the Commission in regard to its provincial administration responsibilities.

Finally there was a presentation by Ray Finnegan and Mike Backhouse of the Ombudsman's Defence Ombudsman team, together with Ray Bromwich, Director, Complaints Resolution Agency, Department of Defence. They spoke of the type of complaints received from Defence Force personnel, and the views from each agency of the importance of an Ombudsman to oversee these complaints.

The Deputy Ombudsman, Oliver Winder, then closed the workshop.

Discussions

During each of the sessions there were a great number of questions from the group about very practical issues relating to numbers of staff, administrative arrangements, as well as on the exercise of powers. There was also a tour of the office.

The group asked a variety of questions about the practicalities of relationships between the Ombudsman and the Parliament, the Executive, and various agencies. They were interested in potential conflicts between the functions of the Ombudsman and the fact that the Prime Minister nominated the person to be Ombudsman, and that the Executive appropriated the Office's budget.

Also discussed was the importance of a good complaint management system, particularly as the number of complaints to the Indonesian Ombudsman Commission increases. Without one, the ability to track complaints will quickly diminish and as will public confidence in the organisation.

Ongoing training for investigators was also discussed, and John Wood informed the group of the proposal to establish an Ombudsman studies course at the National Centre for Development Studies at the ANU. This was met with considerable interest.

There was also discussion of the value of investing resources in helping agencies develop internal complaint handling systems, in order to reduce complaint workload on the Ombudsman, and to encourage agencies to take responsibility for their own mistakes.

Day 3

The group transferred to Sydney on day three in preparation for their 2 day workshop at the NSW Ombudsman Commission. Upon arrival they spent time with John Wood to discuss the previous two days and clarify any questions or issues which had been raised in the presentations.

The afternoon was free and was spent enjoying the sights of Sydney.

NSW OMBUDSMAN WORKSHOP

Day 4

The NSW Ombudsman, Bruce Barbour, welcomed the group. The Deputy Ombudsman, Chris Wheeler, then provided an introduction to the two days, focussing on the role of the organisation and the relationship between the Ombudsman and the other external review bodies such as the Independent Commission Against Corruption (ICAC), the Police Integrity Commission, and the Administrative Review Tribunal.

He discussed ombudsman issues such as corruption fighting versus complaint handling, and powers for complaint handling which include:

- Direct investigation;
- Oversight of investigation by agency;
 - Mandatory reporting; and
 - Selective reporting;
- Monitoring investigations by agency;
- Auditing investigations by agencies;
- Keeping systems under scrutiny;
- Alternative Dispute Resolution; and
- Informal resolution & preliminary inquiries.

He outlined the current jurisdiction of NSW Ombudsman's Office and the structure of the office.

Anne Barwick, the head of the Child Protection Team, then spoke to the group about the challenges of setting up a new office or team, based on their recent experience. Commencing with the Wood Royal Commission she spoke of the various steps that they followed including defining job specifications and recruitment, education and outreach.

Anne Radford, Complaints Manager of the General Team, then discussed the nature of complaints that they received e.g. who will assess the Ombudsman/Statutory Officer, senior staff member, panel of staff, level of delegation; the discretion to refuse to deal with complaints; the basis for exercising discretion; and the means for prioritising complaints.

She also spoke of the method for allocations:

- To a team or to an individual
- On a generalist or specialist approach
- Specialisation may be based on:
 - Type of complaint;
 - Agencies;
 - Jurisdiction e.g. police.
 - Functionally based e.g. complaint handling, formal investigation, oversight function, audit function, regionalisation, etc. and
 - on the processes for handling complaints.

John Davies then outlined important issues in ensuring procedural fairness. These include:

-
- Should all parties to a complaint be given an opportunity to respond to allegations in all circumstances?
 - Whether or not decisions are required to be put in writing and to whom;
 - The extent of reasons to be given for a decision;
 - Review of decisions made – in what circumstances and by whom? and
 - Reporting obligations and the hierarchy of reporting.

Geoff Briot spoke of the processes followed in dealing with, and interviewing, complainants and public authorities with special emphasis on maximising evidence, pointing out responsibilities, and bringing reality to the expectations of all parties. He then talked about file and information maintenance and computer record management on their 'Resolve' complaint management system.

Day 5

Anita Whittaker, the Manager of Corporate Support spoke about the planning process for the Office and external accountability. Subjects covered in detail included:

- The Corporate Plan;
- Team Work Plans;
- Individual Performance Agreements and Training/Development Plans;
- Budgets;
- The role of the Joint Parliamentary Committee;
- Annual Report;
- Program Statements; and
- External and internal audit.

Anne Radford outlined the various aspects of staff management from recruitment to management of performance, and followed this with a tour of the office.

