



Jens Olsen
Head of Division,
General Department

THE OMBUDSMAN AROUND THE WORLD

In a humid, hot room in Hanoi, the Danish Ombudsman and some of his employees are at a conference with various representatives of the Vietnamese government, university world, media, etc. The conference is the last in a series which the Danish Embassy has funded and organised with the Danish Ombudsman institution and the Vietnamese Parliament. The purpose of the collaboration project is to assist the Vietnamese government in investigating the possibilities of enhancing the effectiveness of the national assembly's appeal system, and in this connection also to investigate together the possibilities of establishing an ombudsman office.

After some days of presentations, questions and explanations about the ombudsman concept and its migration from Sweden via Denmark across the world, an older, evidently respected and wise woman takes the floor. It is the former Minister for Social Affairs, who wants to present her assessment of whether an ombudsman in Vietnam is at all realistic. Her words are abrupt, but very precise in the translation into English: *'In this country, we think in terms of the community; we protect the community and groups within the community and are not focused on the individual in the same way as you are. Moreover, an ombudsman is an individual, and giving so much power and influence to one person is foreign to us.'*

Fifty years earlier, another Danish ombudsman, Stephan Hurwitz, was also invited to a conference, this time in Kandy, Sri Lanka. The conference was organised by the UN, and Stephan Hurwitz's presentation was entitled 'The Scandinavian Ombudsman'. The audience included Attorney-General Dr John Robson from New Zealand. In April 1960, his report on the ideas in Hurwitz's presentation and the Danish ombudsman model was included in the political manifesto for administrative reforms of the National Party, which later formed a government, and subsequently it became reality. The New Zealand Ombudsman office was established in 1962 – the first of its kind in the English-speaking world – and from there the inspiration to establish ombudsman offices spread to other countries within the British Empire.

CONTEXT, RESPECT AND PATIENCE

There are many good reasons why the idea of an ombudsman was quickly accepted in New Zealand and just as many good reasons why Vietnam is not immediately opening an ombudsman office. The differences in the legal, historical, cultural and also economic context are striking, as pointed out by Madame Ba at the Hanoi conference.

In its modern version, the ombudsman institution has become an integral part of a liberal, Western democratic principle. The focus is on protecting the individual and the individual's fundamental rights as a citizen in a system where the powers of the executive are increasing. It is therefore not surprising that Denmark adopted the basic concept from Sweden in the post-war years, nor is it surprising that the concept is normally exported at the very time when overall administrative reforms are implemented – as in the case of New Zealand and in a way also in Vietnam at the moment.

Despite the major and striking differences between 'systems' globally, the website of the International Ombudsman Institute (IOI) reveals that 122 institutions are members – from all over the world. However, the map of the distribution of national ombudsmen is not a uniform colour all over the world. Red is dominant in Europe (with the notable exceptions of Germany and Italy), Africa, Central and South America and large parts of Oceania. By contrast, there are large white areas – without ombudsmen – in especially the Arab world.

Under the Arab Initiative, the Danish Ombudsman participated in a project in Jordan to establish an ombudsman institution. As so often before, one person drove the project right through to the new institution, in this case the Danish Consul General in Amman, Mr Kawar.

As a result of the collaboration, Jordan established an ombudsman office in 2008/2009, and today the Jordanian Ombudsman has become a member of the International Ombudsman Institute, which imposes certain basic conditions of admission.

The basic thoughts and conditions for an ombudsman and his work resulted in many and major discussions in Jordan. As in Vietnam, we were faced with fitting a basic concept into a very different framework. A key issue in these situations is usually the theme of the ombudsman's independence – how much freedom is the ombudsman given to monitor the exercise of power and to influence the administrative culture effectively?

Generally, it is not possible to export ‘the Danish model’ without adjustment – and this also applied in Jordan. This must be balanced against the ideal and the belief that certain basic conditions must be met for an ombudsman institution to function and benefit the individual citizen.

Our collaboration projects require us to respect the differences that exist, but at the same time we are committed to certain ideals or fundamental conditions. In our view, the crucial thing is that a seed is sown and that we as collaborators show respect and a certain amount of patience in allowing reality and developments to determine whether a new institution is given the space and has the capacity and will to benefit the citizens.

DIFFERENT PROJECT TYPES

The Danish Ombudsman institution has a long tradition of active participation in bilateral cooperation around the establishment, development and consolidation of ombudsman offices. We feel an obligation because of the way in which we once received inspiration and willing assistance from Sweden.

Initially, the dissemination was mainly a result of a personal effort by the ombudsmen themselves, as in the case of the first Danish Ombudsman, Stephan Hurwitz, and other ombudsmen, such as Sir Guy Powles from New Zealand and Alfred Bexelius from Sweden. Later, the ombudsman institutions and their employees have become involved, and at the same time international organisations such as the UN, OSCE, EU and IOI have developed traditions of providing financial and technical support. There also seems to be a certain prestige associated with helping to develop democratic institutions such as ombudsmen.

