

**Toward an ombudsman for Saudi Arabia.  
a model aims to improve government services and goods.**

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**ABSTRACT**

An ombudsman is an office that helps to improve the services and goods provided to the people, either by the government, or by the private sector. One of the most important functions of the ombudsman is that he or she has the power to access the highest decision maker of their respective institution. The ombudsman could generate substantial benefits in Saudi Arabia for both the government or private providers and the people by improving the efficiency of the services and goods that the providers offer.

This thesis begins with a brief exploration of the connectional idea of accountability network. It then moves to exploration of the concept of the ombudsmen. The next section will show how an ombudsman can be used in the current situation in Saudi Arabia, and how an ombudsman could work in the Institute of Public Administration in Saudi Arabia. Additionally, this thesis will offer a practical model of an ombudsman for the Institute of Public Administration in Saudi Arabia.

Keywords: ombudsman, accountability, network, government.

## INTRODUCTION

Governments are typically the largest provider for services and goods in many countries around the world. The Kingdom of Saudi Arabia is one of these countries. The government of Saudi Arabia has numerous agencies that provide various services and goods for the Saudi people. In Saudi Arabia, the government provides primary services such as health care, Social Security and welfare, electricity, water, transportation, communications, housing, security, and a variety of other basic and essential services.<sup>1</sup> Sometimes, however, there are shortcomings in the services offered to the people, and the government puts forth a good faith effort to resolve any problems that the people face.

One way the Kingdom of Saudi Arabia could improve the services and goods for its people is to consider the Western model of how to improve services. There are several ways in which Western countries seek to improve the efficiency of the services and goods that the government provides to its people. An ombudsman is one of these models. This model, for example, is used in the institutions like universities, within larger media sectors, and in some individual states, within the United States.

The idea of an ombudsman started in Sweden and then quickly spread to many countries throughout the world.<sup>2</sup> The Swedish king Charles XII was the first royal court to create the position of the ombudsman, which suggests this could be integrated in the Saudi Arabian governmental structure. The similarities between the government systems of Sweden and Saudi Arabia are extensive, as they are both monarchical systems. The ombudsman model would not challenge the authority or power of the monarchical system nor its Sharia law because the ombudsman has no decision-making power. Instead the ombudsman would work directly, in a cohesive nature, with the highest-level decision makers that are already in place within the Saudi Arabian government.

The creation of an ombudsman within Saudi Arabia will therefore help the government to improve the delivery of services and goods to the people, and greatly contribute to the development of the country. The basic assertion of this paper is that the Western model of the ombudsman could generate substantial benefits in Saudi Arabia by improving the efficiency of the services and goods that providers offer. This continuous improvement is relevant because of its direct correlation to the overall happiness and well being of the Saudi Arabian people.

Chapter one of this thesis will introduce the concept of accountability networks as well as explain the different types of the accountability networks. Chapter one will also spotlight the current government network in Saudi Arabia and how the government it operates. Moreover, it will state why there is a pressing need to establish an ombudsman in Saudi Arabia. The second chapter will provide a historical overview of ombudsman, how it came to be established in Sweden, and how this model spread around the world. This chapter will also define ombudsman and illustrate an ombudsman's duties and roles. It will further explain the main functions of an ombudsman and will ways in which countries rely on the ombudsman to keep increase efficiencies. Ultimately, this chapter will state the advantages and disadvantages of having an ombudsman. The third chapter will consider how an ombudsman can work within the

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<sup>1</sup> Basic Law of Governance in Saudi Arabia, chapter 5 art. 26 – 35 (1992).

<sup>2</sup> Francesca Bignami, *From Expert Administration to Accountability Network: A New Paradigm for Comparative Administrative Law*, 59 AMERICAN JOURNAL OF COMPARATIVE LAW 859, 902 (2011).

government network of Saudi Arabia by using an example based on the Institute of Public Administration. Finally, chapter four will conclude this paper and offer proposal for an ombudsman.

## CHAPTER I

### A. Accountability and Networks

Accountability exists where there is a relationship between an entity and individuals and the decisions of that entity are subject to oversight such that the entity provides sufficient information supporting its decisions. Modern accountability consists of complex interactions between autonomous members of a network, both public and private.<sup>3</sup> A government hierarchy, for example such as the government networks in the U.S., has three main branches of the government, which are legislative, executive, and judicial. The U.S. government network is expanded under the executive branch to include all agencies that work to ensure that the government agencies are working properly and that they are used to deliver public services and fulfill the public goals.

Many countries set up networks to ensure that the government performs the way it is expected to perform, and to ensure that the government is accountable to the public. Private actors include elements such as service delivery bodies, independent regulatory agencies, and many transnational and international regulatory bodies.<sup>4</sup> Other private actors include self-regulatory bodies, individuals firms, and public interest groups.<sup>5</sup> These private actors are recognized as vital participants in the accountability of the larger government and private network.<sup>6</sup> Accountability networks ensure that officials' decisions and actions are within the scope of current laws and regulations, to secure that government initiatives meet their people's needs.<sup>7</sup>

Networks vary among many countries and they are different from democracies and non-democracies. The most important purposes of a network are to improve decision-making, diffuse power, and to introduce accountability. Regardless of the network structure, accountability is vital to the proper functioning of a network, and this concept is equally applicable to western and non-western countries. Some networks are a complex system of checks and balances that are there to ensure that the government and agencies carry out their responsibilities. In such systems, like in the United States, public officials are directly accountable to the voters. Other networks have different functions, such as in the monarchy system in Saudi Arabia, where officials have direct accountability to the king. Importantly, each network consists of an accountability structure.

