

## THE OMBUDSMAN'S ROLE IN HUMAN RIGHTS PROTECTION – AN AUSTRALIAN PERSPECTIVE

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This paper discusses the role that Ombudsman offices in Australia play in protecting human rights. The first part of the paper discusses the meaning and scope of human rights, and how they are protected in society. The second part of the paper briefly describes the Australian system for protection of human rights. The third and fourth parts of the paper discuss the role that Ombudsman offices can play in protecting human rights, and how this integrates with their traditional function of handling complaints about defective government administration.

### WHAT ARE HUMAN RIGHTS?

The core notion of a human right is that individuals in society have rights that should be respected by government and of which they cannot be deprived arbitrarily. A due process of law should be followed before a person is detained, imprisoned, stripped of property, given a binding direction, or treated harshly by a government agency.

In short, people have the right to be treated lawfully and with dignity by government agencies. This idea can be taken a step further, to argue that individuals also have fundamental rights that can never be taken away by government. However, for the most part it is accepted that all rights – even life, liberty and property – can be taken away if there is a justifiable reason for doing so and a fair and reasonable legal process is followed.

There is no exhaustive list of human rights, but there are some recognised categories and examples:

- *Political rights* – the right of adults to vote in a fair and democratic electoral system; freedom of speech, press, assembly, and association; and freedom of religion and conscience
- *Legal process rights* – freedom from arbitrary arrest, detention, search or seizure; the right to a fair and speedy trial; the privilege against self-incrimination; and protection against cruel and unusual punishment
- *Egalitarian rights (or freedom from discrimination)* – equal protection of the law for all members of the community; the right not to be discriminated against on the basis of race, colour, sex, age, disability, marital status, pregnancy, creed, language or other status; and the right not to be subjected to sexual harassment, torture, or cruel, inhuman or degrading treatment
- *Social rights* – the right to marry a partner of choice; recognition of the sanctity of marriage and the family; privacy of correspondence; and freedom from unjustified state surveillance
- *Economic rights* – the right to own property and not be arbitrarily deprived of it; the right to work, form a labour union and to strike; and freedom of contract
- *Socio-economic rights* – the right to education, housing, health support, leisure, and a reasonable standard of living.

As those examples illustrate, the notion of a human right is open-ended. The list of rights can vary according to the author of the list and the purpose for which the list is drawn up. The modern trend is to align the list of human rights with those specified in international conventions or treaties that national governments have sworn to uphold. Examples of conventions that have been adopted by many members of the United Nations include the *Convention Relating to the Status of Refugees* (ratified by Australia in 1954), *International Convention on the Elimination of all forms of Racial Discrimination* (1975), *International Covenant on Economic, Social and Cultural Rights* (1976), *International Covenant on Civil and Political Rights* (1980), *International Convention on the Elimination of all forms of Discrimination against Women* (1983), *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment* (1989), *Convention on the Rights of the Child* (1990), and the *Convention on the Rights of Persons with Disabilities* (2008). Three other influential human rights documents are the *Universal Declaration of Human Rights*, the *Declaration on the Rights of Indigenous Peoples*, and the *European Convention on Human Rights and Fundamental Freedoms*.

The length and diversity of that list of human rights is relevant in considering the role that Ombudsman offices can play in safeguarding rights. Some rights have been reduced domestically to enforceable legal standards. As to those, it is possible for an Ombudsman's office to play a constructive role in ensuring that the law is properly observed (and, consequently, that the right is safeguarded against arbitrary state action). Two examples are the right of an adult citizen to be registered to vote in a national election, and the right of a foreign national who has entered a country to make a claim for asylum within that country.

Some other rights that have been reduced to enforceable legal standards can be protected by Ombudsman offices, but there are other more effective legal processes for doing so. An example is the right of a person who has been charged with a criminal offence to a fair and speedy trial in which the presumption of innocence and the privilege against self-incrimination are upheld. The court conducting the criminal trial is far better placed than an Ombudsman's office to ensure that those rights are upheld.

Some rights, on the other hand, are aspirational in nature, and cannot simply be reduced to an enforceable legal standard. There is room for debate as to the scope of the right and whether there has been unreasonable or unjustified government interference with the enjoyment of the right. Examples include the rights to work, education, housing and health support. There is less scope for an Ombudsman's office to play a meaningful or definitive role in safeguarding rights of that kind. Even if the scope of the right can be delineated, enjoyment of the right can still depend on other factors over which the Ombudsman's office has little control – such as the budgetary resources allocated by a government to support health, housing or education. These are among the competing priorities that face government, and the views or recommendation of the Ombudsman may not carry great sway.

