



REF: BC109/147/01(21)

31st December 2019

Honourable Speaker
Speaker of the National Assembly
Reverend Pye's Lane
Banjul

Honourable Speaker,

SUBMISSION OF 2019 ANNUAL REPORT

I have the esteemed honour and privilege to submit the 16th Annual Report of the Office of the Ombudsman covering the period 1st January to 31st December 2019.

The Report is submitted pursuant to Section 163 (2) (f) of the Constitution of the Republic of The Gambia 1997 and Section 15(1) of the Ombudsman Act 1997.

Please accept madam, the assurance of my highest consideration.

Yours sincerely,

.....
Hon. Bakary K. Sanyang
Ombudsman

CC: File

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CHAPTER 1

1.1 REMARKS BY THE OMBUDSMAN

The creation of an Ombudsman Office in the Gambia is a constitutional requirement, as stated in Chapter X (ten) Section 163 of the 1997 Constitution of The Republic of The Gambia which states “***Subject to the provision of this Constitution, An Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision of his or her functions and duties.***” Thus, the 1997 Ombudsman Act establishes the Office of the Ombudsman and prescribed the powers and functions of the Ombudsman.

Honourable Speaker, I would like to reiterate that since the establishment of the Office of the Ombudsman, one of our major concerns has been to work towards fully realizing all the mandates of the Office. Great successes were registered but certain impediments also existed. However, we never relented in that quest and today, in addition to our core mandate of complaints handling and investigations, we continue to visit prisons and all detention centres and receive assets declared by public officers.

We cherish this as a great opportunity to advance the cause of administrative justice in the Gambia. My office will continue to perform its mandate with firm commitment to the values that are characteristic of an impartial and reliable system of justice.

Honourable Speaker, a good chunk of my statement will be directed to the new activities of the Office vis-a vis Assets Declaration by government officials and visits conducted in police cells, prisons and all detention centres in which great strides have been made.

On visiting prisons and all detention centres, Section 3(b) of the 1997 Ombudsman Act mandates the Ombudsman “to investigate complaints concerning the functioning of the Public Service Commission, the Administrative and Security Organs of the State, The Gambia Police Force, and Prisons Service in so far as the complains relate to the failure to achieve a balanced structuring of the force and service or equal access by all to recruitment to the force and service or fair administration in relation to them.”

Section 11(2) of the Ombudsman Act 1997, further states that “Notwithstanding the provision of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, the allegation or complaint shall not be made through or subject to scrutiny of any other person. This section gives the Ombudsman the jurisdiction to receive complaints from prisoners and to start investigation on the lawfulness of the decision.”

Honourable Speaker, The Ombudsman and team continue to visit the main Prisons at mile two and the Prison at Jeshwang. All cells at mile two and Jeshwang Prisons were visited, including the kitchen, the clinic, food stores, the skill centre etc.

The team interviewed prisoners and inspected various administrative records. Similar procedures were done at police stations. An area of great concern is the state of the remand prisons in terms of the number of years that some of them have remain in custody without being judged and sentenced or acquitted. The Ombudsman recognizes the importance of the protection of the fundamental rights and freedoms of all Gambians particularly those in prisons and all detention centres as set out in chapter IV of the 1997 constitution of The Republic of the Gambia. This mandate is spelt out clearly in Chapter X Section 163 of the 1997 Constitution.

The main objective of our visits to these detention centres is to conduct inspections and investigations which make prisons and all detention centres more transparent and to draw attention to problems and conditions endured by vulnerable prisoners. With this any unjust, unfair, unsound and illegal conditions will be discovered and recommendations made for corrective measures.

The Ombudsman will ensure that detainees are kept in a conducive environment and to report to Government its findings and make appropriate recommendations in line with the optional protocol on the convention against Torture and all degrading Acts. Thus the Ombudsman will be coming up with reports containing genuine evidences of conditions in Prisons, Police cells and all places of detention. In addition the Ombudsman will be receiving genuine complaints from prisoners and people in detention for appropriate action and recommendations.

On Assets Declaration, Section 223 of the 1997 Constitution of the Republic of The Gambia requires all public officers to submit to the Ombudsman a written declaration of all property and assets owed by him or her and of liabilities owed by him or her whether directly or indirectly. The declaration of income and assets is a constitutional requirement. Chapter XX1 (Code of Conduct of public officers) Section 223 (Declaration of Assets) of the 1997 Constitution of the Republic of The Gambia requires public officers to declare to the Ombudsman a written declaration of all property and assets owned to him or her, and of liabilities owned by him or her, whether directly or indirectly on assuming office, at the end of every two years and on ceasing to hold public office.

The 1997 Constitution of the Republic of The Gambia states that a false declaration in any such declaration shall be deemed to be a contravention of the code of conduct set out in chapter XX1. It further states that a declaration shall be produced if required by a proceeding before a court of competent jurisdiction other than a district tribunal and in proceedings before a commission of inquiry appointed in accordance with the constitution.

Any property or assets acquired by a public officer after an initial declaration of assets which is not attributed to his /her income from his/her public office or other permitted employment, personal gifts, as permitted by the code of conduct, inheritance or a loan or investment (including any saving scheme) or ordinary commercial terms, shall be prima facie (clear) evidence of having been acquired and in the absence of a credible explanation by the public officer concern

may be deemed to have been acquired in contravention of the code of conduct and shall render the public officer liable to disciplinary action by the appropriate person or authority or removal from office or proceedings for removal as provided by the constitution or any other law.

Honourable Speaker, assets declaration is not a threat to privacy but instead it is a powerful tool to fight corruption which is a concern in most countries. It has immense benefits jurisdiction. The literature on asset declaration states many benefits of the process. Including the following:

- It increases transparency and the trust of citizens in public administration.
- It protects public officers from false accusation
- It enhances the legitimacy of government in the eyes of the public
- It stimulates foreign direct investment
- It is a tool for the exposure of substantial unjust enrichment
- It also help heads of public institutions prevent conflict of interest amongst their employees and to promote integrity within institutions.
- The principal goal of income and asset declaration is to fight corruption
- It dissuade public officers from misconduct or other illegal activity
- It promotes economic growth in a country.

Most countries have come up with new innovations and anti-corruption laws that require public officials to declare their assets and income on assuming and leaving office. Some laws even went further to demand for the declaration of assets and income of their spouses and dependents.

However, the officers who are required to declare and the amount of details required vary from country to country. In the Gambia, There is a standard declaration form to be filled by the declarant. I am happy to report that the compliance rate so far is great. It is worth noting at this juncture that all honourable ministers have declared their assets to the Ombudsman through your directives.

Permanent Secretaries, Deputy Permanent Secretaries, Managing Directors, Deputy Managing Directors, Executive Directors, Deputy Executive Directors and Directors, from both government institutions and parastatals have declared their assets and the compliance rate is high. The process will be trickled down to all senior government officers and those in parastatals. Let me at this junction assured all and sundry that the information collected will be treated and tackled with confidentiality and strictly in according to the dictates of the 1997 Constitution of the Republic of The Gambia and the Ombudsman Act 1997. A cardinal principle of ombudmanship is to treat information with confidentiality, integrity, justice and fair play. I will ensure that the fundamental rights and freedom of all citizens are safeguarded.

Honourable Speaker, the Ombudsman services are free of charge, speedy and confidential. The office remains independent with no interference from any external force as enshrine in the

constitution. The office in turn continues to safeguard the integrity and impartiality of the Ombudsman. The popularity of the Office continue to increase as manifested by the number and type of complaints received from both the public, parastatals and private sectors. The office has addressed numerous cases and gave advice to many whose complaints do not fall within its jurisdiction as to the appropriate place to seek redress.

1.2 THE REPORT

This is the 16th annual report of the Ombudsman and it covers the period 1st January to 31st December 2019. During the year under review, the Office registered cases from all regions of the country and continued to successfully settle cases registered.

1.2.1 DATA ANALYSIS

At headquarters 123 complaints were registered, out of these 27 complaints were from the private sector 14 complaints were satisfactorily resolved in favour of the complainants, 31 dismissed after full investigation due to lack of merit, 19 discontinued due to the fact that they were frivolous and not made in good faith, 3 withdrawn, 1 sub judice and 23 still pending.

At the Kerewan Regional Office 27 complaints were registered and investigations conducted on all the complaints. Out of these 6 were settled in favour of the complainants, 3 discontinued and 18 pending.

At the Mansakonko Regional Office 12 complaints were registered. Out of these 11 complaints were from the public sector and 1 complaint was registered from the private sector, 3 complaints were settled in favour of the complainants, 3 dismissed after full investigation for lack of merit, and 5 pending.

At the Basse Regional Office 38 complaints were registered out of these 37 complaints were from the public sector and 1 complaint from the private sector. 33 complaints were settled in favour of the complainants, 3 discontinued and 1 still pending.

The institutions with the highest number of complaints during the period under review are:

- Gambia Police Force 11
- Gambia Armed Forces 9
- Banjul City Council 5

The report contains samples of cases investigated with summary of the cases. However, the statistics depicts a true representation of the cases in 2019.

1.3 ACTIVITIES OF THE OFFICE

During the year under review, apart from the routine investigation activities and clinics conducted in the regions and headquarters office, the office accomplished series of activities as per the offices work plan and strategic plan 2019- 2023

1.3.1 SENSITIZATION

Awareness creation remains a priority for the Office of the Ombudsman. During the period under review we continued to use a multi-dimensional approach to awareness creation, the activities we conducted were in the form of workshops, clinics and radio programmes

The clinics were organized for both communities and public institutions in the North Bank Region, West Coast Region and the Upper River Region. A number of villages in rural Gambia, including far-flung areas were visited.

The majority of complaints from the regions in the previous years and during the period under review continued to come from members of the public against public officers as opposed to complaints registered at the headquarters.

It appears that the low level of awareness in the regions emboldens public officers to engage in acts of administrative injustice against members of the public. The fact that the bulk of rural complaints are registered during our clinics is a clear indication that there are many victims of administrative injustice who do not know where and how to seek redress.

The institutional and community clinics have been our main form of outreach, during which we create awareness, register complaints and forward the complaints for onward investigations.

During the period under review a sensitization workshop was organized for heads of public institution at the Senegambia Beach Hotel. Similar workshops were organized for public officers in the regions.

However, in the regional workshops for public officers we targeted mainly junior and middle level public officers. This was a novel approach geared towards widening our coverage and creating greater impact.

One of the objectives of awareness creation is to engender a change of behavior in public officers, in terms of their attitudes towards members of the public.

Public officers in the middle to lower cadre are the ones in the frontline of service delivery; hence their likelihood to commit acts of administrative injustice against members of the public who come in contact with them in the course of accessing public services.

On the other hand it is also these categories of officers who suffer the brunt of administrative injustice by heads of public institution.

Although previous awareness creation activities included institutional clinics, which involves bringing all members of a particular institution together in their institutional premises, these workshops provide unique opportunities for individual participants to benefit from in-depth discussion on the role and functions of the Ombudsman.

Also, where only junior to middle level officers are gathered, it provides a conducive avenue for the participants to freely discuss administrative practices that they may be suffering in consequence.

This is why workshops also have produced complainants or potential complainants because of the issues they raise and the ensuing discussions which give them new insights into the issues pertaining to entitlements and administrative practices.

To complain is healthy and it is mainly through complaints that we have the opportunity to right the wrongs in our system relating to acts of maladministration.

As in previous years we have also conducted a number of radio programmes. The radio programmes were in the form of phone-in panel discussions on GRTS at Mile 7 as well as regional and community radios such GRTS FM in Basse and the North Bank Community Radio in Kerewan.

1.3.2 INVESTIGATIONS

On investigation and complaints handling, the office continued to receive increase number of cases. The highest number of complaints received were wrongful dismissal or termination followed by unfair treatment and injustice.

1.3.3 CONSTRAINTS

The regional offices Mansakonko and the Kerewan Regional Offices are operating from the Governor's Office. The Basse Office was operating within one of the Ministry of Agriculture's complex. The Ministry of Agriculture has taken their office and currently the Basse Office is renting. There is the urgent need for the office to have its own structures. The management has been submitting budget proposals to finance to the effect.