Accountability is an important byproduct of a network. Accountability ensures that officials in public or private sectors are responsible for their actions and that there is a remedy when duties and obligations are not fulfilled.<sup>8</sup> Accountability can be categorized in two forms:

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<sup>3</sup> *Id.* at 860.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 872.

<sup>8</sup> The Transparency and Accountability Initiative, <http://www.transparency-initiative.org/about/definitions> (last visited April 5, 2014).

horizontal and vertical.<sup>9</sup> Horizontal accountability means the relationships within the government or private entity itself.<sup>10</sup> For example, executive agencies must explain their decisions to legislatures; in some circumstances these decisions can be overruled or sanctioned for procedural violations.<sup>11</sup> Vertical accountability occurs when citizens and their associations play direct roles in holding the government to be accountable.<sup>12</sup> For example, this accountability happens when citizens organize themselves into associations to lobby their governments or private service providers to demand explanations for various decisions.<sup>13</sup> The importance of accountability is to evaluate the efficiency of government or private entities and to ensure that they are performing their duties and fulfilling their responsibilities.

An accountability network has four major relationships in administrative governance in democratic countries.<sup>14</sup> These are relationships between public administration and elected politicians, organized interests, the courts of law, or the general public.<sup>15</sup> The best accountability network should be structured to make sure that a proper balance of power and accountability exists between all four relations. This will ensure that officials abide by the relevant laws and regulations. The accountability network should make sure that the legal rules and procedures serve to create relations among the different units of the network.<sup>16</sup>

In the Western systems, there are number of examples of networks. One important example of a network institution is the ombudsman.<sup>17</sup> The ombudsman has a proven tradition of fighting against abuse, bias and other improper treatment or unfairness by the service providers (typically the government). Moreover, the ombudsman can be a horizontal or vertical element of the accountability network.<sup>18</sup>

The Ombudsman office is a high level office that reports to the highest decision maker of a particular agency.<sup>19</sup> This positions the ombudsman to respond to public complaints as mechanism of vertical accountability.<sup>20</sup> It is very important to an accountability network that the ombudsman office is located where he or she can report to the leaders directly. It is also important that the ombudsman be independent of the executive function of the government network so that it can function as a mechanism of horizontal accountability.<sup>21</sup> To connect an ombudsman in agencies properly, one must understand the accountability network within the

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<sup>9</sup> Linda C. Reif, *The Ombudsman, Good Governance, and the International Human Rights System* 20 (2004).

<sup>10</sup> The Transparency and Accountability Initiative, <http://www.transparency-initiative.org/about/definitions> (last visited April 5, 2014).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Bignami, *supra* note 2, at 872.

<sup>15</sup> Bignami, *supra* note 2, at 872 – 873.

<sup>16</sup> Bignami, *supra* note 2, at 872.

<sup>17</sup> Bignami, *supra* note 2, at 903.

<sup>18</sup> REIF, *supra* note 9, at 17.

<sup>19</sup> See REIF, *supra* note 9, at 20.

<sup>20</sup> REIF, *supra* note 9, at 17

<sup>21</sup> *Id.*

relevant government or organization.

Although an ombudsman is a western model, it is transferable to the government network in Saudi Arabia. Saudi Arabia is a monarchical system; therefore, the ombudsman model would work well within the system as member of the governmental or private accountability network mechanism. One of the goals of the ombudsman is to ensure that the government or private sectors are accountable to the King. The government of Saudi Arabia could use principal agent theory. In this concept, the agent should act on behalf of the principal and should not have a conflict of interest in carrying out that act.<sup>22</sup> The King or government of Saudi Arabia could be the principal similar to democratic countries where some Parliaments are the principals. Moreover, an ombudsman is the agent who will do what the principle want him or her to do, either with Parliaments in democratic countries or with the King in the monarch system. Therefore, the idea of ombudsman is applicable for both democratic and monarch system.

In conclusion, an ombudsman has the potential to increase the efficiency of agencies that provide goods and services provided to the people, and it can improve the accountability network by linking the ombudsman to the highest decision makers within that entity. To determine the proper framework for the ombudsman, the definition, origin, main functions, duties, powers, roles, advantages, and disadvantages will be considered in the next chapter.

## CHAPTER II

- A. **The origin of ombudsmen**
- B. **The popularity of ombudsmen**
- C. **Power of Ombudsmen**
- D. **Roles of Ombudsmen**
- E. **Duty of Ombudsman**
- F. **Function of Ombudsmen**
  - 1. **Fire fighting**
  - 2. **Fire watching**
- G. **Advantages & Disadvantages of the ombudsman**
  - 1. **Advantages**
  - 2. **Disadvantages**

The term “ombudsman” is Scandinavian.<sup>23</sup> It refers in nature to an “entrusted person” or “grievance representative”.<sup>24</sup> The last part of ombudsman, “man”, “is taken directly from Swedish (the old Norse word was ‘umbodshsmadr’).<sup>25</sup> Of course today it is not necessary that the holder of the ombudsman position be a man.<sup>26</sup> Nowadays, there are some women who hold

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<sup>22</sup> Stephan Poth & Torsten J. Selck, *Principal Agent Theory and Artificial Information Asymmetry*, 29 *POLITICS* 139, 139 (2009).