Another point of differentiation is that some rights are more important to Ombudsman offices than others. In broad terms, Ombudsman offices are especially interested in safeguarding *administrative law rights*. This includes the right to complain about the actions of a government agency without reprisal, the right to natural justice (a fair hearing, and an unbiased decision) before adverse action is taken by a government agency, and the right to equal and non-discriminatory treatment by government.

A further introductory point to be considered is the question of coverage: which bodies can be required to observe human rights? The discussion to this point has dwelt on the obligation of government agencies to respect human rights. By nature, some rights are in the nature of claims against the state – such as the right to vote, to a fair and speedy trial, and to housing. Some other rights can be asserted against (or can be infringed by) private corporations as much as by government agencies. An example is that the right to privacy can be infringed as easily by a private corporation that is an employer, a health provider, or a

credit provider. The right not to be discriminated against on the basis of race, sex, nationality or disability will also be a hollow right if it is only government agencies that are required to respect that right.

This is relevant to Ombudsman offices in relation to their jurisdiction. The jurisdiction of most Ombudsman offices is confined to the public sector.<sup>1</sup> They can only exercise their powers or offer a remedy to a person in relation to the actions of a government agency. The trend in Australia and in many other countries is to establish a separate or industry Ombudsman office to investigate the actions of private corporations. Examples from Australia are the Telecommunications Industry Ombudsman, Financial Services Ombudsman and Energy and Water Ombudsman. As those examples illustrate, Ombudsman coverage of private sector activity that infringes human rights is likely to be partial only.

## HOW ARE HUMAN RIGHTS PROTECTED IN AUSTRALIA?

Human rights, as the preceding discussion illustrates, are numerous and far-reaching. The laws and mechanisms needed to protect human rights must be equally various. It is likely that an Ombudsman's office, however well-resourced and effective, will only ever be a minor player in the larger scheme for human rights protection. That theme is captured in a description of the Australian human rights and legal framework.

### ***The Australian federal system***

Australia has a federal system in which there are two levels of government.<sup>2</sup> The national government – also called the Australian, Federal or Commonwealth Government – is responsible under the Constitution for topics on which uniform national laws and regulation were thought to be desirable. Examples are the economy, defence, foreign relations, immigration, banking, the currency, and marriage and divorce. At the regional level are six State governments – in New South Wales, Victoria, Queensland, South Australia, Western Australia, and Tasmania – that are responsible for significant areas of domestic concern, such as health, education, housing, transport and civil and criminal law.

Both areas of government, within their own areas of responsibility, can make laws or take actions that are threatening to human rights. Both levels of government have responded by establishing laws and mechanisms (including Ombudsman offices) for human rights protection. Before describing those laws and mechanisms, it should be noted that there is limited constitutional protection of human rights in Australia. There is, for example, no constitutional bill of rights akin to that in the United States or other countries. Only a few rights were given explicit constitutional protection, such as freedom of religion (Constitution s 116), freedom of interstate movement (s 92) and the right to a jury trial for an indictable offence (s 80).

An important force for rights protection in Australia, which does have a constitutional foothold, is the independence of the judiciary. Judges have security of tenure (Constitution s 72), and the Constitution guarantees the right of a person to seek judicial review of Commonwealth government action (s 75). Courts are accustomed in Australia to reviewing the legality of government action, and declaring laws and executive action (including decisions of Ministers) to be invalid. This established tradition of robust judicial

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<sup>1</sup> As discussed below in the text accompanying footnote 9, the Commonwealth Ombudsman has jurisdiction over the actions of 'Commonwealth service providers', that is, private bodies that provide goods or services to the public under a contract with a government agency: *Ombudsman Act 1976* (Cth) ss 3(4B), 3BA.

<sup>2</sup> There are also separate territory governments in the Australian Capital Territory and the Northern Territory, but for convenience the following discussion looks only at the national and State human rights systems.

independence has always been respected by the legislature, government and executive agencies.