1.3.4 WAYFORWARD

- Visiting prisons and police cells and all detention centres in the whole country
- To execute Section 223 of the 1997 Constitution of Republic of The Gambia ,Declaration of Assets by Public Officials
- To expand the decentralization process to have satellite offices in Brikama, Farafenni and Janjangbureh
- Continuous capacity building for both long term and short term and to conduct study tours to other Ombudsman Offices based on our new mandates
- Conducting more proactive investigations.
- Visiting mental health homes and hospitals
- Strengthening the website.
- Strengthening the Nation-wide sensitization to create more awareness on the role and functions of the Ombudsman using TV adverts, radio programs, clinics and "bantabas"
- Updating our brochure.
- Working on a strategic plan 2019-2023

- Creation of a Newsletter on activities of the Ombudsman
- Working on expanding the mandate of the Ombudsman to include the private sector.

CHAPTER 2

2.1 AIMS AND OBJECTIVES

The Institution's main objectives are:

- To subject Government's use of power to close scrutiny and so help create an environment within the civil sector in which public officers, irrespective of their hierarchy, would refrain from unjust procedures.
- To play the balancing act not only to enable public servants to understand how they can do their job better and thereby improve the standard of services to the public, but also to enhance the public understanding why Government takes certain decisions.
- To dispense administrative justice through protocols that evolve to ensure fair, reasonable, expeditious administration of the Public Sector by using **the reactive model**, that is, wait for complaints and act on them, and **the proactive model**, that is, seek out matters of concern and initiate investigations.
- To put civility, reasonableness and procedural fairness at the centre stage of public officers' dealings with the citizen.
- To be accessible and responsive to the interests and complaints of all persons particularly those who are vulnerable to unfairness such as the poor, the physically handicapped, the incarcerated, the young, the old and women.
- Seen to be transparent and, where necessary make public the findings and recommendation of its investigation.

2.2 STRATEGY

Objectives will be achieved by but not limited to the following means:

- Ensuring a culture of respect for the rights and obligations of all people in The Gambia.
- Dispensing and promoting justice in a free, informal and relatively expeditious manner.
- Ensuring fairness, efficiency, transparency, accountability and application of best practices.
- Using a well-trained motivated workforce and the most modern technology.
- Ensuring that the Ombudsman services are easily and freely accessible to all people in The Gambia.

- Creating awareness for the public to understand the role and function of the Ombudsman.

In carrying out all these activities the Office of the Ombudsman will be guided by the need for impartiality and independence and the importance of collaborating with other Government institutions as well as civil society.

2.3 TRAINING

Staffs training continue to be priority areas in the activities of the office as management is cognizant of the importance of training and capacity building in the effective implementation of an institutional mandate. During the year under review, one of the staff is currently pursuing an LLM on Human Rights and Humanitarian Law through distance education at Aberystwyth University in UK. One of the senior investigators is pursuing a Master's Program on International Human Rights and Humanitarian Law at the Viadrina European Frankfurt (Oder) Germany.

On local short-term training, two members of staff are currently pursuing courses with The University of The Gambia. One is pursuing an LLB program and the other MSC program on International Relations and Diplomacy. The Principal Accountant and the Accountant are pursuing ACCA courses with Grace Institute of Professional Accounting.

One of the Principal investigators attended a Certificate in Project Management organised by The African Institute for Economic Development and Planning. One of the investigators completed his MSC program on International Relations and Diplomacy with the University of the Gambia.

The Director of investigation & Anti-Corruption and the Director of Human rights went on a study tour to The Public Complaints Commission Abuja, Nigeria from the 10th to 14th June 2019. The purpose of the visit was to understand the Nigerian Ombudsman institution (Public Complaints Commission) and also to learn from other relevant agencies in Nigeria such as National Committee against Torture, National Human Rights Commission, Code of Conduct Bureau and Code of Conduct Tribunal.

The Ombudsman Office participated in the International Ombud Expo held in Abuja, Nigeria from the 28th to 31 October 2019

The deputy Ombudsman participated on a Study Tour on Public Sector Management to India from 2-6th December 2019 to learn on the best practice in the area of Recruitment Management System, Civil Service Pension Scheme and Performance Management System.

OVERSEAS TRAINING 2019

<u>NAME</u>	<u>DESIGNATION</u>	<u>TRAINING COURSE</u>	<u>INSTITUTION</u>	<u>DURATION</u>	<u>SALARY STATUS</u>	<u>SOURCE OF SPONSORSHIP</u>
Landing Bondi	Director of Human Rights	LLM Human Rights and Humanitarian Law(online)	Aberystwyth (UK)	3yrs commencing 1 st October 2015	With salary	Ombudsman
Nurudeen Mbye	Senior investigator	Master's Program on International Human Rights and Humanitarian Law	Viadrina European Frankfurt (Oder) (Germany)	30 th 2019 September 2020	With salary	Ahmadiyya Muslim Jammāt

LOCAL TRAINING

<u>NAME</u>	<u>DESIGNATION</u>	<u>TRAINING COURSE</u>	<u>INSTITUTION</u>	<u>DURATION</u>	<u>SALARY STATUS</u>	<u>SOURCE OF SPONSORSHIP</u>
Pierre Simon Secka	Director of Investigation	LLB Programme	University of The Gambia	2019-2023	With salary	Ombudsman
Baboucarr B.I. Touray	Investigator	MSc in International Relations and Diplomacy	University of The Gambia Graduate School of Arts and Science	2017/2018 and 2018/2019 academic years.	With salary	Ombudsman
Isatou Fatty	Investigator	Masters in International Relations & Diplomacy	University of The Gambia	2019-2021	With salary	Ombudsman
Ebrima J. Sawo	Principal Accountant	ACCA/CAT/FIA (Papers: F4)	Grace Institute of Professional Accounting	6 months	With salary	Ombudsman
		ACCA (Papers: F5/PM)		6 months		
Ousman Jobarteh	Accountant	ACCA/CAT/FIA (Papers: F5/PM, F6/TX & F7/FR)	Grace Institute of Professional Accounting	3 months	With salary	Ombudsman

		ACCA (Papers: F8/AA & F9/FM)		6 months		
Edrissa Sallah	Principal Investigator	Certificate in Project Management	African Institute for Economic Development and Planning	Two Weeks	N/A	Ministry of Finance/UN DP

CHAPTER 3

3.1: FINANCIAL ALLOCATIONS

During the year ended 2019, the Ombudsman financial management plan was:

- To review and build on achievements gained over the years in relation to priorities identified.
- To foster good public administration that is accountable, lawful, fair, transparent and systematic.
- To improve on subsequent financial performances and to build on expertise and capacity of staff to meet current and future challenges.
- To ensure compliance and consistency in our procurement procedures according to the norms of the Gambia Public Procurement Act, 2003.

The approved financial allocation for the office in 2019 is D20, 341,000

The breakdowns of the allocations from January-December 2019 are as follows:

- | | |
|--------------------------|---------------------|
| a. Salaries etc. | D 14,981,000 |
| b. Other charges | D 5,360,000 |
| c. Total budget for 2019 | D 20,341,000 |

Table showing the trend of allocations from 2017 to 2019

YEAR	ALLOCATIONS	DISBURSEMENT	SHORTFALL	INCREMENT	VARIANCE
2019	D20,341,000	19,061,117	1,279,883	4,009,369	6.29%
2018	D16,331,631	14,473,693	1,857,938	(774,708)	11.38%
2017	D17,106,339	13,803,057	3,303,282	(2,645,432)	19.31%

Notes

Allocations: these are the amounts approved in the budgets for the office for the respective years.

Disbursement: these are the actual cash amounts disbursed by the Directorate of National Treasury to the Office of the Ombudsman during the years.

Shortfall: these comprised the difference of the approved budget and the actual amount disbursed to the office.

Increment: these are the additional funding in the approved budget for the current year over the previous year.

Variance: these are the percentage representation of the shortfall over the approved budget for the year.

3.2: STAFFING 2019

NUMBER OF STAFF	PARTICULARS OF POSITION	GRADE	ANNUAL SALARY
1	OMBUDSMAN	FIXED	170,556
2	DEPUTY OMBUDSMAN	FIXED	274,872
1	DIRECTOR OF INVESTIGATION	12.8	86,645
1	DIRECTOR OF HUMAN RIGHTS	12.4	79,733
1	DIRECTOR OF COMMUNICATION	12.5	81,461
1	PRINCIPAL INVESTIGATOR / ANTI CORRUPTION	11.8 + L	81,291
1	PRINCIPAL INVESTIGATOR/LEGAL ADVISER	11.5	70,574
1	PRINCIPAL INVESTIGATOR - HUMAN RIGHTS	11.2	67,248

1	SENIOR INVESTIGATOR - HUMAN RIGHTS	10.8+ L	70,615
1	SENIOR INVESTIGATOR - ANTI CORRUPTION	10.6	61,978
1	COMPLAINT OFFICER	10.2	57,542
12	-		1,102,515
1	ADMIN MANAGER	11.7	72,792
1	PRINCIPAL ACCOUNTANT	10.3	58,644
1	PRINCIPAL PRIVATE SECRETARY	9.8+L	60,920
1	ACCOUNTANT	8.3	43,128
1	PROCUREMENT OFFICER	8.6	45,936
1	SECRETARY	7.6	38,736
1	RECORDS CLERK	6.8	33,926
1	RECORDS SUPERVISOR	5.6	25,632
4	DRIVER	3,3.2,3.8.3.8	63,288
1	GARDENER/CARE TAKER	3.8 + L	18,614

1	MESSENGER	3.8+L	18,614
3	CLEANER	3.3,3.4,3.7	47,376
2	WATCHMEN	3.7,3.2	31,464
1	IT SUPPORT TECHNICIAN	5.3	23,256
20			582,326
1	SENIOR INVESTIGATOR	10.8 + L	70,615
1	INVESTIGATOR	8.4	44,064
1	SENIOR TYPIST	5.8 + L	29,938
1	DRIVER	3.4	15,552
1	NIGHT WATCHMAN	3.4	15,552
<u>1</u>	CLEANER / MESSENGER	3.8	<u>16,992</u>
6			192,713
1	SENIOR INVESTIGATOR	10.6	61,978
1	INVESTIGATOR	8.4	44,064

1	SENIOR TYPIST	5.8	27,216
1	DRIVER	3.8	16,992
<u>1</u>	CLEANER / MESSENGER	3.8	<u>16,992</u>
5			167,242
1	SENIOR INVESTIGATOR	10.6	61,978
1	INVESTIGATOR	8.4	44,064
1	SENIOR TYPIST	5.8	27,216
1	DRIVER	3.8	16,992
<u>1</u>	CLEANER / MESSENGER	3.8	<u>16,992</u>
5			167,242
=			=
<u>48</u>	OVERALL TOTAL BASIC SALARY		<u>2,212,038</u>

CHAPTER 4

4.1 MONITORING VISITS TO PLACES OF DETENTION

In pursuance of Section 11(2) of the Ombudsman Act 1997, the Office of the Ombudsman in 2019 visited prisons, police cells, immigration detention facilities, military detention facilities and National Drug Law Enforcement Agency the Gambia (DLEAG) detention facilities.

The visits were unannounced. The objective of the visits was to assess the treatment and conditions of prisoners and other persons deprived of their liberty and make recommendations for improvement and compliance with national, regional and international standards.

The cooperation of the authorities at the places of detention was very good. The members of the visiting team were granted access to all the facilities.

Areas that were looked into during the visits include accommodation, overcrowding, lawfulness of detention, food, health care, sanitation, treatment, and contact with the outside world and staff matters.

4.1.2 VISIT TO PRISONS

In 2019 the visiting team of the Office of the Ombudsman conducted two visits to Mile II Prison and one visit to Centre for Children and Home for the Elderly at Bakoteh, which is under Jeshwang Prison and is a place where female juveniles are kept. Mile II was visited on 19 and 24 December 2019 and Centre for Children and Home for the Elderly on 16 April 2019.