<sup>23</sup> Anand Satyanand, *Office of Ombudsman in New Zealand, The*, 6 *CANTERBURY LAW REVIEW* 470, 470 (1997).

<sup>24</sup> *Id.* at 470.

<sup>25</sup> *Id.* at 470.

<sup>26</sup> This thesis uses “ombudsman” as interchangeable between men and women who hold the office of ombudsman.

and run the office of ombudsman in many countries around the world.<sup>27</sup> The Swedish founded the position of ombudsman in 1809; however, it started to spread outside Scandinavia in the early 1960s.<sup>28</sup> An ombudsman might be called by other names such as “Parliamentary Commissioner for Administration” in the UK and Australia; “Médiateur” in French; and “Defensor del pueblo ‘ Defender of the People’” in some Spanish-speaking countries.”<sup>29</sup>

An ombudsman exists to assist achieving fairness, justice, equity and equality for people. Moreover, he or she has the power to review government actions that harm individuals such as maladministration, abuse of power, abuse of discretion, discourteous behavior or incivility, inappropriate application of law or policy, inefficiency, allegation of unfairness, decisions unsupported by fact or sufficient reasons, and illegal or inappropriate behavior.<sup>30</sup> The ombudsman can be established at the national or sub-national level or within many other venues including federal, state or local government, corporations, academic institutions, health care institutions, news organizations, profit or non-profit organizations, or under some subdivisions of these entities.<sup>31</sup>

The simple definition for ombudsman is that the ombudsman is an office that receives complaints from the people who allege or who suffer from misconduct of the government that harm them, investigate and report on the individuals’ problems, and make recommendations.<sup>32</sup> The ombudsman is not the complainant’s counsel, nor a prosecutor for the government, but rather the ombudsman should remain independent of both parties, the government and the complainant, and should be used as a mediator or intermediary.<sup>33</sup>

### **A. The origin of ombudsman**

Charles XII became King of Sweden in 1697. However, the Swedish military was defeated by the Russian military in the Great Northern War in 1709.<sup>34</sup> After the war, the Swedish king fled to Turkey for many years.<sup>35</sup> Because of the long absence of the monarch, the administration in Sweden deteriorated.<sup>36</sup> The public demanded that someone in government reform the situation regarding the absence of the king. Therefore, “in 1713 the king appointed a representative to monitor the conduct of Swedish administration and judiciary, and named the official Justitiekanslern (Chancellor of Justice) in 1719.”<sup>37</sup>

The role of this representative was to initiate legal proceeding against any unmanageable officials if an abuse of the law or other misconduct was discovered.<sup>38</sup> The main goal was to

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<sup>27</sup> Satyanand, *supra* note 23, at 470.

<sup>28</sup> REIF, *supra* note 9, at 1.

<sup>29</sup> Anthony BL Cheung, *Evaluating the Ombudsman System of Hong Kong: Towards Good Governance and Citizenship Enhancement*, 17 ASIA PACIFIC LAW REVIEW 75 (2009).

<sup>30</sup> Ombuds Standards, 54 ADMINISTRATIVE LAW REVIEW 535 536 (2002).

<sup>31</sup> *Id.* at 536.

<sup>32</sup> Lance Tibbles, *Ombudsman: Who Needs Him, The*, 47 JOURNAL OF URBAN LAW 2 (1969).

<sup>33</sup> *Id.*

<sup>34</sup> REIF, *supra* note 9, at 5.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

insure that government officials abided by the laws and regulations of the country. Between 1766 and 1772 the parliament took over the function of electing the Chancellor of Justice, but the monarch resumed this power in 1772.<sup>39</sup> Ultimately, the king was dethroned and a new constitution was adopted in 1809.<sup>40</sup> The new constitution divided the power between the crown and the parliament and new institution, called justitieombudsman was established.<sup>41</sup> The new constitution required the parliament to appoint the justitieombudsman.<sup>42</sup>

The role of the justitieombudsman was to supervise the public administration and judiciary and to prosecute officials who failed to fulfill their duties.<sup>43</sup> The Constitutional Committee stated that “an ombudsman appointed by legislature would promote ‘genuine civic feeling’ and that ombudsman’ was intended primarily to establish a system of supervising the discharge of public office which was independent of the government.”<sup>44</sup> However, some argued before the Constitutional Committee that “the supervision of [executive] administration by the Chancellor of Justice was insufficient to protect the rights of the public given that the Chancellor was answerable to the executive branch of government.”<sup>45</sup> This argument made sense, as the Chancellor would have been reviewing the same branch of government that work supervised the Chancellor. The legislature argued that it might be more effective to keep the ombudsman independent from the Executive branch in order to supervise the administration’s officials without a conflict of interest.

## **B. The popularity of ombudsman**

The popularity of the office of the ombudsman started to spread beyond Sweden in the early to mid-twentieth century.<sup>46</sup> Finland adopted the position of ombudsman in 1919, Denmark in 1953, and Norway in 1962.<sup>47</sup> Over the past fifty years, the ombudsman was adopted by a majority of Commonwealth countries. The first country in the Commonwealth that created an ombudsman was New Zealand in 1962.<sup>48</sup> In 1969, the United States of America had the first ombudsman located in the state of Hawaii.<sup>49</sup> Many other countries established ombudsmen beginning in the 1970s for broader public accountability in government administration.<sup>50</sup> Nowadays, an ombudsmen are established in many countries in the Americas, African, Asian, and Pacific regions.<sup>51</sup> Furthermore, an ombudsman has increasingly become globally recognized.<sup>52</sup> Ombudsman in many countries can serve as an accountability mechanism for

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 6.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Stanley Anderson & John Moore, *Establishing Ombudsman Offices: Recent Experiences in The United State*, 24 UCLA L. REV. 720 (1972).