Natasha Serventy gave an interactive presentation on educating public authorities in how to deal with complainants. This included explaining:

- The Complaint Handling in the Public Sector (CHIPS) concept;
- Guidelines on Customer Service & Complaints Handling;
- Providing courses to Public Authorities in complaints handling and management;
- What complainants expect; and
- Developing the soft skills.

Andrew O'Brien, the Youth Liaison Officer, then spoke of the various elements and priorities in their access and awareness program.

Discussion

Again there were many questions and comments by the group, and a good deal of interest in means used for dealing with regional complaints. The day ended with a presentation of Certificates to members of the group, and an evaluation of the study tour program.

Evaluation

The participants rated the study tour program highly and found most of the sessions very useful and relevant to their everyday work at the Indonesian Ombudsman Commission. Participants noted that the most useful topics covered were those

relating to day to day operations; complaint handling techniques and processes; and the presentations on Defence Force Ombudsman and Australian Police Personnel Investigation.

CONCLUSION

From discussions throughout the program and issues raised in the evaluation session, it was concluded that the three areas which are in most need of assistance are:

- Financial assistance to establish provincial offices;
- Assistance to establish a complaint management system; and
- Future training for investigation officers.

The Indonesian Ombudsman Commission currently has seven investigators and a growing number of complaints. Its systems are also quite basic and there would be great benefit in the development of IT systems and software. The Commission is at a sensitive stage of its development, and will therefore need very practical assistance to ensure its success.

APPENDIX 1

Program for Indonesian Ombudsman Tour 11 November to 19 November 2000

Saturday 11 November

Flight QF42, Jakarta to Sydney, departs 2145 hrs, arrives in Sydney 1100 hrs (12 Nov)
Flight QF831, Sydney to Canberra, departs at 1225 hrs, arrives in Canberra at 1315 hrs.
Group will be met at Canberra Airport by a representative from CDI and taken to hotel.

Hotel details:

University House, 1 Balmain Crescent, Acton ACT.

Phone: 02 6249 5211

Fax: 02 6249 5252

Monday 13 November, Canberra

8.30am – Depart hotel for Office of the Commonwealth Ombudsman, Civic

Office of the Commonwealth Ombudsman

<i>How the Office works</i>		
09.30	Welcome to the Office Ombudsman	Commonwealth Ombudsman: Mr R N McLeod
10.00	Brief overview of Office role, including numbers and range of complaint work	Dr D Nash
11.00 Morning Tea		
11.30	Legal and Policy issues	Mr P Bluck
12.30 Lunch (Provided)		
13.45	Information management issues	Mr P Hassell/Ms N Humphry
15.00 Afternoon Tea		
15.30	Personnel and Resource Management	Dr Nash and Ms W Atkins
16.30	Functional breakdown of complaint work to specialists and generalists, introduction to Day 2	Mr Bluck

6.30pm Dinner at the Indonesian Embassy

Tuesday 14 November, Canberra***The work the Office does – how it relates to officials***

09.15	Complaint handling – Tax complaints Special Tax Adviser	Ms C McPherson and staff
10.00 Morning Tea		
10.30	How the Australian Taxation Office sees the Ombudsman	Representatives of the Problem Resolution Service of the Australian Tax Office
11.30	Whistleblowing	Ms P Crawford/Comm Attorney-General's Department/Public Service and Merit Protection Commission
12.30 Lunch (Provided)		
13.30	The Australian Federal Police Jurisdiction	Ms N Jones, relevant staff
14.30	The Australian Capital Territory jurisdiction	Ms Crawford, relevant staff, ACT Representatives
15.15 Afternoon Tea		
15.45	The Australian Defence Force Jurisdiction	Mr R Finnegan, Mr M Backhouse, Australian Defence Force representatives
16.45	Closing Remarks	Deputy Ombudsman, Mr O Winder

Wednesday 15 November

8.00am - Depart for Canberra airport.

Flight QF564 to Sydney, departs 0900 hrs, arrives in Sydney at 0945 hrs

Group will take “Silks” Bus to Hotel.