4.1.3 ACCOMMODATION

All the cells in Mile II Prison and the cell at Centre for Children and Home for the Elderly had big windows that allowed natural light and fresh air to enter. Most of the cells had sufficient artificial lighting and fans. However, the remand cell of the female wing did not have any fan. The convict cell at the female wing of Mile II Prison had fans but the inmates said that they needed four more fans. They added that their fans were not strong as the coils kept on burning whenever the place got hot. The cell at Centre for Children and Home for the Elderly had artificial light but did not have any fan. To increase ventilation in the remand wing, the authorities at Mile II Prison put burglar proofs on the doors of the cells. The Director General (DG) of Prisons informed the visiting team that heat extractors had also been fixed in the new buildings at Jeshwang Prison to extract heat from the cells when there are no fans.

The cell at Centre for Children and Home for the Elderly had a wooden bed that was similar to the ones used in most family houses. The bed had sheets and blanket. However, at the remand wing of Mile II Prison, many mattresses did not have sheets. The visiting team was told by the inmates in Cell No. 1 that only three of them had blankets and that some of them used the sheets of their mattresses to cover up and slept on bare mattresses. There were also not enough mattresses in the remand wing. There were 19 inmates in Cell no. 1 of the remand wing but the

visiting team found only 9 mattresses in the cell, meaning more than half of the inmates did not have any mattress. The mattresses were very old and threadbare. Some inmates slept under the beds of other inmates due to lack of space. The inmates informed the visiting team that they always found it difficult to turn as they were squeezed by the other inmates. Some said that their ribs were paining them as they always slept sideways. The woods the inmates slept on had nails underneath which could injure the inmates sleeping underneath if they broke down.

All the cells had mosquito nets. There were TV sets in most of the cells at Mile II Prison. However, the remand cell of the female wing at Mile II and the cell at Centre for Children and Home for the Elderly did not have any TV. None of the cells had a radio and inmates were not supplied with newspapers.

There were no wardrobes, chairs and tables in any of cells at Mile II Prison. Inmates put their clothes in bags and on ropes.

4.1.4 OVERCROWDING

Only one female juvenile was found in the cell at Centre for Children and Home for the Elderly. On the first visit to Mile II Prison, the total number of prisoners found there were 527, of whom 217 were in the remand wing, 230 were convicts in the Mainyard, 64 were in the security wing, 15 were in the female wing and 4 at the infirmary. On the second visit there were 541 prisoners, of whom 217 were in the remand wing, 231 were convicts in the Mainyard, 66 were in the security wing, 14 were in the female wing, 4 at the infirmary and 9 at Tanka Tanka Psychiatric Hospital. This means that on both occasions Mile II Prison was generally overcrowded as the total capacity of the prison is estimated to be 450 inmates.

Although not all the wings or parts of Mile II Prison were congested, the extent of overcrowding at the remand wing of the prison can be considered degrading, which is incompatible with Section 21 of the 1997 Constitution of the Gambia.

On the second visit, eight of the eleven cells had 19 inmates each whilst cell no. 9 had 23 inmates, cell no. 10 had 24 inmates and cell no. 11 had 20 inmates. Cells 1 to 6 had the same capacity of 15.3 square metres, cells 7 and 8 also had the same capacity of 21.5 square metres and cells 9 to 11 had 21 square metres each. This means for cells 1 to 6 each inmate had less than 1 square metre (0.8 square metre) compared to at least 3 square metres for each inmate which is considered acceptable in multi-occupancy cells.

For cells 7 to 8 each of the 19 inmates had only 1.1 square metres, for cell 9 the 23 inmates each had less than 1 square metre (0.9 square metre), for cell 10 each of the 24 inmates also had less than 1 square metre (0.9 square metre) and for cell 11 each of the 20 inmates had 1.1 square metres. This indicates that eight of the eleven cells at the remand wing had less than 1 square metre for each detainee. Going by 3 square metres as a minimum standard for the capacity of a multi-occupancy cell, cells 1 to 6 were supposed to have only 5 inmates instead of

19 inmates, indicating that the occupancy level for each of the six cells was 380 per cent. This is excessive overcrowding.

Cell no. 1 of the Main yard was also crowded as it had a capacity of 93.6 square metres but 34 inmates were found there instead of 31.

The visiting team was informed by the DG that one of the four blocks in Jeshwang Prison was completed and that 60 inmates had already been transferred to that prison. He added that by the Christmas of 2019 the second wing of the prison would also be completed and more inmates would be transferred there. However, the transfer of 60 inmates to the new block in Jeshwang Prison did not seem to make any difference. In fact the Remand Wing of Mile II Prison was more overcrowded than the previous year.

4.1.5 ACCESS TO JUSTICE

The DG of Prisons and other senior prison officers stated the Judiciary was their problem as cases were not moving fast enough. The DG also said that from time to time reminders were sent to the Judiciary concerning a list of delayed cases. The Prison Commissioner for Operations also stated that many convicts, including those in the female wing, had made appeals but the courts were slow. The DG also said that they had signed an MOU with Legal Aid and the Gambia Bar Association but were still issues to address.

4.1.6 FOOD AND WATER

Many inmates at the Remand Wing of Mile II Prison said that they were given only 'Chere' (cooked ground millet or maize with soup) for dinner five days in a week and that only on Tuesdays and Thursdays that they ate pap (porridge) and 'Churaigerte' respectively. They added that the pap provided to them was not of good quality and that the other food they were served with did not have enough salt and jumbo. They further said that the food given to them was small. Many of the inmates also said that they ate from a plastic bowl which, they believed, could cause cancer. The inmates were also not happy with the time the meals were served. They stated that the day before the second visit their lunch was served very late in the evening.

The authorities at Mile II informed the visiting team that the only intervention made by the government in 2019 was the funds provided for the construction of the kitchen, which was completed and handed over to the prison a week before the visit.

At Centre for Children and Home for the Elderly the visiting team was informed that inmates were provided breakfast, lunch and dinner by Social Welfare Centre and that they were given water from the fridge.

4.1.7 HEALTH CARE

The inmates at the Remand Wing of Mile II Prison said they did not get the right drugs at the prison clinic. They added that sometimes when the clinic did not have any drugs the inmates

were given a paper to buy them outside. They also said that when sick inmates called prison officers at night they did not go there to help them

The DG informed the visiting team that the prison had an ambulance and that a tricycle ambulance was given to Jeshwang Prison.

At Centre for Children and Home for the Elderly the visiting team was informed that sick inmates were taken to the clinic at the centre. The authorities added that when the sickness is serious the person is taken to a hospital by the ambulance at the centre.

4.1.8 SANITATION AND HYGIENE

There were only two toilets and two bathrooms at the Remand Wing of Mile II. This is highly inadequate for 217 inmates who were found there during the visits. The two toilets were used only during the day. The inmates complained that they still used buckets to defecate and urinate as they were not allowed to go out of cells at night. They added that the odour disturbed other inmates in the cell. The inmates also said that each cell was given 5 buckets for them to urinate and defecate in, which were not enough for 19 people. They added that sometimes urine and faeces got poured on the floors. This is degrading treatment and violates Section 21 of the 1997 Constitution, which protects the right to freedom from torture, inhuman and degrading treatment or punishment. It is also not in line with article 10 of the International Covenant on Civil and Political Rights which states that **“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”**.

At Centre for Children and Home for the Elderly, there was a flush toilet used by both the officers and the inmate. The toilet was not in the cell but in another part of the building in which the cell was. The toilet and the cell were both found clean. It was the inmate who cleaned the cell and the room near the cell. There was also a bathroom which the inmate used. The visiting team was informed that the inmate had a bath whenever she requested.

The visiting team was informed by the DG that a bar of soap was provided to each inmate once a week, instead of twice a month, which was the case before. However, the inmates at the Remand Wing said that the soap got finished quickly because they used it for both having a bath and for washing their clothes. They added that they were not supplied with any soap for a bath. At Centre for Children and Home for the Elderly, the team was informed that Soap, Dettol and Omo were provided by Social Welfare Centre.

The visiting team was informed by the DG that all the female inmates were provided with enough sanitary towels, which were provided to them by philanthropists. This was confirmed by the female inmates at Mile II Prison and at Centre for Children and Home for the Elderly.

The inmates at Mile II Prison said they were not provided with toothpaste and toothbrush. They added that many of them could not brush their teeth because they did not have any toothpaste and toothbrush. Some of them said that they had not brushed their teeth for two months. They also stated that they were not given any towel to dry their bodies after having a bath.

4.1.9 CLOTHING

The DG informed the visiting team that inmates were given two pairs of uniform each, compared to the previous years in which one pair of uniform was given. He however stated that not enough money was allocated in their budget for uniforms to be purchased.

4.1.10 EDUCATION AND VOCATIONAL TRAINING

The DG informed the visiting team that Insight Training Centre was providing vocational training for inmates in plumbing, masonry and satellite installation, which was being sponsored by Germans. He added that the third batch was being trained at the time of the visit. He also said that 46 inmates had already been trained in IT and that other inmates had already graduated in electrical installation. Insight also provided classes for inmates in literacy and entrepreneurship. The DG added that they needed carpentry tools to make the carpentry unit operational.

4.1.11 CONTACT WITH THE OUTSIDE WORLD

The officers at Centre for Children and Home for the Elderly said they always communicated to the inmate's mother what the inmate told them to tell her but they did not allow the inmate to talk direct to her mother or to any other person outside. They added that allowing the inmate to communicate direct with anyone outside would be against security.

The inmate was allowed to come out of the cell at 7am and to get in at 5pm, which is 10 hours spent outside the cell, compared to the 9 hours for most of the inmates at Mile II and other prisons.

4.1.12 ILL-TREATMENT

There was no complaint of torture or ill-treatment of inmates by the prison officers. The inmate at Centre for Children and Home for the Elderly said that she was not beaten or ill-treated in any other way.

4.1.13 VIOLENCE AMONG PRISONERS

During the first visit to Mile II Prison, two convicts fought and wounded each other on the head. Near the end of the second visit to the same prison two other prisoners fought and one of them was wounded. Deputy Ombudsman Bajie and Prison Officer Ngiran Nyan intervened and separated the prisoners. The prison officers said violence among prisoners was common.

4.1.14 STAFF MATTERS

The DG pointed out that the conditions of the staff should be improved and not only those of the inmates. He added that the condition of the staff accommodation at Janjanbureh Prison was the

worst. During the 2018 visit the visiting team found that the staff quarters at Janjanbureh Prison had old asbestos that could cause health hazards.

The officers at Mile II Prison said that they needed communication gadgets like VHS. They further stated that they would also like to have four vans, two of them for Mile II Prison, 1 for Jeshwang Prison and 1 for Janjanbureh Prison. They added that the vans would be used for taking inmates to courts in Banjul, Kanifing, Bundung and Basse. Mile II Riot Squad said that they needed riot gears.

4.1.15 BUDGETARY ALLOCATION

The DG informed the visiting team that the amount allocated to the prisons was not enough for their proper administration. He added that the prison authorities proposed D33 million for the 2020 budget but were allocated only D27 million, which is smaller than the amount given to them in 2019. He further stated that even the National Assembly Select Committee for Security said D27 million was small for all the prisons.

4.1.16 RECOMMENDATIONS

- As a matter of urgency, the Ministry of the Interior should address the issue of overcrowding at the Remand Wing of Mile II Prison.
- Ministry of the Interior should also ensure that inmates are provided with enough mattresses, sheets and blankets.
- The Ministry should ensure that inmates are provided with a variety of meals for dinner, rather than only 'Chereh' for most days of the week. Inmates should also be given adequate food of good quality and are served meals at regular Gambian times instead of late in the day.
- The Ministry should also ensure that enough funds are allocated to the prisons for the purchase of adequate medicines for the inmates.
- The inmates at the Remand Wing of Mile II Prison should be allowed to use toilets at night, rather than defecating in buckets in cells in the presence of other inmates, which is against their privacy and dignity. More officers can be on night duties to ensure this is done without any risk to security.
- Ministry of the Interior and the Judiciary should form a committee that will regularly meet to look into issues of appeals to courts and delay in cases and proffer solutions.