<sup>50</sup> Bignami, *supra* note 2, at 872 – 873.

<sup>51</sup> REIF, *supra* note 9, at 6.

<sup>52</sup> *Id.* at 7.

inefficient or corrupt government authorities.

### C. Power of the ombudsman

The powers of ombudsmen vary among countries.<sup>53</sup> Some ombudsmen receive complaints and then conduct initial investigations, while others can only mediate between the citizen and the government.<sup>54</sup> Also, some ombudsmen recommend solutions for certain problems while other ombudsmen have standing as complainants in judicial actions.<sup>55</sup> Moreover, in some countries such as the United Kingdom, an individual who is aggravated by entity of the government may be not approach the ombudsman directly, but he or she must reach out to the local Member of Parliament where he or she resides.<sup>56</sup> Then, the Member of Parliament can investigate and build the case with the ombudsman.<sup>57</sup>

The ombudsman's power while addressing complaints about the government or a private entity is limited because the ombudsman does not have any authority to compel any official to act a particular way.<sup>58</sup> Therefore, all of these manifestations of the ombudsman power do not work effectively unless he or she has the support of the most important network actor.<sup>59</sup> The relationship between the ombudsman and the higher decision makers, such as presidents, or heads of any agency, is the most important element of the effectiveness of the ombudsman's work.<sup>60</sup>

When officials in divisions or subdivisions of any agency abuse their power, the ombudsman will contact them to correct their faults. If government official is willing to act, the ombudsman can help to resolve the complaint. However, if they are unwilling to act, the officials know that the ombudsman in their agency can report their misdeeds to the head of the agency. Then, the head of the agency has the authority to make decisions to correct any wrongful matter in the agency or to discipline any official who abuses his power.

This is why the ombudsman's ability to access to the top of any agency or the highest decision maker is the most powerful tool that the ombudsman maintains. The ombudsman can hold accountable any officials who abuse their position or engaging in any other misconduct by its reporting function in order to encourage them to act properly. One of the most important reasons why the ombudsman should report to the highest decision maker is that the ombudsman cannot typically make binding rulings on the officials. Therefore, while officials know that the ombudsman's advice is not binding, they still might highly consider their connections to the highest authority important enough to change their behavior and comply.

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<sup>53</sup> Satyanand, *supra* note 23, at 473.

<sup>54</sup> *Id.* at 538.

<sup>55</sup> REIF, *supra* note 9, at 2.

<sup>56</sup> Satyanand, *supra* note 23, at 473.

<sup>57</sup> *Id.*

<sup>58</sup> Bignami, *supra* note 2, at 903.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*



## **D. Roles of ombudsman**

Due to the multiplicity of types of ombudsmen in various countries or jurisdictions, it is hard to define a particular role for all types of ombudsman. However, the two major roles of ombudsman that are typically found regardless of the government structure are improving the performance of public servants, government or private entities, and enhancing accountability to the public.<sup>61</sup> These roles make the government more accountable to members of the public, and they improve public administration and make the government's actions more open to meet the beneficiaries' needs.

Another universal role of the ombudsman is to protect citizens or beneficiaries against violations of their rights.<sup>62</sup> Providers or civil servants can violate citizens' rights by abusing their power, making errors, engaging in negligent behavior, making unfair decisions and maladministration, or by engaging in other unfair behavior. Therefore, the ombudsman's role in any agency should be to protect citizens and beneficiaries' rights and also to help the providers to correct their violations.<sup>63</sup>

When government officials correct their behaviors and redress the complainants, the relationship between the agencies and the people is improved.<sup>64</sup> Thus, the general public would feel satisfied because the agency met their needs and fostered a relationship between them and the agency. In this way ombudsman can play a significant role in building relationships between agencies and their clients. Furthermore, under some jurisdictions, the ombudsman plays an important role in legal and judicial reform.

## **E. Duties of the ombudsman**

The duties of the ombudsman are numerous because it depends on the type of ombudsman, just as the role of the ombudsman widely varies.<sup>65</sup> Whether the ombudsman works for a newspaper, a human rights association, academia, or any other place, their duties are different. Some duties might be required in one job that are not required in the others. However, despite the variety of the types of ombudsman, most ombudsmen receive, review, and investigate complaints, and issue reports.<sup>66</sup>

The process to receive complaints is not complicated. It may be formal or informal. Some ombudsmen require written applications to be filled out by individuals, whereas some of them accept oral complaints. It is important to know whether the ombudsman has the discretion to accept a complaint or not.<sup>67</sup> In addition, the ombudsman has the discretion in some jurisdictions to initiate actions without receiving complaints.<sup>68</sup> For example, if a newspaper ombudsman discovers an issue, the ombudsman can file a claim to review that issue. This

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<sup>61</sup> REIF, *supra* note 9, at 2.

<sup>62</sup> Ombuds Standards, *supra* note 30, at 538.

<sup>63</sup> Chris Gill, *Right first time: the role of ombudsmen in influencing administrative decision-making*, 33 JOURNAL OF SOCIAL WELFARE & FAMILY LAW 181183 (2011).

