



Centre for Democratic Institutions

Technical Assistance for the Establishment of the Office of the Parliamentary Ombudsman

**Bangkok
26 February–17 March 2000**

Part 7 of Chapter 6 of the 11 October 1997 Constitution of the Kingdom of Thailand requires the establishment of an Ombudsman. The Parliament has drafted a Bill on the Parliamentary Ombudsman to give effect to the Constitutional requirement. This will be a new institution in Thailand and staffing for the Office of Parliamentary Ombudsman (OPO) will be drawn initially from the Secretariat of the Thai Parliament. The Secretary-General of the Thai National Assembly identified a need to draw on the experience of long established offices of Ombudsman to assist the OPO.

In response to Thailand's need for technical assistance in establishing an Ombudsman, John Wood a former Australian Commonwealth Ombudsman, on behalf of CDI and with financial support from AusAID, undertook travelled to Thailand in February 2000 to undertake a needs assessment, provide expert advise and deliver seminars and workshops. Below is Mr Wood's report of the mission.

**THAILAND: OFFICE OF THE PARLIAMENTARY OMBUDSMAN:
MEETINGS AND DISCUSSIONS**

Meeting with staff of the Office.

Structural matters

Initially we discussed the structure of the Office of the Parliamentary Ombudsman (OPO). I outlined the structure of the Australian Commonwealth Ombudsman's Office (COO, and the move to limit the number of different classifications. As the OPO was likely to be seen as a career organisation, it was necessary to have sufficient increments to allow advancement of staff.

The current proposal is for the OPO to have 43 staff:

- 1 x Secretary-General;
- 1 x Deputy Secretary-General;
- An Administrative Office of 15 staff including its Director;
- An Investigation Office of 19 staff including its Director; and

- A Research and Academic Office of 7 staff including its Director.

The functions of the first two are self-explanatory, whilst the last will study legal provisions that may be at the heart of a complaint, or of a dispute by an agency with the Ombudsman's conclusions. It can also look at systemic issues or concerns, and prepare comments for the Annual Report.

Complaints

Clearly it is difficult to predict the number of complaints that will be received; however the Parliamentary Committees in total received about 600 complaints/month, which gives some kind of indication. Depending on how well the OPO is publicised and on how accessible it is, I expect it is likely to receive double that number fairly quickly.

Complaints are required in writing, although the legislation allows for regulations to enable oral complaints. The OPO will assist people put a complaint in writing, and they will also be able to receive E-mail complaints.

Complaint management software

I outlined the importance of good software at as early a stage as possible, to enable case tracking, reporting, and caseload management. This is clearly an area for potential Australian assistance.

Investigations

I explained the basic steps involved in an investigation, and the powers delegated by the Ombudsman to all IOs. The kinds of cases the Ombudsman would personally involve themselves in were those:

- Subject to media attention;
- Affecting a significant number of people;
- Involving considerable damage to an individual, group, or body;
- Where a major abuse of authority had occurred;
- Referred by the Parliament;
- That were politically sensitive (e.g. treatment of refugees);
- Where an official complained about was of very senior rank;
- Where an agency was being uncooperative or intransigent; and
- Where an important jurisdictional issue was involved.

A future workshop on investigative techniques would be a recommendation.

Meeting with Pichet Soontornpipit, Ombudsman, 1 March 2000.

Also present: Sompol Vanigbandhu, Director, Inter-Parliamentary Organisation Division, Secretariat of the House of Representatives; John Williams, Second Secretary, Australian Embassy.

Khun Pichet (KP) expressed his gratitude for the assistance being given by Australia. He formally does not commence until the King's Order is made, probably at the end of March. He is keen to ensure he has good staff on board, and other administrative support sorted out by then.

He asked what Australia's experience had been in achieving success for the Ombudsman. I suggested that a successful formula included:

- committed and able staff;
- effective tools for staff to work with, especially a complaints management system;
- a good working relationship with the media; and
- good information material that explains the Ombudsman's role, and what he **can** and **can't** do.

In this last regard, it was probably important at the outset, for the OPO to establish the priorities that it will give to complaints, in order to manage public expectations. For example, it might be that priority will be given to those complaints about actions which:

- deprive a person of shelter, or the means to earn income;
- threaten a person's health, safety or liberty; or
- affect the economic livelihood of a body or group.

In relation to provincial areas, KP explained the network available to publicise the Ombudsman's existence and role, through the Inspectors-General of Administrative Zones, who are located in the Prime Minister's Office.

He also thought that it wasn't necessary to have lawyers as investigators, with which I fully agreed. He asked for my general views on the proposed structure, and invited me to make any comments to the Secretary-General the following week.

He indicated that he would like to take up offers of assistance from Canada, Australia, and New Zealand, and sought John William's support to arrange a meeting with the Australian Ambassador toward the end of the visit. There were two areas where I felt Australia could make a particular contribution:

- training of staff in investigation techniques; and
- assistance in establishing a complaint management system.

In response to a question about the availability of training in Australia, I indicated that this tended to be in-house, but that I would let the various ombudsmen know of a potential interest from Thailand, given sufficient advance notice and assistance to attend.

KP informed me that while the legislation required complaints in writing, regulations could be made to accept oral complaints. I expressed my view that this was important, based on Australia's experience, both in order to extend access to the Ombudsman to those who could not write or felt intimidated by writing, and because it facilitated easier complaint handling procedures for staff.