### ***Human rights protection at the national level***

The lead agency at the national level responsible for human rights protection is the Australian Human Rights Commission (formerly the Human Rights and Equal Opportunity Commission). The Commission is a statutory agency that administers a number of national laws dealing with human rights and anti-discrimination. The principal office holders in the Commission are the President, Human Rights Commissioner (a function currently discharged by the President), Aboriginal and Torres Strait Island Social Justice Commissioner, Disability Discrimination Commissioner, Race Discrimination Commissioner, and Sex Discrimination Commissioner.

The Commission can investigate discrimination and human rights breaches, either upon receipt of a complaint from a member of the public or at the instigation (own motion) of the Commission. Different arrangements apply to discrimination and human rights complaints.

As to discrimination complaints, the primary role of the Commission is to conciliate a complaint, in which the parties can agree on a remedy that may range from an apology to financial compensation. If conciliation of a discrimination complaint is unsuccessful, the complainant can commence proceedings in the Federal Magistrates Court for a binding determination and remedial order. In human rights complaints, the President exercises an Ombudsman-like function, and is confined to making recommendations or preparing a report for tabling in the Parliament.

The Commission's jurisdiction in discrimination matters extends to State government agencies, private corporations and individuals. Jurisdiction over human rights matters is confined to Australian Government agencies. The Commission also has a special power to intervene in legal proceedings as *amicus curiae* (friend of the court) to advance a human rights argument.

The Commission exercises a range of investigatory, research, educational and advisory functions. A major role of the Commission is to promote respect for human rights in Australia. In carrying out this function the Commission holds public inquiries, undertakes research, makes submissions to parliamentary and other inquiries, publishes human rights resources and education materials for the community (including schools), and is a frequent commentator in the media and public forums on human rights issues.

### ***Human rights protection at the State level***

There are counterpart bodies at State level – mostly called anti-discrimination boards or equal opportunity commissions. Generally, these state agencies can make a binding order, such as an order awarding compensation or reinstating a person in employment.

One of the Australian States, Victoria, has a human rights charter – the *Charter of Human Rights and Responsibilities Act 2006*.<sup>3</sup> The *Charter* goes a step further than other Australian human rights legislation, in a number of respects. It lays down a strong presumption in favour of human rights protection, by expressly declaring that 'so far as it is possible to do so ... a ... law must be interpreted [by courts and executive agencies] in a way that is compatible with human rights' (s 32). The Supreme Court is authorised to make a non-binding declaration – to which the Attorney-General must respond in Parliament – that a law is incompatible with a human right listed in the *Charter*. The *Charter* also requires a parliamentary committee to examine all proposed laws to report on whether they are consistent with the *Charter*.

The *Charter* is administered by the Victorian Equal Opportunity and Human Rights Commission, but also provides that the Victorian Ombudsman can investigate whether the

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<sup>3</sup> There is a similar law in the Australian Capital Territory – the *Human Rights Act 2004* (ACT).

administrative actions of a Victorian Government agency are incompatible with the *Charter*.<sup>4</sup> In his 2009 Annual Report, the Victorian Ombudsman reported on human rights investigations he had undertaken into taxi services for blind people, conditions in custodial facilities, and prisoner access to bail application forms.

### ***International human rights bodies***

Another noteworthy feature of the Australian system is that complaints about violation of human rights standards by Australian Government agencies can be made to some international committees. An example is that a complaint can be made to the United Nations Human Rights Committee under the Optional Protocol to the *International Covenant on Civil and Political Rights*, which Australia has ratified. Complaints can also be made to UN committees under human rights charters ratified by Australia relating to children, women, torture and racial discrimination.

### ***Reform of the Australian human rights framework***

In response to continuing debate in Australia about the adequacy of the human rights framework, the Australian Government appointed a National Human Rights Consultation Committee in 2008 to undertake a national consultation. The Committee conducted over 65 community roundtables and public hearings in more than 50 locations, and received more than 35,000 submissions.

The Committee reported in October 2009.<sup>5</sup> The thrust of the Committee's approach is captured in a very brief Recommendation 1: '*The Committee recommends that education be the highest priority for improving and promoting human rights in Australia*'. This should be done through development by the Australian Government of a national plan for education in human rights and responsibilities to be adopted in schools, universities, the public sector and the community generally. The plan should be based on Australia's international human rights obligations.