<sup>64</sup> *Id.*

<sup>65</sup> Ombuds Standards, *supra* note 30, at 536.

<sup>66</sup> *Id.* at 538.

<sup>67</sup> *Id.* at 554.

<sup>68</sup> *Id.* at 538.

individual power to instigate a complaint makes the ombudsman more effective and protects individuals' rights. Finally, once the ombudsman receives complaint or petition, the ombudsman can be authorized to conduct a broader investigation or inquiry in some circumstances.<sup>69</sup>

After someone files a complaint with the ombudsman, the ombudsman reviews the claim and collects information. The ombudsman's authority typically includes the ability to access to all information and materials that are relevant to the issue that the ombudsman reviews, so that the review process is fair and credible.<sup>70</sup>

A final duty is issuing reports. To keep the ombudsmen working effectively with their clients, the ombudsmen should issue reports annually or semi annually.<sup>71</sup> These reports should indicate the particular ombudsman's activities and findings for each complaint.<sup>72</sup> The purpose of these reports is that to ensure the ombudsman is accountable for his or her duties.<sup>73</sup> Furthermore, reports from the ombudsman would contain "statistical information about the number of contacts with the ombudsman, subjects that the ombudsman addressed, evaluation of complainants, etc."<sup>74</sup>

## **F. Functions of the ombudsman**

The functions of the ombudsman are divided into primary and secondary functions.<sup>75</sup> The primary function is called "fire-fighting" and the secondary function is called "fire-watching".<sup>76</sup> Some countries rely on the primary and secondary functions and other country only use the primary functions of ombudsman.

### **a) Fire fighting**

"Fire-fighting" is what happens when the ombudsman resolves individuals' disputes.<sup>77</sup> As a side note, there is another description for this function, also known as "[p]utting things right".<sup>78</sup> There are various grievances that many people suffer or face while they are dealing with government or private entities in many countries or jurisdictions. The ombudsman can be an effective mechanism to settle many kinds of these claims. For example, redressing breaches of human rights is one of the ombudsman's responsibilities or functions in Mexico.<sup>79</sup> Many ombudsmen engage in this function because solving the complaints that people file against the

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 536.

<sup>72</sup> *Id.* at 538.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Gill, *supra* note 63, at 183.

<sup>76</sup> *Id.* (In the political science there are other terms that could be used for the ombudsman's functions. Police patrol may be called for the fire watching function, which is where there is a systematic monitor).

<sup>77</sup> Gill, *supra* note 63, at 183.

<sup>78</sup> *Id.* at 181.

<sup>79</sup> Satyanand, *supra* note 23 at 473.

government se is a key purpose of an ombudsman.<sup>80</sup> The United Kingdom is another country that relies on the “fire-fighting” function of ombudsmen to redress the individuals grievances.<sup>81</sup> As explained in the next section, ombudsmen in other countries focus on the improvement of the public administration.<sup>82</sup>

### **b) Fire watching**

“Fire-watching” is the secondary function of the ombudsman, which includes improving the overall quality of administration.<sup>83</sup> “[O]mbudsman are now expected to play a more active role in improving administration decision-making by helping public officials learn from their mistakes.”<sup>84</sup> When ombudsmen work to resolve many individuals’ complaints, the ombudsman can identify parts of the agency that may be causing the harm of individuals or causing some other systemic problem. A systematic problem happens when a division or official causes the same harm with many different individuals at various times; therefore, the ombudsman can identify the weak point of any agency and notify them to stop harming individuals. This alerting function ultimately improves the whole administration process. Just as fire-fighting is an alternative term, fire watching also has an alternative term, and is also known as “ getting things right first time.”<sup>85</sup>

## **G. Advantages & Disadvantages of the ombudsman**

### **1. Advantages**

There are several advantages for the people who receive the services and goods of having access to an ombudsman system. However, there are also advantages for the providers, either government or private entities, because of the opportunity to improve their provision of services and to decrease shortcomings in the execution of their responsibilities.

One advantage in establishing an ombudsman is the ombudsman can use a variety of dispute resolution techniques, such as conducting an inquiry, investigating, and reporting on individuals’ grievances, and can discuss, evaluate, and develop remedies that may correct individuals’ grievances.<sup>86</sup> Also, the ombudsman can mediate, negotiate, and facilitate the resolution of matters as well as make recommendations regarding the systemic problems directly to the leaders or officials who have the influence to deal with such issues.<sup>87</sup>

The ombudsman has further advantages. First, any person can file a complaint either in person or in writing to the ombudsman. Second, the investigation process is informal, less

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<sup>80</sup> Bignam, *supra* note 2, at 902.

<sup>81</sup> Gill, *supra* note 63, at 183.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 183.

<sup>84</sup> *Id.* at 181.

<sup>85</sup> *Id.*

<sup>86</sup> Ombuds Standards, *supra* note 30, at 538.

<sup>87</sup> *Id.*

expensive, and faster than filing a case in the courts using other grievance procedures.<sup>88</sup> Third, the ombudsman can be an impartial way to address any perceived corruption in the agencies.<sup>89</sup> Finally, if the person is not satisfied with the ombudsman's resolution, he or she may still be able to file a case in the courts or use other grievance procedures.