- The Judiciary should have visiting judges and magistrates who go to the prisons from time to time each year to address issues such as appeals to cases, as done in other countries.
- Government should ensure that prisoners have access to legal aid services. Rule 61(3) of the Mandela Rules states that there should be access to effective legal.
- Ministry of the Interior should also ensure that inmates are provided with towels to dry their bodies after having a bath.
- Inmates should also be given toothpaste and toothbrush regularly.
- Prison authorities should ensure that inmates are provided with soap which they can use for a bath, rather than giving them only one bar of soap for washing clothes.
- Good quality fans should be provided to the female wing of Mile II Prison and also to the cell at Centre for Children and Home for the Elderly.
- Ministry of the Interior should also ensure that TV sets are provided to the remand cell of the female wing at Mile II Prison and to the cell at Centre for Children and Home for the Elderly.
- Wardrobes should also be provided in the cells for inmates to keep their clothes.
- Ministry of the Interior should also ensure that chairs and tables are provided in the cells so that inmates can eat their food and also write their letters comfortably.
- Each prisoner in the other prisons should have at least two uniforms, as done in Mile II Prison. This will enable the prisoner to wear one of the uniforms whilst washing the other one.
- Ministry of the Interior should ensure that carpentry tools are provided for the carpentry unit at Mile II Prison to be operational.
- Prison authorities should allow inmates to talk to their relatives direct, rather than prison officers relaying the inmates' messages to their families. It does not seem convincing that this will affect security, as prison officers can listen to the conversations to ensure that whatever is discussed will not affect security.
- Prison authorities should ensure that violence among prisoners is addressed effectively through counselling, mediation and other relevant measures.

- Ministry of the Interior should ensure that enough vans are provided to the prisons to facilitate transportation of inmates to the courts.
- The Ministry should ensure that prison officers are provided with VHS and other communication gadgets for effective execution of their duties.
- Prison officers who are part of the Riot Squad should be provided with riot gears.
- Ministry of the Interior should ensure that the general conditions of prison officers are improved to modern standards, including the area of accommodation.
- A new prison should be built to replace Mile II Prison, which was built in the colonial days and is not up to modern standards, as recommended by the UN Special Rapporteur on Enforced Disappearance in 2017.
- Government should increase the budget allocated to the Prisons Department to ensure that the recommendations made are implemented.

4.2. VISITS TO POLICE CELLS

The Office of the Ombudsman visited police cells and detention rooms in North Bank Region (NBR), Upper River Region (URR) and Lower River Region (LRR) in 2019.

A total of 16 police stations and 11 police posts were visited and a total of 29 cells inspected.

The police stations and posts that were visited in NBR are: Juffureh Police Station, Barra Police Station, Amdallai Police Station, Ndungukebeh Police Station, Kerewan Police Station, Njain Sanjal Police Station, Farafenni Police Station, Ker Jain Police Post, Kuntaya Police Post and Njabakunda Police Post.

The police stations and posts that were visited in Upper River Region are: Fatoto Police Station, Sare Ngai Police Station, Diabugu Police Station, Bakadaji Police Station, Basse Police Station, Nyamanarr Police Post and Sabi Police Post.

The police stations and posts that were visited in LRR are: Bureng Police Station, Kwinella Police Station, Soma Police Station, Mansakonko Police Station, Pakaliba Police Post, Jappineh Police Post, Koliyorr Police Post, Mansakonko Police Post, Soma Police Post and Sankandi Police Post.

4.2.1 CONDITION OF CELLS AND DETENTION ROOMS

All the police stations visited had cells except for Diabugu Police Station, which had neither a cell nor a detention room. When there was a need to detain the arrested persons overnight,

Diabugu Police Station took them to Basse Police Station. Many police stations had a detention room in addition to cells.

Most police posts visited had neither a cell nor a detention room. Mansakonko Police Post had a cell but the visiting team was informed that it was not being used for detention. A cell was also found at Sankandi Police Post but the authorities at the post informed the visiting team that it was not being used for detention as it was not roofed. They added that they always referred their cases to Mansakonko Police Station. Njaba Kunda Police Post had only a detention room. Koliyorr Police Post had neither a cell nor a detention room but the authorities at the post informed the visiting team that they detained people behind the counter for only a day and then forwarded the matter to Mansakonko Police Station.

At the time of the visits there was no detainee at most police stations. Only Njaba Kunda Police Post, Amdallai, Ndungukebbbeh, Farafenni, Mansakonko and Basse police stations had detainees. Except for Amdallai Police Station, all the police stations and police posts visited had no separate cells or detention rooms for female detainees. No police station or post had a separate cell or detention room for juveniles. Many police stations, including Kerewan, Njain Sanjal and Sare Ngai police stations told the visiting team that female detainees and juveniles were always kept at the counter whilst male detainees were kept in the detention rooms or cells.

Farafenni Police Station put juveniles at the counter and female detainees in the detention room whilst Mansakonko Police Station did the opposite, putting female detainees at the counter and juveniles in the detention room. The authorities at Kwinella Police Station said they did not detain juveniles and that they had a child welfare officer who took care of juveniles. Those at Basse Police Station said they did not detain juveniles when it was not necessary.

The international standard is that female detainees should not be kept in the same cell or detention room as male detainees and juveniles should be separated from adults. Section 29(3) of the 1997 Constitution states that **“a juvenile offender who is kept in lawful custody shall be kept separated from adult offenders”**.

The authorities at the police stations and posts visited were unable to tell the visiting team the exact capacity of their cells or detention rooms. The visiting team made rough estimation of the cells in many police stations and posts. The cells were of different sizes, ranging from 3.5 square metres for Njain Sanjal Police Station to 7.3 square metres for Fatoto Police Station. The cells at Mansakonko, Soma and Bureng Police Stations each measured 4.5 square metres whilst those at Ndungukebbbeh and Farafenni police stations each measured 5.5 square metres. This means the cells that measured less than 5 square metres may be considered overcrowded when more than one person is kept in them whilst those that measured from 5 square metres to 7 square metres may also be considered congested when they take more than two detainees.

The cells at all the police stations and posts visited had no artificial light. Different reasons were given for not putting artificial light in cells, such as the likelihood that a detainee would cause fire if an electric bulb was put in a cell. The visiting team did not find the reasons convincing.

The windows of the cells at most police stations and posts were very small and there was hardly any natural light and fresh air. Many cells had only small openings on the walls. Kerewan, Fatoto and Sare Ngai are some of the police stations whose cells had only small openings on the walls and no windows. The police stations whose cells had adequate natural light and ventilation are Farafenni, Amdallai, Barra, Bureng and Bakadaji.

In many police stations the detention rooms were better than the cells. The detention room at Fatoto Police Station was big and long and allowed adequate fresh air and natural light, compared to the cells, which had poor ventilation natural light.

Although places were hot during summer, no police station or post had a ceiling fan in the cell or detention room for artificial ventilation.

There was no police station at which detainees were provided with mattresses to sleep on. In almost all the police stations visited the team was informed that detainees slept on mats provided by the officers at the stations. The visiting team was informed by the authorities at Bureng, Kwinella and Ndungukebeh police stations that detainees always slept on cartons. Those at Mansakonko and Njain Sanjal police stations said that sometimes detainees slept on mats and at other times on bare floors. The authorities at Amdallai Police Station informed the visiting team that detainees always slept on a bare floor.

4.2.2 SANITATION AND HYGIENE

In many police stations the cells were found clean. However, the cells at Mansakonko, Kwinella and Juffureh police stations were not clean. Whilst the first cell at Mansakonko Police Station was clean, the second cell had urine and smelled bad. The station officer said it was used for urination by detainees at night and that nobody was kept there. The cell at Kwinella Police Station had bits of cartons, small pieces of bread, an empty packet of cigarette and an empty gallon. The cell at Juffureh Police Station had empty cigarette packets, bits of paper and two empty water bottles. Its roof had cobwebs and its walls were full of graffiti.

The officers at different police stations and posts said that they found it difficult to get enough supplies of cleaning products such as Omo, Dettol and Vim. The authorities at Farafenni, Barra, Amdallai, Kerewan, Njain Sanjal, Ndungukebeh and Kwinella police stations said they got supplies of detergents from police headquarters every month but they were not enough. Those at Basse, Fatoto, Sare Ngai, Bakadaji, Bureng and Soma police stations told the visiting team that they were not given any supply. The officers at Mansakonko Police Station said they used their own money to buy cleaning products from shops.

All the police stations visited had toilets, which were not in the cells. Some toilets were in the area of the detention room whilst many were in different buildings at the stations or outside the stations. Some police stations had one toilet whilst others had two.

Many police stations and posts had no toilets provided specifically for detainees. Only Basse, Barra, Ndungukebbeh and Farafenni police stations had toilets provided specifically for detainees. Kerewan, Amdallai, Njain Sanjal, Soma, Kwinella Sare Ngai and Fatoto were among the police stations at which officers shared toilets with detainees. All the police stations and posts visited had no separate toilets for male and female detainees. Many police stations had pit latrines.

Some of the toilets were in unhygienic conditions with unpleasant smell. For instance, the toilet at Bureng Police Station was stinking and the officers were advised to clean it thoroughly with Omo and other detergents to get rid of the odour.

Most police stations and posts had no bathroom for detainees. The visiting team was informed that detainees used toilets to take a bath. At Kerewan, Njain Sanjal and Fatoto police stations detainees were allowed to use the bathrooms meant for the police officers. Kwinella is the only police station where bathrooms were provided for use only by detainees.

4.2.3 FOOD AND DRINKING WATER

In most police stations and posts visited the government did not provide any food for the detainees. It was the police officers who cooked food and gave some to the detainees. Sometimes the detainees were given food by their relatives. The police stations to which government did not provide food for the detainees are Soma, Mansakonko, Kwinella, Bureng, Bakadaji, Basse, Fatoto, Sare Ngai, Njain Sanjal, Kerewan, Amdallai and Barra police stations.

Other police stations had cooks who prepared food for detainees and at the end of every month the authorities at the stations forwarded the amount to the police headquarters for payment to be effected. They are Farafenni and Ndungukebbeh police stations. However, government allocated only D5 for each detainee per day for feeding. Taking the current cost of living, this is highly inadequate. This placed a burden on the officers at the stations, who used their own salaries to feed the detainees. In many police stations and posts only breakfast and lunch were provided to the detainees whilst in others only lunch was given to them.

Access to drinking water was not a problem for detainees. Many stations had taps from which they got drinking water for the detainees. However, there were also many police stations and posts that did not have any tap. Diabugu Police Station got water from a community tap, Bureng Police Station got it from a public tap which was 200 metres from the station, Bakadaji Police Station got it from a primary school tap and Ndungukebbeh Police Station got it from a local well.

4.2.4 HEALTH CARE

The visiting team was informed at many police stations and posts that the detainees were always taken to nearby hospitals or health centres when they fell sick. For example, the officers at Barra Police Station took sick detainees to Essau District Hospital, those at Basse Police Station took sick detainees to Basse Health Centre and the ones at Sare Ngai Police Station took them to Yorobawol Health Centre, which is 10 kilometres from the station.

The officers at all the police stations and posts visited stated that treatment of detainees at public health facilities was free. However, many of them also said that they paid D25 for the ticket and when the officers did not have the money it was the detainees themselves or their families who paid it. The police stations whose officers paid D25 for the ticket include Amdallai, Barra, Juffureh, Soma and Mansakonko. The officers at some police stations, such as Sare Ngai, Ndungukebbah, Bakadaji, Fatoto and Kerewan, said that they were not asked to pay for the ticket.

The officers at most police stations and posts informed the visiting team that when the medicines were not available at the health facilities it was they the officers who bought them for the detainees. Some said when the officers did not have the money; they asked the relatives of the detainees to buy the drugs for them.