Other proposals of the Committee included a human rights audit of all national legislation, policies and government practices; a statement of human rights compatibility to be attached to all legislation introduced into the Parliament; the establishment of a Joint Parliamentary Committee on Human Rights; incorporation of human rights observance in the Australian Public Service Values and Code of Conduct; development of human rights action plans by Australian Government agencies; expansion of the functions of the Australian Human Rights Commission to give it a stronger role in scrutinising legislation and government practices; and enactment of a national Human Rights Act, that would require legislation to be interpreted compatibly with human rights values, and government agencies to act consistently with the Act. The Committee also recommended that an individual be able to institute legal proceedings in a court for a remedy (including damages) where a breach of human rights has occurred.

## **IS HUMAN RIGHTS PROTECTION AN OMBUDSMAN FUNCTION?**

There are said to be three different models for an Ombudsman's office: investigation of maladministration; human rights protection; and corruption prevention.<sup>6</sup> There is overlap

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<sup>4</sup> The Ombudsman's role is outlined in a Fact Sheet published by the Victorian Ombudsman – Fact Sheet 16, 'The *Victorian Charter of Human Rights and Responsibilities Act 2006* and Ombudsman Victoria': available at [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

<sup>5</sup> The report is available at [www.humanrightsconsultation.gov.au](http://www.humanrightsconsultation.gov.au)

<sup>6</sup> Other functions can be discharged by Ombudsman offices that are compatible with either model. As spelt out in the Foreword to the *Commonwealth Ombudsman Annual Report 2008-09*, the office now has five key functions: complaint handling and investigation; own motion investigations into potential problem areas in public administration; compliance auditing and inspections (eg, inspecting records

between those objectives, and it is fair to say that most Ombudsman offices embrace all three objectives. Nevertheless, each objective carries different implications for the style and method of an Ombudsman's office.

An Ombudsman's office that primarily deals with maladministration is likely to regard complaint handling as its core function. The aim of the office will be to make itself known and accessible to members of the public, so that they can approach the office with any grievance against a government agency. In handling and investigating complaints, the office will adopt a neutral and impartial stance: it is neither the advocate of the complainant nor the representative of the agency. The objective of the office will be to resolve complaints in the most effective and informal method possible. To do so, it is important that the Ombudsman has a good working relationship with government agencies.

An Ombudsman's office that has a large corruption prevention role will experience different pressures. Those under investigation for corruption are as likely, by legitimate or illegitimate means, to attempt to prevent or hamper an investigation. The relationship between the Ombudsman and agencies or officials who are being investigated may not always be smooth and cooperative. Investigations can also be complex and lengthy, as corruption by nature is practised in secret. For those reasons the Ombudsman's office may need special powers and skills, to enable it to penetrate the web of corruption.

Human rights protection can likewise impose different pressures upon an Ombudsman's office. It is common for human rights agencies to adopt a stronger advocacy role in promoting respect for human rights. In practice, this can mean that more time is devoted to own motion projects than to complaint handling. Research, education and publications are other dominant activities. The advocacy role can also mean that the office does not enjoy as close or as trusting a relationship with government agencies as an Ombudsman's office that focusses primarily on maladministration. Public perception of the office can also be more controversial, since human rights standards and claims vary widely in scope. There is probably less agreement on what is acceptable human rights practice than on what is good administration. An illustration is the sharply contested human rights debate in some countries on the legitimacy of laws to counter terrorism.

Bearing those considerations in mind, many Ombudsman offices choose to follow the classical model, and concentrate on investigating complaints of maladministration. That has certainly been the preferred style of Australian Ombudsman offices. Our view is that we will be most effective if we devote our limited resources to doing most what we do best. A primary Ombudsman skill is to assist citizens who are lost in the maze of bureaucracy – who do not understand the complex laws that govern their behaviour, or who feel powerless to ask an agency to be prompt in dealing with their case or application. Some of those complaints require sustained investigation, which is another Ombudsman skill. Through complaint handling and investigation we can pinpoint defects and unacceptable conduct in government administration. Highlighting bad administration can raise the floor in defining and facilitating good administrative practice. If that necessary function is not performed by an Ombudsman's office, there is a fear that it will not be performed as well by other external oversight mechanisms.

An Ombudsman's office can nevertheless play a major role in human rights protection, even if that is not identified as a core function. The next section of this paper will illustrate that point, by reference to the practice of Australian Ombudsman offices.

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of law enforcement agencies to gauge compliance with laws relating to telephone interception and electronic surveillance); specialist monitoring and oversight functions (eg, preparation of reports on people in long term immigration detention); and promoting good administration in government agencies).