## **2. Disadvantages**

The disadvantages of the ombudsman are not great; however, they must be addressed to identify the weak points of having an ombudsman. The most notable disadvantage among all types of ombudsmen is that the power of the ombudsman is limited because ombudsmen are unable to bind any officials by their findings or conclusions.<sup>90</sup> The ombudsman just makes non-binding recommendations to a higher authority, and the higher authority may decide what to do. However, as noted earlier when the ombudsman has the power to contact the highest decision maker in the organization, lower officials may act in accordance with their professional obligations since the ombudsman would report to their leaders or to the higher decision maker. This authority could influence the lower officials to respect and evaluate the ombudsman recommendations and findings. In addition to this disadvantage, the ombudsman must rely on other network actors within the organization to reinforce his or her findings. Usually in these situations, the threat of bad press, public embarrassment, and parliamentary pressure would induce obedience.<sup>91</sup>

Another disadvantage arises when the ombudsman is appointed and paid by the same agency for which the ombudsman fields complaints, which may mean that the ombudsman offices are answerable to their agency and less accountable to the people who complain.<sup>92</sup> However, the agency that houses the ombudsman must explicitly state its intentions to improve the services that it offers. Additionally, the complainant in more formal proceedings typically has more control over the judicial process, rather than the ombudsman who only wields power within his or her own sphere of influence. However, as discussed earlier, improving the performance of public servants, government or private entities, and enhancing accountability to the public are the major roles of an ombudsman, and the presence of an ombudsman could combat these disadvantages.

Disadvantages of an ombudsman are not really large enough obstacles to preclude any agency from establishing the ombudsman office. In many countries, the establishment of an ombudsman has resulted in increased efficiency and other advantages that made those institutions more effective.

## **CHAPTER III**

### **A. The current situation in Saudi Arabia**

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<sup>88</sup> The World Bank, Social Development Department, [http://www.worldbank.org/socialaccountability\\_sourcebook/Tools/Other/om.html](http://www.worldbank.org/socialaccountability_sourcebook/Tools/Other/om.html) (last visited April 5, 2014).

<sup>89</sup> *Id.*

<sup>90</sup> Bignami, *supra* note 2, at 903.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

## **B. Institute of Public Administration (IPA)**

### **C. How an ombudsmen might work with the IPA**

The ombudsmen originated as a position in the monarchy government of Sweden in 1809, which suggests it may be useful in other similar monarchy systems such as in Saudi Arabia. The ombudsman is most effective when the ombudsman is used as an important network actor with access to top decision makers. The two major roles of ombudsmen are improving the performance of the public servants and enhancing the accountability to the public. The major four duties for all types of ombudsman are receiving, reviewing, investigating complains, and issuing reports.

The government of Saudi Arabia provides several primary and secondary services and goods for its people. One of the most important primarily service is education. There are many educational levels in Saudi Arabia, including public education, higher education, employment training, diplomat education, technical and vocational training, and among other types. This section will propose an ombudsman for the employment training type of education. The employment training is provided by the Institute of Public Administration, an executive branch agency of the government.

### **A. The current situation in Saudi Arabia**

The Kingdom of Saudi Arabia is a developing country. In August 2005, King Abdullah bin AbdullAziz ascended to the Saudi throne, and he has taken many steps to accelerate the Kingdom's developmental process within the scope of Sharia. Over the past decade, there have been a number of development initiatives in many portions of the country, including the educational system, health care system, and transportation system. Yet, the country remains in need of increased efficiency to maintain its forward growth. Development in Saudi Arabia relies on the distribution of services across all sectors of the economy. However, corruption, lack of power, maladministration, opaqueness, and abuse of discretion threaten to directly and negatively affect the forward-thinking developmental programs in Saudi Arabia.

Nowadays, citizens in Saudi Arabia demand the highest levels of transparency and accountability in all areas of any governments, and they seek the same standards from the private sector. The government should ensure that services and goods are provided efficiently, effectively and fairly to the people.

Currently, Saudi Arabia accountability networks are very traditional due to many factors including culture, laws, and regulations. In the Saudi Arabian government network, the king is the highest decision maker for all three branches of the government; executive, legislative, and judiciary.<sup>93</sup> The king could extend the network of accountability by instituting an ombudsman's office within the Saudi government. Establishing an ombudsman in Saudi Arabia should improve the efficiency of the accountability network and would help the government to satisfy its people's demands, which would benefit all parties.

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<sup>93</sup> Basic Law of Governance in Saudi Arabia, chapter 6 art. 44 (1992).

An ombudsman is likely to be useful to the King because it has proven to function in many countries around the world to improve the distribution of services and goods that are provided to the people. An ombudsman will help the providers in Saudi Arabia to improve the delivery of services and goods, and it will help the people to resolve their problems more efficiently. The ombudsman would receive, investigate, and report to the highest decision maker to diagnose and resolve both individual and group problems.