The authorities at some police stations, such as Farafenni and Njain Sanjal police stations, stated that they had encountered difficulties in getting a medical report or certificate from doctors. The officers at Njain Sanjal and Farafenni police stations also stated that the health facilities charged D500 for a medical report, which many people could not afford. They added that when there was no medical report, the matter could not be taken to court as they could not establish assault

None of the police stations and posts was visited by doctors or other health professionals to assess the health status of the detainees upon arrival and during their detention.

4.2.5 CONTACT WITH THE OUTSIDE WORLD

The visiting team was informed that detainees' right to communicate with their families, friends and other persons were respected. The team was told at most police stations and posts that officers gave their own phones to detainees to speak to their families. Others said that they allowed detainees who had mobile phones to use them to call their relatives or any other person. However, at Farafenni Police Station two of the detainees, who were Senegalese, said that they were not allowed to call their families in Senegal. One of them said it was after some days that he was allowed to give his number to the president of the Senegalese community in Farafenni for him to inform his wife about his detention. The authorities at the station said they did not have the money to buy credit for the two detainees to call their families in Senegal. In most places that the team went to, detainees were allowed to be visited by their families and friends.

4.2.6 TREATMENT

The visiting team asked the detainees whether they had been subjected to torture or ill-treatment. No detainee complained of torture or ill treatment in any of the police stations and posts visited except at Basse Police Station where a detainee said he had been insulted by an officer called Mendy. He also stated that he had seen the officer hit a child with his head. The officer was not on duty but the visiting team told the station officer to investigate the matter and take an appropriate disciplinary action if the allegation turns out true. However, the other three detainees who were in the same detention room as the one who made the complaint said that the officers never beat or insulted them.

4.2.7 LAWFULNESS OF DETENTION

The visiting team asked about the reasons for detaining the people found in cells or detention rooms and whether police stations and posts complied with section 19(3)(b) of the 1997 Constitution concerning the taking of the arrested or detained person to court within 72 hours.

Most police stations and posts visited complied with section 19(3)(b) of the 1997 Constitution, as indicated in the registers and confirmed by the detainees. However, at Basse Police Station, the visiting team found a detainee who was kept for 6 days. The authorities at the station stated that they did not have a sitting magistrate in the area and this was a problem for them. They added that the day before the visit the prosecutor at the station went to court but did not find there the magistrate.

4.2.8 INFORMATION ABOUT THE RIGHTS OF DETAINEES

Most police stations and posts visited did not inform detainees of their basic rights, such as the right not to be subjected to torture, inhuman or degrading treatment or punishment, the right to have access to a lawyer and the right to health.

4.2.9 REGISTERS

The visiting team found the following registers at many police stations: Station Diary, Crime Complaint Register (CCR), Detention and Release of Prisoner's Register Book, Prisoner's Property Register Book, Lost Property Register Book, Found Property Register Book, Exhibits Register Book, Medical Book and Sudden, Unnatural and Accidental Deaths Register. A few stations also had Forms of Medical Examination of Injuries/ Drunk Persons.

The visiting team did not find the same number of registers in the police stations and posts. Some had a few registers whilst others had many. Detention and Release of Prisoner's Register Book could not be found in many police stations. The reason given was that the book was not available at police headquarters. Some of the stations that had the book did not fill in the required sections, especially the section on the date and time of release, whilst at the other stations the book was not up to date. The visiting team could not confirm the date and time that certain detainees had been released. This can cause doubt as to whether the detention was within the 72 hours stipulated in the constitution.

The visiting team did not find any register at Fatoto Police Station as they were informed that the scribe had gone out whilst at Kwinella Police Station the team members were shown the other register books but did not find CCR and Detention and Release of Prisoner's Register Book as they were told that the scribe had gone out.

4.2.10 STAFF MATTERS

A shortage of vehicles was a major problem at police stations and posts. Some police stations had only one vehicle whilst many did not have any vehicle despite the fact that their operations covered many towns and villages. For example, only two police stations in the whole of URR (fatoto and Sare Ngai) had a vehicle. Basse being the biggest town in the region had no vehicle. Mankakonko and Soma Police Stations, the biggest in the Lower River Region (LRR), had neither a car nor a motorbike. No police station or post in LRR had a vehicle. Only the police commissioner for LRR had a vehicle.

There were no landlines, computers, printers, photocopiers, scanners and internet access at most police stations and posts. The other problems include dilapidated police stations and posts, dilapidated staff quarters, only D150 for house rent, irregular supply of uniforms, shortage of staff, limited or no office space for the staff, inadequate or no office furniture, lack of electricity, no fans, no TV sets and toilets at some staff quarters not functioning.

4.2.11 RECOMMENDATIONS

The following are some of the recommendations made.

- As a matter of urgency, Ministry of the Interior should draw up and implement a plan to renovate and modernize police cells in line with international standards.
- Ministry of Finance should allocate funds for the renovation and modernization of police cells.
- Ministry of the Interior should ensure that all the cells have adequate natural and artificial (electric) light and sufficient ventilation. Windows should be large enough to let fresh air and natural light into the cells. Fans should also be provided as places get hot during summer.
- Ministry of the Interior should develop and implement a plan for each place of detention to have at least a separate detention centre for juveniles, a separate detention centre for female detainees and a separate detention centre for male detainees.
- Ministry of the Interior should ensure that all police stations and posts are provided with adequate supply of cleaning products such as omo and Dettol.

- The Ministry should ensure that all the police cells and toilets are kept clean all the time, to avoid unpleasant smell and infectious diseases such as tuberculosis.
- The Ministry should also ensure that all the police cells have mattresses and bed sheets for detainees to sleep on.
- Ministry of the Interior should ensure that all police detention facilities have flush toilets for detainees and also for the officers, instead of pit latrines.
- The ministry should ensure that all police stations and posts with detention facilities have bathrooms for detainees.
- The ministry should also ensure that police stations and posts that do not have taps or have difficulties in having access to water are provided with taps.
- Ministry of Finance should provide adequate funds for purchase of drugs for sick detainees when they are not available at hospitals and other health facilities.
- Ministries of the Interior and Health should ensure that health professionals regularly visit places of detention to assess the health condition of detainees.
- Ministry of the Interior should ensure that landlines or other communication facilities are provided at police stations and other places of detention for detainees to communicate with their families and others.
- Ministry of the Interior should ensure that no police station or post detain any person beyond 72 hours without the permission of a magistrate.
- Judiciary should appoint sitting magistrates in all the five regions in the country to avoid detainees being kept beyond 72 hours and delay in justice.
- Ministry of the Interior should ensure that station officers always inform detainees of their basic human rights, such as the right not to be tortured or ill-treated.
- Ministry of the Interior should draw up and implement a plan to ensure that each police station in the country is provided with a car within a specified period of time for effective service delivery and security for all.
- The ministry should also draw up and implement a programme to renovate all the police stations and posts and staff quarters that are in a state of disrepair as well as build new stations and posts on the plots of land allocated to police in places where they are renting.

- Ministry of the Interior should ensure that all police stations and posts have computers, printers, photocopiers, scanners and internet access, taking into account the fact that we are in a modern age.
- Ministry of the Interior should ensure that all police officers receive regular training or continuous refresher courses in human rights and other relevant areas.

4.3 VISITS TO IMMIGRATION DETENTION FACILITIES

The Office of the Ombudsman visited five immigration detention facilities in 2019. The immigration detention facilities that were visited are Basse Immigration Station, Bureng Immigration Station, Soma Immigration Station, Bakadaji Immigration Post and Ker Jain Immigration/Police Post.

4.3.1 CONDITION OF DETENTION ROOMS

Immigration stations and posts had no cells. They had only temporary detention facilities. Basse and Soma Immigration stations had only one detention room each whilst Bureng Immigration Station, Bakadaji Immigration Post and Ker Jain Immigration Post had no detention room although they had also been detaining people. The officers at Bakadaji Immigration Post said that they usually detained people in their office, which had a big space. There was no detainee in any of the detention facilities at the time of the visits.

The detention room at Soma Immigration Station was spacious and tiled. It had two big windows and there was sufficient natural and artificial lights and ventilation. It also had a ceiling fan, a TV set, a fridge and two chairs.

4.3.2 SANITATION AND HYGIENE

The detention rooms were found clean. The officers at Bureng Immigration Station said that they had no cleaner and that it was the officers themselves who cleaned the offices. They added that they used their own money to buy omo and brooms.

4.3.3 FOOD AND DRINKING WATER

The authorities at Soma Immigration Station informed the visiting team that government did not provide any food for detainees. They added that they used their own money to feed detainees.

4.3.4 LAWFULNESS OF DETENTION

The visiting team was informed by the immigration officers that foreigners who failed to regularize their stay were the ones that they always detained. The officers at Bureng Immigration Station said that detainees never spent the night there even if they could not pay for alien's card. The authorities at Soma Immigration Station said that they screened detainees and those who could pay for the alien's card were released and those who could not pay were kept for a few hours and then asked to go and come back the following day to settle the amount. Those at Bakadaji

said after detaining them for two or three hours, detainees usually paid the money and were released.

4.3.5 STAFF MATTERS

The visiting team was informed by the authorities at different immigration stations and posts that they did not have enough vehicles. For instance, the whole of URR had only two vehicles, one at Basse Immigration Station and the other one at Fatoto. The immigration authorities in URR said two more vehicles were needed, one for Sare Ngai and another one for Bakadaji. The whole of LRR also had only two vehicles and only one was in good condition. Bureng Immigration Station did not have even a motorbike. The officers at Ker Jain Immigration/Police Post said that they had a motorbike but they could not use it as they were not given any fuel for two months.

There were no computers, printers, photocopiers, scanners and internet access at any of the immigration stations and posts visited. The authorities at Basse Immigration Station said they needed email facilities to properly communicate with their seniors at immigration headquarters in Banjul.

Lack of accommodation was also highlighted by the immigration officers. The authorities at Basse Immigration Station said that they were renting the place where the station was and were given three weeks to vacate the place. They added that they had been allocated land along Allunghare village near the Basse and bricks had been laid but no structure had been built. They further stated that the land could accommodate both a station and staff quarters and that construction should be expedited. Those at Soma Immigration Station said that all the officers at the station were renting in the town. The Commissioner for LRR said that all the immigration commissioners in the country were not provided with any accommodation whilst the police provided accommodation or paid rent for their commissioners in the regions.

The officers at Ker Jain also said that they had to look for accommodation as the place had no staff quarters. They added that the people of the village had given them a plot of land and construction had started but it had not been completed for four years. They also said that there was no electricity in the village and that they had solar but it had no battery. They added that the post had no tap and that the officers always used the village tap, which was locked at times.

The officers at Bureng Immigration Station said that their station had no toilet and that they had to go to the police station to use their toilet.

The authorities at Soma Immigration Station said that staff promotion in the Immigration Department is monopolized by officers in Banjul and Kanifing Municipality. They added that 20 officers were promoted in Banjul and Kanifing Municipality but none of the officers in the regions were promoted.

The authorities at Soma Immigration Station also said that immigration commissioners and officers in the regions did not know about longevity and that they should be given the General Orders so that they can know their rights.

The other issues raised include inadequate office space, inadequate or no office furniture, no communication facilities such as telephones, inadequate fuel supply, no fans, no TV sets, no refrigerator and no uniforms and shoes provided for many years.

4.3.6 RECOMMENDATIONS

- Ministry of the Interior should ensure that other immigration detention facilities have artificial lights and fans, as done for Soma Immigration Station.
- Ministry of the Interior should ensure that all immigration detention facilities are provided with adequate supply of cleaning products such as omo and Dettol.
- The ministry should also ensure that detainees are provided food when they are detained for more than six hours.
- Communication facilities such as landlines should be provided at immigration detention facilities for detainees to communicate with their families and friends.
- Ministry of the Interior should ensure that immigration officers always inform detainees of their basic human rights, such as the right not to be tortured or ill-treated and the right to contact with families and others.
- The ministry should ensure that immigration stations and posts are provided with enough vehicles (cars) and adequate fuel for effective service delivery.
- As we are in the age of technology, Ministry of the Interior should ensure that all immigration stations and posts are provided with computers, printers, photocopiers, scanners and internet access.
- The ministry should ensure that all immigration stations and posts have adequate office space for the staff to work effectively.
- The ministry should ensure that all immigration stations and posts have enough office space furniture.
- The Ministry should also ensure that the plots of land allocated to immigration officers in Basse and in Ker Jain are developed for a station and staff quarters and that

commissioners and other officers in the other regions are provided with adequate accommodation.