## HOW A CLASSICAL OMBUDSMAN OFFICE CAN PROTECT HUMAN RIGHTS<sup>7</sup>

### *Promoting the right to complain*

The right to complain against government, when securely embedded in a legal system, is surely one of the most significant of all human rights. Indeed, countries that are portrayed as having a poor human rights record are usually so classified because critics of the government are silenced or detained.

A great achievement of Ombudsman offices is to entrench the principle that people have a right to complain about government, to an independent agency, without hindrance or reprisal, and to have their complaint resolved on its merits according to the applicable rules and evidence. I well remember that when the Ombudsman's office was first established in Australia people were sceptical about coming forward with complaints in areas such as policing and taxation – 'Why identify yourself as a troublemaker' was a familiar fear. Over thirty years of complaint handling that fear has all but disappeared and the public now feels confident and protected in complaining against government and big business.

Australian practice illustrates the success of this human rights initiative. In 2008-09 over 45,000 people approached the Commonwealth Ombudsman for advice or to lodge a complaint. This was an increase of 14% over the previous year. Together, Australian Ombudsman offices receive over 500,000 complaints each year about national and state government agencies and large businesses. Clearly, people are aware that they have a right to complain and feel confident in doing so.

Public awareness of the right to complain has also strengthened over time. Surveys commissioned by my office in 2006 and 2007 indicate that around three quarters of those surveyed were aware of the role of the Ombudsman's office. In the latest survey 'the Ombudsman' was the most frequently nominated agency to turn to with a complaint about government.

### *Dealing with rights issues in all areas of government*

In recent decades there has been a continuing and substantial growth in government – in functions, in complexity and in size. Government now exercises far greater control over the population, through regulation, policing and national security and other controls. People are more likely to be in contact with a government agency – to pay taxation, receive a social support benefit, obtain a visa to travel, pay a charge, apply for a licence, seek planning approval, or ask for assistance or protection.

Many of those transactions involve human rights issues, directly or indirectly. For example, denial of a visa may result in a person being required to leave the country, and denial of a passport prevents a person's freedom of movement to leave the country. A person who is denied a social support benefit or housing assistance may suffer a reduced quality of life. Similarly, non-compliance with taxation or licensing laws can result in a penalty being imposed or a person's occupational freedom being restricted.

Ombudsman offices handle complaints on a daily basis about those and a great many other issues. Although the complaints are not always portrayed as human rights claims, that dimension will always be present, overtly or subtly. The primary focus of an Ombudsman investigation is upon whether an individual is being treated properly by government. Protecting individuals in their dealings with government is a key human rights objective. The fact that the Ombudsman discharges that function across the breadth of government activity, and upon complaint from any member of the public, adds to the significance of this role.

In short, complaint handling and administrative investigation is a practical and effective way of protecting people's rights.

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<sup>7</sup> This section draws in part on an earlier paper available on the Commonwealth Ombudsman website, [www.ombudsman.gov.au](http://www.ombudsman.gov.au): 'The Role of the Ombudsman in Protecting Human Rights' (2006).

### ***Flexibility of the Ombudsman model***

Human rights protection is a practical challenge. A human rights agency must have the flexibility and capacity to adapt and respond to changes in the structure and activities of government and its interaction with the public.

The Ombudsman model is a flexible model that enables this to happen. Complaints to the Ombudsman help the office to identify emerging problems in public administration. These can be dealt with individually, or picked up and addressed through an own motion investigation.

Two shifts in public administration that have occurred in Australia, which have been picked up by the Commonwealth Ombudsman office, illustrate this flexibility in responding to new human rights challenges. One shift is that government now relies increasingly on non-statutory (or executive) power to underpin regulation and benefit distribution. Recent examples in Australia are the management of immigration detention centres, payment of lost employment redundancy entitlements, job capacity assessment, work referral for job seekers, financial case management, disaster relief, payment of administrative compensation for defective administration, environmental subsidies, and industry restructuring grants.