## **B. Institute of Public Administration (IPA)**

The Institute of Public Administration was founded in 1961 as an independent government agency to improve administrative effectiveness in government agencies in Saudi Arabia.<sup>94</sup> The IPA is the central authority for training, development and consultation for governmental agencies.<sup>95</sup> The IPA's purpose is to increase the efficiency of public employees, and to educate, and increase their capability of carrying out their responsibilities. The IPA also aims to allow employees to use their jurisdiction in ways that would advance the levels of the administration in Saudi Arabia. In addition, the IPA offers consultant services conserving various administrative problems in order to facilitate solutions faced by administrative entities of the government.<sup>96</sup>

Article three of the IPA statute indicates the precise purpose of this entity by stating that [t]he Institute aims to contribute to administrative development and meet present and future administrative challenges, in a manner that serves comprehensive development in the Kingdom, through achieving the following objectives:

- 1- Enhance the efficiency government employees and qualify them academically and practically to assume their responsibilities and exercise their powers in a manner that ensures improvement of administrative standard and promotes administrative development.
- 2- Support administrative reform and development.
- 3- Provide administrative consultation requested by ministries and other government agencies.
- 4- Enrich administrative knowledge through authoring, conducting administrative studies and research and translation of distinguished academic works relating to administrative development.<sup>97</sup>

The IPA provides several services for the regional, international, and Arab state organizations, such as in-service and pre-service training, consultations, administrative research, and administration documentation for both agencies and other individuals.<sup>98</sup> The IPA offers courses in various fields, such as public administration, law, accounting, computer science, maintenance, personnel management, secretarial skills and management planning.

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<sup>94</sup> Institute of Public Administration Statute, art. 1 (2005).

<sup>95</sup> Institute of Public Administration Statute, art. 2 (2005).

<sup>96</sup> Institute of Public Administration Statute, art. 4 (2005).

<sup>97</sup> Institute of Public Administration Statute, art. 3 (2005).

<sup>98</sup> Institute of Public Administration Statute, art. 5 (2005).

The IPA's objective is to achieve administrative development in Saudi Arabia by providing unique and efficient services to the government and private sectors that meets their expectations. To achieve this objective, article four of the IPA statute indicates that

the Institute may use appropriate means, especially the following:

- 1- Develop and implement training programs for employees of different levels of in the public sector.
- 2- Develop preparatory programs in administrative fields, based on market needs.
- 3- Hold seminars and academic meetings for senior management.
- 4- Hold conferences and symposia in the field of administrative development.
- 5- Provide consultation services to government agencies and assist in the implementation thereof.
- 6- Promote authoring and conducting of administrative research and studies in the field of administrative development and publication thereof.
- 7- Translate into Arabic distinguished world intellectual products related to Institute activities.
- 8- Categorize and classify government administrative documents and facilitate access to them.
- 9- Seek membership of regional, Arab and international institutions, agencies and organizations concerned with administrative development.
- 10- Participate in conferences, symposia and meetings related to administrative development, within the Kingdom and abroad.
- 11- Send training faculty on scholarships to study and train in fields related to the Institute.<sup>99</sup>

One of the IPA responsibilities is to train the employees of the government. It aims to enhance the ability of public sector servants and to prepare them academically and practically. It provides public servants with knowledge, skills and positive behavior tendencies, which lead to the development of administrative procedures. Also, it helps them exercise their authorities in a way that improves the accountability of the government.

There are 1,153,902 employees who are working in the civil government entities in Saudi Arabia.<sup>100</sup> That means there are large numbers of public sector servants who have the potential to enroll in the training opportunities that the IPA provides every year. One of the most important reasons why the government employees should attend the training courses at IPA is that because it is one of the required conditions that public servants upgrade their skills in the government agencies every year.<sup>101</sup>

However, there is a persistent problem that the IPA faces every training year. The large numbers of the government candidates are greater than the limited absorptive capacity of the training opportunities at the IPA.<sup>102</sup> For example, the IPA received "396,709" nominations of government agencies employees in spring 2014, while the IPA could offer "38,939" training

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<sup>99</sup> Institute of Public Administration Statute, art. 4 (2005).

<sup>100</sup> Statistical Indicators, *Ministry of Civil Service Saudi Arabia* 2014.

<http://www.mcs.gov.sa/Statistics/Pages/StatisticalIndicators.aspx> (last visited April 5, 2014).

<sup>101</sup> See, Regulations of the Training in civil service, Saudi Arabia.

<sup>102</sup> Dr. Amer bin Mohammed al-Husseini, [*IPA: monopoly training possibilities are limited*], *Journal of Economic* (2011) (translated by this author).

opportunities for the candidates of government agencies, resulting in 9.8% of the nominations receiving training.<sup>103</sup> While the number of trainings available has increased in recent years, the number of applications has grown by an even larger amount. This has resulted in the percentage of those who are able to receive training dropping from the 10.4% in spring 2013 and the 17.8% in spring 2011.<sup>104 105</sup>

Due to the limited absorptive capacity of the IPA, some employees accuse officials of the IPA of engaging in “discrimination” and “bias” in accepting the government agencies candidates in the training opportunities.<sup>106</sup> This dilemma caused some dissatisfaction of the IPA’s ability of delivering the services because many unacceptable employees think that they were prevented unlawfully or without reasons from the training opportunities that the IPA offers.

An ombudsman, if set within the organizational structure of the IPA, would be a way of ensuring that the proper candidates are chosen for education based on merit. Also, an IPA ombudsman could help the institution to promote transparency in all procedures concerning the beneficiaries’ admission. Furthermore, an IPA ombudsman would create a channel of communication for those who think they have been denied, without a proper excuse, enrollment in the Institute's training courses. The ombudsman could help them to meet their desire training needs if they prove that they were denied without reason.

### **C. How an ombudsman might work with the IPA**

It is important to clarify the issues that the IPA faces and that an ombudsman could be the tool to improve the efficiency of the IPA services. Discrimination and bias are some of the prominent problems that the proposed IPA ombudsman could help to alleviate.