Hotel details:

Savoy Apartments, 37-43 Kent St, Sydney NSW 2000

Phone: 02 9267 9211

Fax: 02 9262 2023

10.30 am – 1.00 pm	Discussion of first two days and other issues.	John Wood
Afternoon	Free	

Thursday 16 November, Sydney

8.30am - Depart Hotel for Office of NSW Ombudsman, Level 3, 580 George Street, Sydney

09:00	Welcome & course outline	NSW Ombudsman: Bruce Barbour
09:15	<p>Introduction: Issues to consider: Role : Corruption fighting v. complaint handling Powers for complaint handling: ⇒ Direct investigation ⇒ Oversight of investigation by agency</p> <ul style="list-style-type: none">• Mandatory reporting• Selective reporting <p>⇒ Monitoring investigations by agency ⇒ Audit investigation by agencies ⇒ Keeping systems under scrutiny ⇒ ADR ⇒ Informal resolution & preliminary inquiries</p> <p>Jurisdiction – who & what agencies covered Approach (including powers) Current jurisdiction of NSW Ombudsman’s Office & structure of office.</p>	Deputy Ombudsman: Chris Wheeler
10:30 Morning tea		
11:00	<p>Case study : setting up a new office or team</p> <ul style="list-style-type: none">• Issues involved in recently setting up the Child Protection Team in the Ombudsman’s Office	Anne Barwick (Asst Ombudsman - Child Protection Team)
12.00	Issues & discussion	
12:30 Lunch (provided)		
1.30	<p>Dealing with complaints & issues to consider:</p> <ul style="list-style-type: none">• Nature of Complaints ⇒ Types ⇒ Oral/Written/Statutory Declarations/Anonymous• Assessment ⇒ Who will assess eg Ombudsman/ Statutory Officer, senior staff member, panel of staff, level of delegation? ⇒ Discretion to refuse to deal	Anne Radford (Complaints Manager - General Team)

	<p>with complaints</p> <p>⇒ Basis for exercising discretion</p> <p>⇒ Prioritising complaints</p> <ul style="list-style-type: none"> • Allocations <ul style="list-style-type: none"> ⇒ To a team or to an individual ⇒ On a generalist or specialist approach ⇒ Specialisation may be based on: <ul style="list-style-type: none"> • Type of complaint • Agencies • Jurisdiction eg police • Functionally based eg complaint handling, formal investigation, oversight function, audit function. • Regionalisation etc • Complaint handling processes • Procedural fairness <ul style="list-style-type: none"> ⇒ Should all parties to a complaint be given an opportunity to respond to allegations in all circumstances? ⇒ Whether or not decisions are required to be put in writing & to whom. ⇒ The extent of reasons to be given for a decision. ⇒ Review of decisions made – in what circumstances & by whom? ⇒ Reporting obligations and hierarchy of reporting 	<p>John Davies (A/Senior Investigation Officer - Local Government)</p>
14:30	<p>Dealing with and Interviewing Complainants and Public Authorities</p> <ul style="list-style-type: none"> • Maximising their evidence • Pointing out their responsibilities • Bringing reality to their expectations 	<p>Geoff Briot (Senior Investigation Officer)</p>
15:30 Afternoon Tea		
16:00	<p>File & Information Management</p> <ul style="list-style-type: none"> • File maintenance • Computer Record Management 	<p>Geoff Briot</p>
17:00	<p>Close</p>	

Friday 17 November, Sydney

09:00	<p>Planning Process & External Accountability:</p> <ul style="list-style-type: none"> • Corporate Plan • Team Work Plans • Individual Performance Agreements & Training/Development Plans. • Budgets • Joint Parliamentary Committee • Annual Report • Program Statements • Audit 	Anita Whittaker (Manager Corporate Support)
10:15 Morning Tea		
10:45	<p>Staff Management</p> <ul style="list-style-type: none"> • Recruitment • Induction • Training/Development • Delegation • Monitoring work flow • Supervision • Team Meetings/Communication • Managing Poor Performance 	Anne Radford (Complaints Manager - General Team)
12:00	Accommodation & Tour of Office	
12:30 Lunch		
13:30	<p>Educating Public Authorities in how to deal with Complainants</p> <ul style="list-style-type: none"> • The CHIPS concept • Guidelines on Customer Service & Complaints Handling • Providing courses to Public Authorities in complaints handling and management • What complainants expect • Developing the soft skills 	Natasha Serventy (ADR Co-ordinator)
14:30	<p>Access & awareness program</p> <ul style="list-style-type: none"> • Institutional Visits • Regional & Rural visits • Presentations • “Setting up Shop” 	Andrew O'Brien (Youth Liaison Officer)
15:00 Afternoon Tea		
15.30	<p>Liaison</p> <ul style="list-style-type: none"> • Other complaint handling bodies 	Anne Radford (Complaints Manager - General Team) &

	<ul style="list-style-type: none">• MPs – accountability, ensuring they understand our role and limitations• Media• Agencies	Andrew O'Brien (Youth Liaison Officer)
16:00	Questions & Discussion	
16:30	Evaluation	
17:00	Close	

Saturday 18 November

Free

Sunday 19 November

9.20am - Depart hotel for airport Flight QF41, Sydney/Jakarta, departs 1120 hrs.