In Denmark, an actual formalised collaboration agreement between the Ministry of Foreign Affairs and the Ombudsman has existed since 2000. Through the agreement, the Ombudsman has obtained the resources to participate in international activities and actual collaboration projects aimed at developing democratic institutions, good governance and good administrative practice. Through Parliament, the Ministry of Foreign Affairs every year transfers an amount corresponding to one academic standard man-year with overheads to the Ombudsman office. Obviously, these resources are limited, but nonetheless they can result in participation in many activities.

Broadly speaking, we are familiar with three types or stages where Danish assistance may be relevant: 1) the political clarification or decision phase, as in the projects in Vietnam and Jordan, 2) the establishment phase, when the political

decision to set up an ombudsman office has been made and 3) a consolidation and/or rehabilitation phase, when an established institution typically needs to get out of a period of stagnation.

ALBANIA

Until 1991, Albania was an isolated dictatorship. The process which was to result in democracy was tumultuous and finally collapsed in 1997. The country literally fell apart within a few days – at every level, from police and central authorities down to schools and the smallest local administrative authorities. Many will remember the pictures on television from Tirana, Vlora and other Albanian cities, where aggressive and desperate citizens had armed themselves with weapons stolen from army depots.

In 1998, order and peace began to be restored to society and a new constitution came into force the same year. The constitution contained provisions on the establishment of an ombudsman office, *Avocati i Popullit – the people's advocate*.

In June 1999, the Danish Embassy in Tirana signed a five-year collaboration agreement with the Albanian government. The purpose of the programme was to strengthen the independence and impact of *Avocati i Popullit* in a democratically very fragile society. The Danish Ombudsman was involved in the project and visited his newly elected colleague, Ermir Dobjani, for the first time in September 2000.

In December 2009, *Avocati i Popullit* celebrated its 10th anniversary in Tirana and the Danish Ombudsman and his employees from the project were invited together with other key institutions and persons from the establishment phase, including the former project leader from the Danish Embassy.

After ten years of extensive and valued work in Albania, there were again signs of political unrest and concern. An ombudsman was to be elected in February 2010 and much suggested that there would again be problems in the political system. This turned out to be true. The result was that a new ombudsman was not elected until the following year and the institution suffered from cuts and loss of prestige and influence for a long period.

In spring 2011, some of the Danish Ombudsman's employees travelled to Tirana, where they found an office which in the absence of an ombudsman was led by a very competent and committed deputy ombudsman. After their visit to Tirana, the Danish Ombudsman's employees contacted the Neighbourhood

Programme of the Ministry of Foreign Affairs, partly to report on their visit and partly to attempt to get the support for the *Avocati i Popullit* institution restored during this difficult period. A new support programme worth approx. DKK 10 million was signed on 21 December 2011.

Ombudsmen and their institutions are often very much alone in their work. The establishment phase is of course extremely important to the institution's chances of falling into place. However, as experiences in Albania have shown, long-term, patient support is very often necessary.

GHANA

In many ways, things are going well and improving in Ghana, also economically. Nonetheless, the country, which includes the former Danish Gold Coast colony, is still profoundly affected by a history of poverty and exploitation. In many ways, Ghana is representative of the problems many African countries have experienced in implementing and maintaining a democratic system of government.

After the country gained its independence in 1957, the great hero of the battle for independence, Nkrumah, was deposed by a military coup in 1966. During the following years, which were characterised by increasing poverty, the country was led by successive civilian and military governments until the mid 1990s, when Lieutenant Jerry Rawlings fulfilled his promises of letting the country change to a popularly elected government.

During a visit in 1995, the governor of the Ashanti province pointed out the dilemma between anti-poverty programmes and the development of democracy to one of the Danish Ombudsman's employees: *'If I have to choose between being able to feed 1,000 of my countrymen or using the money to support an ombudsman, I would not hesitate to choose the former. Why don't you do the same with your support for Ghana and help us get out of poverty more quickly?'*

This is probably to a large extent the explanation for the fact later formulated by the former Ghanaian Commissioner on Human Rights and Administrative Justice, Emile Short: *There must, of course, be a minimum of political will to ensure the survival and effective functioning of these democratic institutions.*

In 1995, Ghana decided to transform a failed ombudsman office into an institution better calibrated to the situation and needs in Ghana. The *Commission on Human Rights and Administrative Justice*, as it came to be called, also reflects in

its name the ambition: to increase focus on fundamental human rights while still strengthening the monitoring of and support for the development of the executive power, including the efforts to combat corruption. All this had to be done with sparse and inadequate funding.

Since the establishment of the Commission, the Danish Embassy in Accra has consistently had the Commission on its support programme – which has probably been crucial to the office’s survival. Today, the Commission on Human Rights and Administrative Justice is an important institution in Ghanaian society and ordinary people’s daily lives – and in reality therefore also an important element in ensuring stability and economic progress.

The Danish Ombudsman has participated in the collaboration since 1995, when the first contacts took place. Focus and intensity have varied, but the aim has always been the same: to ensure through the collaboration that the ombudsman function has been able to gain a foothold and fall into place in a country which has been affected by poverty and inadequate administration.