- TV sets, fans and refrigerators should be provided to immigration stations and posts in the regions.
- Ministry of the Interior should ensure that uniforms and shoes are regularly supplied, rather than to the officers using their own money to buy them.
- As a matter of urgency, a toilet should be provided at Bureng Immigration Station.
- Ker Jain Immigration/Police Post should be provided with a solar battery so that the officers can have electricity. The post should also have a tap.

4.4 VISITS TO MILITARY DETENTION FACILITIES

The Office of the Ombudsman visited military detention facilities in different regions of the country in 2019 and in 2020.

Four barracks were visited: Yundum Barracks, Fajara Barracks, Farafenni Barracks and Basse Barracks. A total of 12 cells were inspected in these barracks.

4.4.1 CONDITION OF CELLS

All the military barracks visited had two cells except Yundum barracks, which had 6 cells, 4 at the Infantry Unit and 2 at Defence Headquarters Camp.

At the time of the visits there was no detainee in the cells at Farafenni and Basse barracks. The authorities at Basse Barracks stated that the cells were small and not suitable to detain anybody there. They added that they had never put any of their soldiers in the cells. They further said that they used other ways of addressing problems. The two cells were used for keeping weapons. There was one detainee in one of the cells at the Infantry Unit of Yundum Barracks. The visiting team also found four detainees in one of the cells at the Defence Headquarters Camp of Yundum Barracks and three detainees in the other cell of the place. There was one detainee in one of the cells at Fajara Barracks. All the detainees in the military cells were soldiers.

Some cells did not have adequate ventilation, natural light and artificial light. The cells at Farafenni Barracks were a bit dark. They did not have adequate natural light and there was also no artificial light. Ventilation was poor as the cells had only small openings and no windows.

The windows of the cells at the Infantry Unit of Yundum Barracks were also very small and there was hardly any ventilation. The cells did not also have adequate natural light. There was artificial light at the corridor but none of the four cells at the infantry unit had artificial light.

At the Defence Headquarters Camp of Yundum Barracks, there was artificial light in the area just before entering one of the cells but the cell itself had no light. The cell had four small

openings on the wall and no window to allow fresh air and natural light to enter. The door of the cell was found open and this could allow some air to enter. The second cell had artificial light. The four detainees in the second cell informed the visiting team that they had been in the cell for one month without any artificial light and that it was brought there only after they had complained about the issue. The cell had a medium window which allowed fresh air to enter. Each of the cells had a fan. However, one of the detainees in the first cell told the visiting team that it was he who bought the fan and another detainee in the second cell said he was the one who brought the fan there.

The cells at Fajara barracks had artificial light. The cell at the Military Police Unit at Fajara Barracks had adequate natural light but the window was not big enough for better ventilation. There was also no ceiling fan in the cell which could be used during summer when the place gets hot. The cell at the Main Unit of Fajara Barracks was being renovated and the window was being enlarged at the time of the visit. The cell had a mosquito net.

The cells were not of the same size. The cell at the Military Police Unit of Fajara Barracks was 11 square metres whilst the one at the Main Unit of the barracks was 6.7 square metres. Each of the cells at the Infantry Unit of Yundum Barracks measured 5.9 square metres whilst one of the cells at the Defence Headquarters Camp of Yundum Barracks was 10.5 square metres and the other one measured 15 square metres. The cells at Farafenni Barracks each measured 6 square metres.

All the military cells had mattresses that detainees used to sleep on. The authorities at Farafenni Barracks informed the visiting team that mattresses are changed frequently for detainees. One of the cells at the Defence Headquarters Camp of Yundum Barracks had three mattresses whilst the other cell had four mattresses. Each of the four cells at the Infantry Unit of Yundum Barracks had a mattress. At Fajara Barracks the visiting team found a bed in one of the cells. One of the cells at the Defence Headquarters Camp of Yundum Barracks had bunk beds. Sheets were found on mattresses in almost all the military cells. However at the Defence Headquarters Camp of Yundum Barracks detainees in both cells said that they were the ones who provided the sheets.

The detainees in both cells at the Defence Headquarters Camp of Yundum Barracks informed the visiting team that they were disturbed by bedbugs. They added that they had reported the matter to the authorities and the medics at the barracks came there and sprayed the cells but that could not kill all the bedbugs. The authorities were informed about this and they promised to solve the problem.

4.4.2 SANITATION AND HYGIENE

The cells were found clean. The authorities at Farafenni Barracks said it is the regimental police who clean the cells in the morning every day using detergents such as Dettol and vim. Those at the Main Unit of Fajara Barracks said detainees are given a broom to clean the cell. They also

stated that they usually disinfect the guardroom and the cell using a chemical requested from the medical and health department. The officers at the Military Police Unit of Fajara Barracks said that they had been getting omo and Dettol from the headquarters but since February 2019 they had not been provided with any of these cleaning products. They added that they had written to the headquarters about it but did not get any response. The authorities at the Infantry Wing of Yundum Barracks informed the visiting team that they were not provided with any detergents to clean the cells. Detainees at the Defence Headquarters Camp of Yundum Barracks said that it was they who used their own money to buy omo and soap.

All the military detention facilities visited had toilets for detainees. One of the cells at the Defence Headquarters Camp of Yundum Barracks had two toilets but one of them was not functioning. The detainees stated that whenever the soakaway was full the stench of the toilet often got into the cell and disturbed them. The second cell had one flush toilet. The detainees in the cell also informed the visiting team that the soakaway was just behind their cell and whenever the toilets were flushed the stench disturbed them a lot. They added that they complained about it but nothing had been done. The Infantry Unit of Yundum Barracks had one toilet.

The Main Unit of Fajara Barracks had four public toilets, which were also used by detainees. One of the toilets was in the guardroom. The visiting team was told that detainees were allowed to use the toilets even at night. The Military Police Unit at Fajara Barracks had one toilet, which was in the cell. Farafenni Barracks had one flush toilet, which was found clean.

The military detention facilities had bathrooms for detainees. However, the detainees in one of the cells at the Defence Headquarters Camp of Yundum Barracks informed the visiting team that they used the toilet to have a bath.

4.4.3 FOOD AND DRINKING WATER

All the military detention facilities provided detainees with three square meals a day, breakfast, lunch and dinner.

The authorities at Farafenni Army Barracks informed the visiting team that they had a government feeding scheme from which they provided food to detainees.

The detainees at the Defence Headquarters Camp of Yundum Barracks said they were given breakfast, lunch and dinner every day. They added that the food was brought to them from the Central Cook House at the barracks and that they ate the same food as the officers guarding them and other soldiers.

The authorities at the Infantry Unit of Yundum Barracks also stated that they provided three square meals to detainees from the food prepared at the Central Cook House, which was meant for the soldiers on 24 hours duty. They further said that they had a menu every day.

The visiting team was informed at the Main Unit of Fajara barracks that detainees ate breakfast, lunch and dinner with the guards. The officers at the Military Police Unit of Fajara Barracks stated that detainees were given breakfast, lunch and dinner by the battalion.

One of the detainees at the Defence Headquarters Camp of Yundum Barracks said he had a pile and could not eat the food given to them because most it was oily, for example stew palm oil or plasas. He added that he had complained to the officers about it and was given Salmonila but it was finished. He further stated that he used his own money to buy 'gari' or 'chereh'. He also said that he used his own money to buy milk because he had asked for it but was told that there was not enough of it. He added that he needed a special diet. He also told the visiting team that he was using local treatment because the drugs given to him at the barracks clinic could not cure him.

All the military detention facilities also provided drinking water to detainees. The visiting team was informed by the detainees at the Defence Headquarters Camp of Yundum Barracks that they always got water from the tap and the fridge in the unit. The authorities at the Infantry Unit of Yundum Barracks also said they had a tap where they always got water for detainees.

The officials at the Main Unit of Fajara barracks stated that they had a 20-litre gallon where detainees were allowed to go and get water to drink. Those at the Military Police Unit of Fajara Barracks said that they had a fridge from which they provided water to detainees who asked for it. They added that at night detainees used bottles of water from the fridge.

4.4.4 HEALTH CARE

The visiting team was informed by the authorities at the Defence Headquarters Camp of Yundum Barracks that the military has a clinic at all the barracks in the country. He added that each clinic has a medical doctor, who was trained either in Russia or in other countries. He further stated that they also have a director of medical services, who is a colonel and a doctor.

One of the detainees said that whenever he got sick he was taken to the clinic by the military officers at the camp and given drugs. He added that when drugs were not available he used his own money to buy them. Another detainee stated that they were taken to the clinic whenever they got sick, but added that 75 per cent of the time it was the detainees who bought drugs for themselves because they were often not available.

The officials at the Infantry Unit of Yundum Barracks informed the visiting team that the RP always took sick detainees to the clinic at the camp for treatment. They added that they have doctors and nurses at the clinic. They also stated that whenever drugs were not available it was they the officers who bought them for the detainees.

The authorities at the Main Unit of Fajara Barracks informed the visiting team that they have a clinic where they take sick detainees. They added that they have doctors, nurses and an eye specialist and treatment is free. They further stated that detainees are allowed to bring receipts

to the authorities for a refund when they have bought drugs that are not available at the clinic. They also informed the visiting team that there is a dentist at Yundum Barracks. Those at the Military Police Unit of Fajara Barracks said that whenever there was a need to buy drugs for detainees, they informed the command or the adjutant about it.

There is also a clinic at Farafenni Barracks. The visiting team was informed by the officers at the barracks that they frequently conducted medical exams for everyone at the barracks in order to detect sicknesses such as HIV and TB. The nurses at the clinic stated that sometimes they faced shortages of highly consumable drugs, such as antibiotics and analgesic. They added that they used their own money to buy drugs when there was a shortage. The clinic had two community health nurses, two state registered nurses and 1 state enrolled nurses, making it a total of five medics. They further said that they received 15 to 20 patients daily, including civilians from the community.

4.4.5 CONTACT WITH THE OUTSIDE WORLD

The detainees at the Defence Headquarters Camp of Yundum Barracks informed the visiting team that family visits were not allowed in the first two weeks of their detention. They added that their families were later allowed to visit them on working days only at 3pm, which was the closing time for the officers and also on Saturdays and Sundays. However, the officer in charge stated that detainees could have visitors at any time, and not only after 3pm and weekends. The detainees also said that they were not allowed to have private meetings with their wives as they always sat outside at the veranda to chat with visitors. The officers at the Infantry Unit of Yundum Barracks stated that they allowed detainees to call their relatives using their own phones or other people's phones.

At Fajara Barracks the visiting team was informed that detainees were allowed to be visited by their families and friends. The officers at Farafenni Barracks informed the visiting team that detainees were not allowed to contact their families on phone but could be visited by wives and other relatives.

4.4.6 TIME OUT OF CELL

Detainees at the Defence Headquarters Camp of Yundum Barracks said that they were allowed to sit outside, behind the detention facilities, from 3pm to 7pm, which is four hours. The authorities at the Infantry Unit of Yundum Barracks said that the Standing Operating Procedures (SOP) states that detainees should be taken out of cells every day for one or two hours to take fresh air. They added that normally detainees are allowed to be out of cells for several hours after official hours.

4.4.7 EXERCISE AND SPORT

Detainees at the Defence Headquarters Camp of Yundum Barracks said that they were not allowed to do any exercise or sport.

4.4.8 LAWFULNESS OF DETENTION

The visiting team asked about the reasons for detention and whether the 72 hours stipulated in Section 19(3)(b) of the 1997 Constitution had been complied with.

The visiting team was informed that officers can be detained for not more than 21 days. The authorities added that due process is followed before any soldier is detained for 21 days. The team was told that 21 days' detention is for minor offences whilst for major offences the punishment is demotion or dismissal.