In order to establish an ombudsman within the organizational structure of the IPA, it is important to understand how the IPA runs. There is a board of directors, which is the highest authority in administering the Institute and conducting its affairs.<sup>107</sup> The IPA board of directors involves of the following members: “ [t]he Minister of Civil Service, chairman, [t]he Director General of the IPA, vice chairman and member, [a] representative of the Ministry of Higher Education, member, [a] representative of the General Organization for Technical & Vocational Training, member, [a] representative of the Ministry of Civil Service, member, [a] representative of the Ministry of Economy & Planning, member, and [a] representative of the Ministry of Finance, member.”<sup>108</sup> The board of directors is delegated with many responsibilities and powers to oversee the IPA affairs, including creating and setting up general policies, pursuing its implementation, issuing regulations and executive orders to organize technical, administrative

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<sup>103</sup> Dr. Salah bin Moaz Maayouf, [Deputy Director General of IPA for Training Affairs, *Institute receives more than 396 thousand nominations from government agencies*], IPA Media Center (2014). (translated by this author).

<sup>104</sup> Fahd AlHamoud, [*IPA receives more than 360 thousand nomination from government agencies*], Alsharq Journal (2013). (translated by this author).

<sup>105</sup> Suad Alshamrani, [*IPA receives 169 thousand nominations from government agencies*], Okaz (2011). (translated by this author).

<sup>106</sup> Nawaf Alsageer, [*Dilemma in staff training and the IPA is accused*], Okaz (2010). (translated by this author).

<sup>107</sup> Institute of Public Administration Statute, art. 7 (2005).

<sup>108</sup> Institute of Public Administration Statute, art. 6 (2005).



and financial work procedures, proving major IPA plans, confirming the annual report of the Institute, and other duties that specified in the IPA statute.<sup>109</sup>

As discussed in chapter two, the ombudsman should be networked under the highest decision maker, which in this case is the IPA board of directors. That means an IPA ombudsman would have influence because of the ombudsman's ability to report to the board of directors directly. This would help to persuade IPA employees to respect the ombudsman findings and to heed his recommendations.

The duties of an IPA ombudsman would be to receive complaints from the employees of the government who think they are denied or prevented from the IPA's training courses for non-acceptable reasons. Then, the ombudsman would conduct investigations to determine whether these employees are aggrieved or not, and recommend solutions for certain circumstances that have resulted in a denial for unacceptable reasons. The ombudsman should report to the board of directors annually or semi-annually about how many cases the ombudsman filed.

The main roles of the proposed IPA ombudsman would be to improve the performance of the IPA servants and to enhance the accountability to the government employees, and to protect the employees' rights and to ensure fairness in the process of the admission to the training courses for all candidates. The most important role of the proposed IPA ombudsman could be to correct any violation of the employees' rights and to redress them when it happens.

The IPA ombudsman's functions would be both "fire-fighting" and "fire-watching". When the IPA ombudsman works to resolve any employee dispute, the ombudsman would engage in fire-fighting to redress the grievance of employee who filed a claim. An IPA ombudsman engaging in fire watching would encourage IPA officials to be aware about their decisions and incentivize them to get their decisions rights from the first time. "Fire-fighting" and "fire-watching" functions could be useful mechanisms to the IPA.

The advantages of an IPA ombudsman would be numerous. For example, the proposed IPA ombudsman could be a valuable tool to the IPA itself and its beneficiaries at the same time because the ombudsman will improve the efficiency of the IPA procedures and will increase the IPA's transparency and credibility in the admission processes.

While some may determine that there is no need to create an ombudsman within the IPA because the ombudsman has no authority to bind any officials in the IPA with its findings, this claim is meritless. When the ombudsman has the power to contact the highest decision maker in the IPA, which is the board of directors in this case, the ombudsman has influence to persuade officials to undertake their responsibilities because otherwise the ombudsman can report on them to the board of directors.

## **CHAPTER IV**

### **A. Conclusion**

The ombudsman attempts to improve the accountability network that contains services, providers, and beneficiaries. The ombudsman's influence comes from access to higher decision-making authorities. The two major roles of an ombudsman are to improve the performance of public servants, government or private, and to enhance accountability. The four major duties for all types of ombudsman are receiving, reviewing, and investigating complaints, and issuing

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<sup>109</sup> Institute of Public Administration Statute, art. 7 (2005).

reports. The functions of the ombudsman are “fire- fighting” and “fire-watching”, which allow an ombudsman to be a mechanism to redress complainants. Some of the advantages of the ombudsman are the ability to use a variety of dispute resolutions, evaluating, and developing remedies, making recommendations regarding the systemic problems, and improving procedures for complaining.

The model of the ombudsman in Saudi Arabia could generate substantial benefits for both the government or private providers and the people by improving the efficiency of the services and goods that the providers offer. The IPA's purpose is to increase the efficiency of public employees, educate, and increase their capability of carrying their responsibilities.

The proposed ombudsman should be networked under the highest decision maker in the IPA, which is the IPA board of directors and should directly report to the board. The proposed IPA ombudsman's duties would be to receive complaints from the employees of the government who think they are unjustly denied and prevented from the IPA’s training courses, conduct investigations to find the whether these employees are seriously aggrieved or not, recommend solutions, and report to the board of directors. The IPA ombudsman could improve the efficiency of the IPA procedures and increase the IPA transparency and credibility in the admission processes. Finally, the proposed IPA ombudsman would be a great tool to recommend resolutions if the IPA officials caused grievances for any employee.

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