Finally, I explained the provisions available in the Australian legislation, which gave the discretion to decline to investigate when the complainant has not first taken up the complaint with the agency concerned. In the case of the major agencies about whom complaints are made, this exercise of discretion can amount to 60 - 70% of all complaints within jurisdiction. It is therefore a powerful tool in managing the Office's workload. This particular discretion is not, of course, used in circumstances where it would be unreasonable to require the complainant to confront the agency in circumstances where the complaint was about, e.g. abuse or harassment.

This also raises the importance, at an early stage in the life of an ombudsman institution, of having staff capable and available to assist government agencies set up their own internal complaint handling systems.

Meeting with Sirilak Panbamrunakit, Secretary-General, House of Representatives, 2 March 2000.

Also present: Khun Sompol.

Khun Sirilak expressed her gratitude for the expertise being given to assist them establish the Office of the Ombudsman, in particular she mentioned the advice on the structure of the Office.

We then discussed in general terms the challenges that faced the Office, the likelihood of citizens embracing the institution, the important role of the Parliament in supporting the Ombudsman - especially if under attack from a government agency, how caseloads can be managed, the importance of finding out the kind of problems that are commonly generated by agencies, and the need to assist agencies set up their own internal complaint handling systems.

Meeting with His Excellency Meechai Ruchupan, President of the Senate, and Vice President of the National Assembly, 3 March 2000.

Also present: from the Australian Embassy: Paul Tighe, Minister and Deputy Head of Mission ; John Williams; Sudamani Bisalputra; and from the Secretariat of the Senate: Somsak Manunpichu, Director, Foreign Relations Division; and Yenrudee Supunwong, Assistant Director, Foreign Relations Division.

Again Australia was thanked for its assistance in establishing the Ombudsman's office. HE explained that he had a long interest in the ombudsman, going back 20 years when he visited New Zealand and met their Ombudsman. Unfortunately nothing had come of this interest until recently. Nevertheless, he believed the office was very important, and we discussed various challenges and opportunities that faced the Ombudsman in the early periods. HE suggested it might be useful to come back later when the permanent staff were appointed.

Introduction to new officials, 6 March 2000

Khun Pichet introduced me to his newly determined senior officials, who will soon be taking up their appointments. Pramot Chotimongkol, Deputy Permanent Secretary, Ministry of University Affairs, will be the Secretary-General of the Office of the Parliamentary Ombudsman, and Thawal Polpuech, Senior Expert at Department of Technical and Economic Cooperation , will be Deputy Secretary-General.

Meeting with His Excellency Wanmuhammadnoor Matha, Speaker of the House of Representatives and President of the National Assembly, 7 March 2000.

Also present: from the Australian Embassy: Paul Tighe, Minister and Deputy Head of Mission ; John Williams; Sudamani Bisalputra; Sirilak Panbamrunakit, Secretary-General, House of Representatives; and from the Secretariat of the House of Representatives: Khun Sompol.

HE expressed his appreciation for Australia's, CDI's, and my assistance to Thailand in providing advice on the Ombudsman institution, and assisting in setting it up. He felt that it was a much needed office, and regretted that Thailand had been a bit slow in establishing it. He felt that people who in the past had taken complaints to Parliamentary Committees, would be much more effectively served by an Ombudsman. This would also allow the Parliamentary Members to concentrate on their task of keeping watch on the Government, and on passing legislation. He also said that he had told Khun Pichet that he should visit some overseas Ombudsmen.

I indicated that I hoped Australia would be able to provide some additional assistance to Khun Pichet and his office in the future, and that I was sure that the Commonwealth Ombudsman would welcome a visit from Khun Pichet. We spoke about the Australian ombudsmen's jurisdiction, staffing, and complaint numbers and type, before concluding the meeting.

WORKSHOP FOR THE OMBUDSMAN AND STAFF OF THE OFFICE OF PARLIAMENTARY OMBUDSMAN, 15 MARCH 2000.

This was a 2 1/2 hour workshop in which I presented a range of information and material to those present. The material covered the following topics and issues:

- The Ombudsman club: 58 countries;
- The challenge of an Ombudsman staff job; fairness, impartiality, and empathy;
- What is it all about:
- letting people know you exist;
- what you can do & what you can't do;
- receiving complaints;
- determining jurisdiction;
- investigating a complaint;
- resolving the complaint;
- obtaining a remedy for the client;
- recommendations to the agency;
- The bigger picture:
- involving the Ombudsman;
- improving public administration, e.g. internal complaint handling systems;
- systemic complaints;
- major projects;
- 'own motion' investigations.
- Recording information, including 'complaint' vs. 'issues';
- Analysing data;
- Reporting;
- Tools:
- Registry;
- Complaint management system, including secure database;
- Office manual, including Guide to Investigative Practices;

- Training modules;
- Agency contact lists;
- Excellent information material;
- Website and E-mail;
- International contacts.

A set of notes was also presented to the Office for subsequent translation.

Conclusion

The first twelve months of existence for an ombudsman institution are probably its most critical. Not only is the whole organisation learning at a rapid rate, it is also developing many of its operational policies and procedures. At the same time it is trying to keep up with an ever growing number of complaints, and probably facing its first criticism or attacks from agencies unwilling to accept criticism. It is crucial therefore to provide as much support as possible to the institution during this time, and to assist it to further strengthen its tools and its staff's professionalism.