Two of the detainees at the Defence Headquarters Camp of Yundum Barracks were said to be among those who had been alleged to have committed serious crimes. They stated that they had been detained since early 2017 and up to the time of the visit in September 2019 they had not been charged. Four other detainees also said they had not been charged. Two of them said they had been detained for allegedly discussing with other soldiers that the former Chief of Defence Staff (CDS) Masaneh Kinteh should be arrested. The third one said he had been detained since 20 May 2019 for shooting a driver in Bwiam, Foni Kansala District, West Coast Region whilst the fourth one said he was caught with cannabis and had been detained for three months but was not told what would happen next.

The officers at the Military Police Unit of Fajara Barracks stated that they did not observe the 72 hours stipulated in the constitution all the time because they always got orders from the Defence Headquarters. They added that this happened when the authorities at the Defence Headquarters did not act fast.

4.4.9 TREATMENT

There was no complaint of torture or ill-treatment in any of the military detention facilities visited. Detainees at the Defence Headquarters Camp of Yundum Barracks told the visiting team that they had never been beaten by any officer. There was also no complaint of use of force.

4.4.10 STAFF MATTERS

Issues raised by the officers at different military detention facilities include insufficient number of vehicles, inadequate computers, no internet facilities, inadequate and old furniture, irregular water supply at Yundum Barracks, inadequate accommodation and no risk allowance.

4.4. 11 RECOMMENDATIONS

- Windows of the cells should be large enough to allow the entrance of fresh air and natural light, and not small openings on the walls found in most detention facilities.
- Artificial light should also be provided in cells that do not have it, as done in cells at Fajara Barracks and in one of the cells at the Defence Headquarters Camp of Yundum Barracks.
- Fans should also be provided in cells that do not have them as places get hot during summer.

- There should be mosquito nets in the cells, as done in the cell at the Main Unit of Fajara Barracks.
- Big and standard cells should be built at the Defence Headquarters Camp of Yundum Barracks as the ones found there were not big enough for keeping many detainees. Cells should also be built for the military police at Farafenni Barracks.
- The authorities at the Defence Headquarters Camp of Yundum Barracks should always ensure that there are no bed bugs in the cells.
- The authorities of the armed forces should ensure that all the mattresses have proper sheets.
- The authorities of the armed forces should ensure that adequate detergents such as Omo, Dettol and Vim are provided for cleaning of cells.
- The good practice of disinfecting the guardroom and the cell with a chemical from Medical and Health Department, as done by the Main Unit of Fajara Barracks, should be emulated by the other military detention facilities.
- The authorities at the Defence Headquarters Camp of Yundum Barracks should ensure that the Soakaway near the cells are frequently emptied so that detainees will not be disturbed by the odour.
- Ministry of Defence should ensure that each detainee is allocated an adequate amount of money for breakfast, lunch and dinner daily, as D15 for each detainee for the three meals is very much inadequate, taking into consideration the current cost of living.
- The authorities of the armed forces should ensure that sick detainees whose conditions do not allow them to take normal meals, as was the case with a detainee having piles at the Defence Headquarters Camp of Yundum Barracks, are provided with a special diet.
- Ministry of Defence should ensure that adequate drugs are provided to the clinics at the barracks. It is not the responsibilities of detainees to use their own money to buy drugs when they are not available at the clinics. It is also not the duty of the military officers to do so for the detainees.
- Detainees should be allowed at least one hour of suitable exercise or sports in an open air daily in appropriate weather conditions. In addition to one hour of exercise, detainees

should be given more time to be out of cells, rather than only four hours (3pm to 7pm), which was done at the Defence Headquarters Camp of Yundum Barracks.

- Farafenni barracks should allow detainees to communicate with their relatives, as done in Yundum and other military detention facilities.
- Detaining any person for 21 days without him or her being taken to court, whether a soldier or not, is incompatible with section 19(3)(b) of the 1997 Constitution of the Gambia, even though the visiting team was informed at Yundum Barracks that this is done after due process has been followed. Section 19 (3)(b) of the constitution stipulates that the person be brought before the court, and not before any other institution or person. The authorities of the armed forces should change their law or policy on 21 days' detention to make it in line with the constitutional provision. Instead of 21 days of detention, the person should be detained for only 72 hours (three days). Other forms of punishment which can be meted out to the person instead of detention include reprimand, deductions from salary for absence without permission, overtime work for unreasonable lateness, a fine, reduction in rank or reduction in salary, as stipulated under regulation 44(1) of the Public Service Commission Regulations, Revised Edition September 2013.
- The authorities at the Defence Headquarters should respond on time so that the 72 hours stipulated in section 19(3)(b) of the constitution is respected by the officers at the Military Police Unit of Fajara Barracks.
- If two of the detainees' claim of being detained for two years without a charge is proven to be true, this may be considered to be beyond any reasonable time limit for charging anyone of an offence and unlawful. Government should expedite bringing them to justice.
- Ministry of Defence should also ensure that a sufficient number of computers are provided to all the military barracks.
- Internet facilities should also be provided to all the barracks, taking into account the fact that we are in a modern age.
- Ministry of Defence should ensure that risk allowance is paid to those in the armed forces, as done for the police, prison and immigration officers this year.
- Ministry of Defence should also address the issue of shortages of water raised by the authorities at Yundum and Fajara Barracks.

- Ministry of Defence should ensure that the armed forces are allocated adequate budget for improvement of their operations and conditions and for the security and safety of all.

4. 5. VISITS TO CELLS AT NATIONAL DRUG LAW ENFORCEMENT AGENCY THE GAMBIA (DLEAG)

The Office of the Ombudsman visited the cells at two of the stations of National Drug Law Enforcement Agency the Gambia DLEAG) in April 2019. The places visited are DLEAG Banjul Station and Sukuta CTI DLEAG. A total of four cells were inspected.

4.5.1 CONDITION OF CELLS

DLEAG Banjul Station had three cells and one detention room whilst and Sukuta CTI DLEAG had two cells but only one was being used. At the time of the visits DLEAG Banjul Station had 11 detainees whilst Sukuta CTI DLEAG had no detainee.

The cell at Sukuta CTI DLEAG had no window. The cell at Sukuta CTI DLEAG had many small holes or openings on the walls, which allowed fresh air to enter. However, the cell did not have adequate natural light. There was no artificial light in the cell. The officers at the station informed the visiting team that there was a bulb and a socket in the cell but a detainee tampered with it in order to burn the place. The team saw the marks of the removed socket and the bulb on the wall and on the ceiling. There was also no ceiling fan in the cell. The cell was tiled and had two mattresses with a sheet on one of them.

Two of the cells at DLEAG Banjul Station did not have windows. There was inadequate fresh air and natural light. Two of the cells did not also have any fan. There was a ceiling fan that supplied air to the detention room and to one of the cells. There was a bulb between the cells that supplied artificial light to each cell. There were mats in one of the cells. The DLEAG commissioner of Banjul Division said that detainees slept on mats. The detainees complained of bedbugs in the cells. The commissioner said that he was not informed about it. He promised that he would ask the scientific unit to go to the Ministry of Health for their officers to come spray the cells. The detainees also complained of being disturbed by mosquitoes in the cells.

The officers at both DLEAG Banjul Station and Sukuta CTI DLEAG informed the visiting team that that juveniles and female detainees were always taken to Brusubi Station where they had separate cells for them.

4.5. 2 OVERCROWDING

The DLEAG commissioner of Banjul Division stated that the total capacity of the cells at DLEAG Banjul Station was 10 people but they sometimes put there 15 people because of the conditions. As indicated above, the visiting team found there 11 detainees and the place was crowded. Putting 15 people there will make the overcrowding worse and may be considered degrading treatment, contrary to section 21 of the 1997 Constitution.

The officers at Sukuta CTI DLEAG said that the cell could take a maximum of five detainees. However, the visiting measured the cell and its size was 4.95 square metres. A cell measuring

4.95 square metres will be overcrowded if it takes even three detainees. It may take a maximum of two detainees.

4.5. 3 SANITATION AND HYGIENE

The officers at Sukuta CTI DLEAG said that they had two cleaners and that it was the male cleaner who cleaned cells whenever there was a detainee. They added that they received enough detergents every month.

The cell at Sukuta CTI DLEAG had a squat toilet with a tap. The toilet had no door and this could affect the privacy of any detainee using the toilet.

The officers at DLEAG Banjul Station said that the cells were cleaned either by the officers or the detainees themselves. They also said that they were supplied with soap, omo and other cleaning products monthly but sometimes they bought them and gave them to the detainees. One of the cells at DLEAG Banjul Station had a dustbin that was full of rubbish. The commissioner said it was emptied every day but the detainees said it had not been emptied for one week. The toilet was clean but it had unpleasant smell. There was a tap in the toilet.

The visiting team was informed at both DLEAG Banjul Station and Sukuta CTI DLEAG that detainees used the toilets to have a bath.

4.5.4 FOOD AND DRINKING WATER

The authorities at DLEAG Banjul Station stated that DLEAG had employed a cook for detainees. They added that lunch and dinner are provided to detainees but not breakfast. They also said that they had a dispenser where they put water from a nearby tap and then gave it to any detainee who needed it. Those at Sukuta CTI DLEAG said that they provided breakfast, lunch and dinner to detainees. They added that they bought the meals from a nearby restaurant at D25 for breakfast, D50 for lunch and D25 for dinner. They also said that they fetched water from a tap outside and put it in an avian bottle which was given to any detainee who needed water.

4.5.5 HEALTH CARE

The authorities at DLEAG Banjul Station said that they always took sick detainees to the fire service clinic for minor illness but when it was serious they took them to Edward Francis Small Teaching Hospital (EFSTH). They added that detainees were not asked to pay anything if protocols were followed. They further said that there were bonds that had to be signed for payment to be waived. The officers also said that they would like sick detainees to be given preferential treatment rather than being asked to join the queue at EFSTH. They added that they have a scientific unit (health unit) that goes to pharmacies to buy drugs when not available at hospitals and then make a claim for refund from DLEAG finance office.

The officers at Sukuta CTI DLEAG also said that detainees were not asked to pay for any treatment. They added that when drugs were not available they bought it and were refunded by DLEAG.

4.5.6 CONTACT WITH THE OUTSIDE WORLD

The visiting team was informed at both stations that detainees were always allowed to communicate with families using the officers' phones. The officers at DLEAG Banjul Station said that they also bought credit for detainees to put it in their phones to call relatives and their lawyers. They added that they did not allow visits after 4pm and at weekends. They also said that lawyers often came to the station. The officers at Sukuta CTI DLEAG said that whenever they were conducting investigation they did not allow detainees to communicate with anyone for a few hours.

4.5.7 TREATMENT

One of the detainees at DLEAG Banjul Station alleged that OC Baldeh, an officer in charge of Sukuta CTI DLEAG, beat him seriously while he was there. ASP Modou S. Baldeh, the OC of Special Investigation Unit at Sukuta CTI DLEAG, who chaired the meeting with the visiting team, said that they did not beat or torture anyone there as they had been trained by Convention against Torture Initiative (CTI). He added that he was just from teaching a class of recruits and that he had told them not to torture anyone. The DLEAG commissioner of Banjul Division said that sometimes he received complaints from detainees that they had been beaten or insulted by DLEAG officers. He added that Sukuta CTI DLEAG investigates complaints against DLEAG officers' behaviour such as torture or beating.

4.5.8 LAWFULNESS OF DETENTION

The visiting team asked about the reasons for detaining the people found in the cells or detention rooms and whether the officers complied with section 19(3)(b) of the 1997 Constitution concerning the taking of the arrested or detained person to court within 72 hours.

The visiting team found that six of the detainees at DLEAG Banjul Station had been kept well beyond the 72 hours stipulated in section 19(3)(b) of the 1997 Constitution. Two of the detainees were kept for 17 days, one of them for 47 days and another one for 55 days. The commissioner said that the reason why detainees were kept for 25 days or more was that the prosecution had not received files from the DLEAG authorities, who had taken drugs to the scientific unit for a lab test. He added that they had opened bail for the detainees but the conditions could not be fulfilled. He further stated that they normally detained for only three days and opened bail for detainees but those charged with possession were given bail the same day that they were brought in. The commissioner also said that when the case was trafficking they asked for a compound paper but when it possession they requested only the person's ID card.