Courts are generally hampered in reviewing decisions of that kind, in part because of the lack of a statutory standard to apply. The Ombudsman's office, by contrast, can focus on whether the executive scheme is properly defined and administered, and whether the rules of the scheme are easily accessible by the public. These issues were recently highlighted in a report by the Commonwealth Ombudsman that laid down eight best practice principles for establishing an executive scheme.<sup>8</sup>

A second shift is that government programs are increasingly administered by private firms under a contract with a government agency. Examples from Australia include management of prisons and immigration detention, assistance to job seekers, skills assessment, and postal services. The flexibility of the Ombudsman model has enabled us to adjust to that change, in part by emphasising that while a government agency can contract out service delivery, it cannot absolve itself of program responsibility and accountability. We therefore insist that individuals are properly treated by the government service provider, according to the standards expected of government. Parliament recently endorsed this approach by confirming the jurisdiction of the Commonwealth Ombudsman to deal with complaints against government service providers.<sup>9</sup>

### ***Specialist Ombudsman tasks***

Australian Ombudsman offices have also been given specialist functions so that they can better deal with emerging issues in the relationship between people and government. These specialist roles are often targeted at protection of vulnerable groups in society.

An example is that my office was given a specialist role as Immigration Ombudsman. One activity in that role is to prepare a report that is tabled in the Parliament on each person held in immigration detention for more than two years. When we commenced this function in July 2005 there were 149 people who had been in detention for more than two years. As at August 2009, after presentation of over 550 reports, the number in long term detention had reduced to 17. That is a significant human rights outcome. The role was recently altered so that my office now prepares a report to the Secretary of the Department of Immigration on each person held in detention for six months.

A comparable example at the State level in Australia is that the New South Wales and Western Australian Ombudsman offices have a specialist statutory role in child protection.

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<sup>8</sup> Commonwealth Ombudsman, *Executive schemes*, Report No 12/2009; see also *Putting things right: compensating for defective administration*, Report No 11/2009.

<sup>9</sup> *Ombudsman Act 1976* (Cth) ss 3(4B), 3BA.

The offices review reports on child deaths, and monitor the work of government child protection agencies. This has been a high profile role in the Australian media, and has drawn public attention to this difficult human rights issue.<sup>10</sup>

### ***Stimulating systemic change***

Rights are better protected when the culture of government agencies is sensitised to this need. Ombudsman's offices can work towards that objective in three ways.

The first is by promoting systemic change in agencies when problems are identified. Individual case investigation, backed up by own motion reports on selected topics, is an effective means of stimulating systemic change. The individual cases provide an example of what has gone wrong and must be improved. They shine a light on worrying defects in the administration of an agency. The own motion reports are a way of highlighting recurring problems and making recommendations for change.

The second is by following up on the findings and recommendations made in those reports and individual cases. The style of the office is both reactive and proactive. A recommendation contained in most Ombudsman reports is that the agency will provide advice at a predetermined date on the action taken by the agency to implement the Ombudsman's findings. Added pressure can be applied to the agency if inadequate action is taken by an agency. The media usually takes a strong interest in any Ombudsman criticism of an agency.

In addition, both during investigation and subsequently, there is a constant dialogue between Ombudsman and agency staff. Subtle but effective persuasion and pressure can be applied to an agency to improve the way it makes decisions and interacts with the public. Over time, agencies come to welcome this dialogue and frequently invite the Ombudsman and senior officers to address agency staff on how they can improve their service to the public. My own experience is that these meetings provide a unique opportunity to highlight problems in public administration and to explain why and how those problems must be addressed.

The third way of stimulating cultural change is by encouraging agencies to be more citizen-focussed and to strive to improve service delivery. A legacy of Ombudsman work is that most agencies soon establish their own professional internal system for complaint handling and adopt a customer service charter. This is an important development that marks the agency's acceptance that clients and complaints matter. In time, the agency becomes far more responsive to the needs of individuals.

## **CONCLUSION**

Human rights protection is a strong and developing theme worldwide. There is a higher expectation of governments that they will respect and promote human rights. That requires a multifaceted response involving the parliament, courts, tribunals, executive agencies, oversight bodies, the media and non-government organisations. Public education must be a central theme of any human rights strategy.

Ombudsman offices are not the only agency dedicated to ensuring there is better human rights protection for individuals in society. Ombudsman offices play a limited role, but it can nevertheless be an important and effective role. This can be done without transforming the fundamental nature of the Ombudsman's role. The office can provide a different model for human rights protection, while adhering to the classic and fundamental Ombudsman role of dealing independently and impartially with people's complaints against government.

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<sup>10</sup> Eg, see NSW Ombudsman, *The Death of Ebony: The Need for an Effective Interagency Response to Children at Risk* (Report to the Parliament, October 2009).