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OMBUDSMAN CONCERNING HUMAN RIGHTS

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ABSTRACT :

The Slovenian Ombudsman is mandated by both the Human Rights Ombudsman Act and the Constitution of the Republic of Slovenia to defend fundamental rights and freedoms in interactions with public authorities. It is crucial that the Ombudsman not only abides by the Constitution's rules and international treaties but also has the right to rely on justice and good governance principles while taking action. The article's concept is that by implementing effective administrative practices, public authority challenges the public's perception that bureaucracy is an aim in and of itself and is in a dominant position. With the help of these principles, public authority concentrates on groups that exercise their freedoms and rights in accordance with democratic values.

Human rights are the fundamental freedoms that every person has by virtue of being a member of the human race. All people have it by nature, regardless of their race, ethnicity, faith, language, gender, or any other characteristic. The rights to life, freedom, fairness, and the individual's dignity protected by the Constitution or enshrined in international treaties and upheld by Indian courts are referred to as "human rights" in the Protection of Human Rights Act of 1993. The preservation of human rights is crucial for the growth of the country's population, which eventually results in the expansion of the nation in general. Every Indian citizen is entitled to fundamental human rights under the country's Constitution. The Constitution's creators made every effort to include all required protections. The scope of human rights has, nevertheless, been broadened as a result of ongoing advances. Parliamentarians now have a significant role in recognizing human rights and making laws, changing regulations, etc. as needed. "The basis of our organization is no longer upheld when basic human rights aren't upheld. They are the ones who advocate for lives of decency, stable peace, and sustainable development.

Many ombudsman offices and human rights organizations may appear to be identical at first look. In the fields of receiving complaints and conducting investigations, they perform similar tasks. They are comparable in that neither is frequently given the authority to make judgments

that have legal force. Despite these commonalities, a closer examination shows that these organizations' distinctions go beyond terminology. The ombudsman's main objective is to safeguard the public from breaches by public authorities or institutions when the Commission handles prejudice and violation of human rights by people, groups, or authorities. The neutrality and credibility of public management are to be ensured by the ombudsman. All ombudsmen adhere to a similar set of processes when carrying out their responsibilities irrespective of the fact that the particular capabilities of ombudsmen differ from nation to nation. When irregularities are discovered, the Ombudsman launches investigations after receiving citizen complaints. The Ombudsman often has access to all pertinent agency documents in order to carry out their work properly. So those inquiries are not tainted, the Ombudsman is granted total autonomy from the government and deemed politically neutral. Direct complaints can be made to the Ombudsman by people. In some nations, you might also be required to take your complaint to a middleman, like a lawmaker. Please be aware that despite the absence of particular accusations, the Ombudsman may look into possible human rights abuses. This frequently occurs when the Ombudsman notes a breach of the privileges of group members.¹

Parliamentary Human Rights Bodies :

There are organizations created within the legislature to ease and improve this procedure, though the Ombudsman Office serves as the impartial rapporteur of the legislature for the protection and promotion of human rights. Among the most crucial tools that allow the legislature to establish norms to uphold human rights are civil rights legislative committees. Other legislative committees, including the judiciary, international policy, and social affairs committee members, can cooperate closely with them.

"The parliamentary structure is undoubtedly the most iconic of democratic rule, and is by itself a requirement for the true protection and promotion of human rights," noted United Nations High Commissioner for Human Rights² Mary Robinson and much more conscious. There are 120 parliaments in fact true, and 40.8% of them have established human rights committees.³ The diverse authorities granted to these organizations represent the unique

¹ UN, Human Rights Fact Sheet #19

² Nations High Commissioner for Human Rights Report.

³ United nations human rights council\ <https://www.ohchr.org/en/hr-bodies/upr/parliaments> \ (Last visited 01\12\2022)

characteristics of the environment in which they were founded. They all work toward the same objective, which is to see that the principles outlined in the Universal Declaration of Human Rights (UDHR),⁴ two international humanitarian privileges agreements, and other human rights documents are enshrined in law and implemented. We shall merely draw attention to a few of these entities' most salient features. The organization actively participates in denouncing egregious human rights violations across numerous continents after receiving written and oral allegations of such violations from all over the globe. He collaborates with other legislative parties and multilateral organizations to further the conversation on human rights and also to release his briefings reports on the state of human rights in other nations. In Slovenia (1997), a "committee of petitions" monitors the application of international treaties and collaborates directly with the Human Rights Ombudsman to address and document rights breaches of particular persons. The Commission starts a large-scale campaign to educate the public when specific rights and liberties are consistently abused in the nation.⁵ The Committee in Brazil receives, evaluates, and looks into claims about dangers to or abuses of human rights. develops and manages government initiatives. International institutions are partners with us. Since 1996, the Commission has been successful in putting together the yearly National Human Rights Conference, which typically draws over 400 members from CSOs. The Commission was heavily involved in the development of the Brazilian National Human Rights Programme as well as the evaluation and monitoring of the program's execution. The Human Rights Committee of the Bolivian House of Representatives which was created in 1979, is indeed very proactive and frequently openly criticizes the administration. The Committee on Human Rights & Peace in Nicaragua was founded in 1981 and given the authority to request records and information from government entities as well as comments from government servants on issues pertaining to the discharge of their responsibilities. Regarding the creation of laws to advance and defend human rights, this committee has an opinion.

Permanent Commission on Human Rights (CPDH), Nicaraguan Center for Human Rights (CENIDH),⁶ and Nicaraguan Association for Human Rights (ANPDH). The South African constitution establishes the Joint Human Rights Committee and the Joint Commission of Public

⁴ Universal Declaration of Human Rights \ <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (Last visited 01\12\2022)

⁵ European Parliament \ https://www.europarl.europa.eu/doceo/document/CRE-6-2005-10-27_EN.html?redirect (Last visited 01\12\2022)

⁶ Universal Declaration of Human Rights \ <https://www.ohchr.org/en/countries/nicaragua> \ (Last visited 01\12\2022)

Guardians as two separate organizations. The initial is in charge of overseeing ties with the Human Rights Council, a constitutionally authorized independent governmental entity. The Constitution also set up The national Guardian as an independent body, and the Joint Public Guardian Council is in charge of maintaining that connection.

Specialized Human Rights Agencies⁷ :

An organization created to guarantee the safeguarding of the freedoms of particular categories of citizens is known as a specialized human rights organization. Regional, language, and religious minorities, indigenous peoples, outsiders, immigrants, refugees, kids, women, the impoverished, and people with disabilities are members of the public who frequently get this security. These specialist organizations were created to develop social and governmental policy as well as make sure that national government activities abide by global human rights responsibilities. They carry out duties that are substantially comparable to those of the extensive Human Rights Commission and Ombudsman listed above.

They typically have the authority to open probes into alleged rights abuses of particular people or entire populations, however, like some other national human rights organisations, they typically render legally enforceable judgments to settle disputes. You're not allowed to throw. They recognise. They frequently serve as consultants or advisers to the legislature or the executive arm of government and are frequently established inside divisions of state organisations. Since we don't have the possibility to take these organizations into consideration for the present study, we can only mention their presence. There is a need for thorough country case reports.

In the case of *Con.Case(C). No. 1358 Of 2014 (S) vs By Adv. Sri.Mathew Kuriakose*⁸,

The ombudsman agency scheme described in the article above provides a mechanism for the agency to resolve public complaints and investigate allegations and complaints as defined in section 271F of the Act. It clearly shows that it was created. The Ombudsman is a government-created body that takes corrective action and action to resolve citizen grievances and manage fraudulent administration. The function of the ombudsman is not the same as that of the court. A clear reference to the provision that the Ombudsman should not investigate complaints being

⁷ Claiming human rights\ http://www.claiminghumanrights.org/un_agencies.html (Last Visited 01\12\2022)

⁸ Con.Case(C).No. 1358 of 2014 (S)

heard in court. This indicates that the institution in question was not established as a "court" under the law. Under Regulation 25 of the Municipal Ombudsman (Complaints and Referrals to Terms of Service) Regulations 2014, COC No. 1358 of 1999⁹, it is clear that all data subjects are obliged to enforce the orders of the Ombudsman. If payments are late, the Ombudsman must take action. A relevant regulation to be noted is the Contempt of Court (High Court of Kerala) Regulations under the Contempt of Court Act 1971 published in Kerala Gazette Extra No. 39 of 10 April 1988. This rule has been formulated by the High Court of Kerala in exercising the powers conferred by Articles 215 and 225 of the Indian Constitution¹⁰ and Section 23 of the Contempt of Courts Act 1971.¹¹ In Sec.2(f), "Subordinate Court" is defined as follows: -

"Subordinate Court" means any court subordinate to the High Court." Given the foregoing discussion, it is our rationale that the institutional ombudsman as defined in the Kerala Panchayat Raj Act, 1994 cannot be treated as a "lower court" within the meaning of the Disrespect for Court Act, 1971. It is an opinion. You cannot be sued under the Contempt of Courts Act 1971 for failing to comply with the Ombudsman's orders.

CONCLUSION :

Despite the existence of numerous regulations, guidelines, and procedural requirements, numerous human rights violations continue to occur during the Ombudsman-established decision-making processes regarding the rights, responsibilities, and legal entitlements of clients as well as during the provision of goods and services. These are frequently the result of public authority behavior that violates the principle of good administration, in addition to being the result of illegal and unethical behavior on the part of public authorities. Actually, in order to ensure that public authorities carry out their duties in a way that ensures legality, legitimacy, good administration, and respect for human rights and freedoms, the Ombudsman had to be founded. The conclusions of the Ombudsman reflect the genuine requirements of Slovenian citizens, and examples of his success include identifying and resolving instances of real public authority abuses. The Ombudsman seeks to modify the behavior of public authorities over time

⁹ Regulation 25 of the Municipal Ombudsman (Complaints and Referrals to Terms of Service) Regulations 2014, COC No. 1358 of 1999.

¹⁰ INDIAN CONST, art 215&225

¹¹ Contempt of Courts Act 1971, sec 23, no - 70

toward new frontiers of good administration, in addition to eliminating violations and systemic anomalies through their suggestions. The application of the ideals of a participatory society, concluding agreements, settlements, and negotiations, as well as other modes of dispute resolution, is also being sought. By giving people the chance to express their opinions and be actively involved in the development and resolution of their condition, many issues, irregularities, violations, and disagreements could be handled. The purpose of the Ombudsman's work is to eliminate infractions, so he or she works to reach amicable agreements through settlements, mediations, or other alternative methods of dispute resolution. The Ombudsman's work in this area might be improved, especially in light of the discovery that a combination of recommendations and public authority has generally shown to be effective.