The DLEAG Director of Legal Affairs said that it took a long routine, from the station officer (SO) to the officer commanding (OC) then to the commissioner and then to the Director of Operations. It added that it usually passed through 10 offices before it reached his office (the prosecution).

He further stated that generally they gave bail within 72 hours. He also said that a lab test usually took not more than one week but it took more than one month after the lab test before he received files from the authorities at the top.

For a file to take one month after the lab test before it reaches the prosecution is indeed too long. DLEAG's detention of the detainees for 17 and more days is excessive and may be considered to be contrary to section 19(3)(b) of the 1997 Constitution.

4.5.9 STAFF MATTERS

The officers at DLEAG Banjul Station said that only the operation vehicle was used for the whole of Banjul. They added that Denton Bridge had no vehicle and that even the commissioner had to pay fare to go to work as his personal vehicle was not in good condition.

They also said that they did not have enough staff for effective operation as only three officers were on duty after 4pm, when it should have been six officers. They added that when going for raiding they would like to have a backup or reinforcement from Police Intervention Unit (PIU) officers, who are armed. The commissioner said that his officers were beaten every time in Banjul and that sometimes he asked for reinforcement from Serrekunda.

Inadequate office space was an area of concern. The officers at the station said even the commissioner shared an office with his deputy and that some prosecution officers did not have any office. They added the place they were occupying belonged to the police. The issue of communication was also raised as the officers said that the landline was not working.

The officers at Sukuta CTI DLEAG said that structures should be built in the space available there as it was big enough to accommodate the whole of DLEAG including those in Banjul. They also said that DLEAG should have its own rehabilitation centre for detainees with problems. They added that they did not have access to the internet. The officers in grades 1 to 8 said that the transport allowance was still not paid to them.

4.5.10 RECOMMENDATIONS

- DLEAG authorities should ensure that detainees are taken to court within 72 hours, as stipulated in section 19(3)(b) of the 1997 Constitution, for the magistrate to consider the need to extend detention to 7 days to allow a lab test to be conducted, and not DLEAG authorities extending the detention by themselves.
- A maze of bureaucracy which involves the passing of a case or file through 10 offices before it reaches the prosecution should be streamlined to expedite the case. For a file to take one month after the lab test before it reaches the prosecution, alleged by the prosecution, is indeed a long time. Justice delayed is justice denied.
- DLEAG authorities should ensure that all the cells have large windows that allow adequate fresh air and natural light to enter.

- DLEAG authorities should also ensure that all the cells have artificial light, to be in line with international standards. This will enable detainees to read even at night or do any work they want to do. The fact that a detainee tried to tamper with the bulb to burn Sukuta CTI DLEAG should not be used as an excuse to deny other detainees their rights. It is the duty of DLEAG officers to constantly monitor the cells to prevent any criminal act.
- Fans should also be provided in cells as places get hot during summer.
- DLEAG authorities should also ensure that all the cells are provided with mattresses and sheets for detainees to sleep on, as done at Sukuta CTI DLEAG, rather than mats as found at DLEAG Banjul Station.
- DLEAG Authorities should ensure that DLEAG Banjul Station and other affected facilities are frequently provided with adequate detergents such as Omo and Dettol and that all the cells and toilets are kept clean all the time, to avoid unpleasant smell, as found at DLEAG Banjul Station.
- The toilet in the cell at Sukuta CTI DLEAG should have a door to ensure that detainees have their privacy when using it.
- DLEAG authorities should ensure that cells do not have bedbugs and that they are fumigated from time to time, especially the ones at DLEAG Banjul Station. The issue of mosquitoes disturbing detainees at DLEAG Banjul Station should be addressed.
- DLEAG authorities should ensure that detainees at DLEAG Banjul Station are provided breakfast, in addition to lunch and dinner, as done at Sukuta CTI DLEAG.
- DLEAG authorities should ensure that their officers are continuously warn not to insult, beat or torture anyone arrested or detained as any of these acts will constitute a violation of section 21 of the 1997 Constitution, article 5 of the African Charter on Human and Peoples' Rights and also article 7 of the International Covenant on Civil and Political Rights, to which the Gambia is a party.
- DLEAG authorities should ensure that detainees are always informed of their basic human rights, such as the right not to be tortured or ill-treated.
- Any complaint of torture or ill-treatment should be promptly, thoroughly and impartially investigated and anyone found guilty should be punished to serve as deterrent to other

officers. The person who has been tortured or ill-treated should be compensated appropriately.

- Internet facilities and landline should be provided to all DLEAG stations as well as offices in the regions.
- DLEAG authorities should ensure that enough vehicles are provided to DLEAG Banjul Station and other affected offices. Adequate staff should also be provided to the station.
- DLEAG authorities should consider building structures at Sukuta CTI DLEAG so that it can accommodate more officers including those at DLEAG Banjul Station.
- DLEAG authorities should ensure that cells are not overcrowded, as overcrowding alone may be considered degrading treatment, which is contrary to section 21 of the 1997 Constitution.

CHAPTER 5

5.1 CASES BROUGHT FORWARD

COMPLAINT NO:	41/2016
NATURE OF COMPLAINT:	Claiming Gratuity

COMPLAINT

The complainant was employed as technician effective 1 June 1986. On 13 October 2015, he requested to be retired from service. His request was approved setting the ground for the computation of his benefits during the period he had been with the central government using his civil service salary and grade. The said computation of his benefit could not proceed because his personal file was nowhere to be found. He was aggrieved by the delay in the computation of his benefits and finally lodged his complaint with the Ombudsman alleging unfair treatment against his institution.

FINDINGS

The complainant was employed as technician effective 1 June 1986 upon retirement his personal file could not be traced.

His first appointment letter was not found in his personal file.

The complainant swore to an affidavit of employment which was intended to be used as a substitute to the missing appointment letter. His gratuity was computed effective 1 June 1986 based on the affidavit he tendered.

CONCLUSION:

The complainant was paid D34, 153.99 as gratuity on 2 April 2019.

COMPLAINT NO:**14/2017****NATURE OF COMPLAINT:****Unfair Treatment****COMPLAINT**

The complainant alleged that she was appointed as assistant auditor with effect from 1 June 2016. She was promised during her job interview that she would be paid all the necessary allowances attached to the position upon the completion of her 3 months' probation.

After 4 months of her appointment, she realized no difference on her salary and checked on her institution's pay roll and noticed that even those on grade 5 and 6 received more allowances than her. She then, informed her immediate boss about her situation but she responded differently. She checked again on the institution's pay roll and noticed that her immediate boss's allowances were 15 times more than hers.

Thereafter, she explained the matter to a senior member of staff who promised to discuss it with the director of administration. She further explained the same matter to the director of administration who also informed her that they have not been paying her the appropriate allowances because she was appointed on a position which had not existed on the institution's organogram

She further alleged that her condition of work is not currently conducive because her immediate boss had not been talking to her for almost two months. She has also not been assigning her responsibilities instead; she delegates responsibilities to her junior. She added that when her boss was going on leave, she instructed the account department to stop her from accessing the institution's pay roll and monthly adjustment for January 2017.

FINDINGS

The complainant was appointed as assistant auditor by the said institution with effect from 1 June 2016.

The complainant was not paid professional allowance which was later paid including a drawback on the earlier unpaid months. However, the delay in the payment of her appropriate allowance was the failure on the side of her immediate boss to write to certify her performance immediately after her probation period.

It was established that their working relations was not cordial evident by the numerous misunderstanding that had existed between them.

CONCLUSION

The complainant informed the office that she was paid her appropriate allowances.

COMPLAINT NO: 19/2017
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

It came to the notice of the Ombudsman through the publication of Daily Observer edition of 14 March 2017 that a person had developed a heart disease due to the abysmal smoke from a dump. She alleged being diagnosed with Rheumatic heart disease through a medical report from Edward Francis Small Teaching Hospital since 2009. She adduced this had not only limited her activities but also affected her education. Her mother lamented that they had been for a decade suffering from the abysmal smoke from the dump. She added that her daughter's health condition required overseas treatment but they had no assistance. She fumed at such unfortunate situation and urged the government to relocate the said dump.

FINDINGS

The mother of the said resident confirmed the story on Daily Observation. She informed the Ombudsman that her family had been severely suffering from the abysmal smoke from the dump. She lamented that her daughter was not born with any health complication but was diagnosed with Rheumatic heart disease from EFSTH due to abysmal smoke and foul odour from the dump.

However, the Office of the Ombudsman requested the said medical report from her to enable the Ombudsman further engage relevant authorities but to no avail.

CONCLUSION

Since the parties' concern or affected had failed to provide the medical report which could serve as evidence of the alleged heart disease caused by the smoke from the dump, the Office of the Ombudsman was left with no option but to discontinue the case for lack of evidence.

COMPLAINT NO: 20/2017
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

A Daily Observer publication of 13 March 2017, reported that a chairperson of a senior management committee of a school had lamented that a certain dump was a threat to both their children's education and health. She alleged that school children were in the habit of dodging from school to scavenge from the said dump in exchange for money and as such challenged the Gambia government to relocate the dump.

Similarly, the Point Newspaper's 13 March 2017 edition also reported that the residents near the dump had protested in the form of a procession from Serrekunda to West Field Junction demanding a ban and relocation of the said dump. They lamented that the thick smoke from the dump did not only affect their health but also caused car accidents.

FINDINGS

The said protest was as a result of the terrible smoke and foul odour generated by the dump. The residents at the dump during a discussion with the relevant authorities had said they did not want the authorities to intervene because they can privately solve the matter. The council had been engaging the relevant ministry over the dump and strategies of waste management plan had been developed. At the time of investigation, efforts were on going to push the waste away from the road as well as fence the entire premises of the dump, a task that was given to a ministry.

The protesters were given permit to only protest but not to stop people from dumping waste in the said site. This situation resulted in the use of an alternative dump which was a challenge. Since the protesters had closed access to the dump, they had during an engagement with the council submitted a proposal to the council but failed to sign it.

The council does not have a recycling plant and also lacks required machines such as bulldozers and compactors to effectively manage the said dump, the council needed enough money which would be equal to two or three times of its budget.

Findings from the environment authority also revealed that the council had not been doing enough with respect to waste collection and handling. However, the environment authority had been assessing the dump and had also been advising the medical officers regarding the disposal of medical waste on the dump.

Ultimately, it was found out that the dump had been emitting thick smokes and foul odour inimical to the lives of the residents and passers-by. This situation had also affected a nearby clinic as its operation had been difficult owing to the presence of flies especially in the rainy season. The situation according to the clinic's authority sometimes resulted in the temporal closure of the clinic. The situation did not only affect the residents and the clinic but also a nearby school.

Some interviewed residents revealed that the protest was borne out of the health and social hazards caused by the dump. The wells around the dump are all contaminated by the dump and as such are not used. Children are also exposed to severe health risk because they were sometimes seen picking used condoms from the dump. The terrible smoke and foul odour had also resulted in most residents of the site contracting heart and respiratory diseases.

A feasibility study on the closure of the Bakoteh Dumpsite funded by UNDP was conducted GOOH Group consultancy and the following recommendations were made-:

- Daily management of the dump by using heavy duty machine
- Fencing of the premises to enhance security
- Installation of fire hydrants
- Relocation of the Bakoteh Dump
- Waste processing – Organic waste to organic manure, Plastic recycle

CONCLUSION

The Office of the President provided the council with two heavy machines (bulldozers) which are used to push the solid waste daily at the dump. This has minimised the unpleasant smell and the consistent fire outbreak.

The Council has constructed a 3.5 metre high and 1.8km long fence at a cost of D10 million. Lighting system was also installed to enhance security at night

The Council has requested from the Ministry of Lands and Regional Administration and Religious Affairs a land to relocate the dumpsite stressing the serious health hazard and environmental pollution posed to the residents of Bakoteh and its surroundings. A taskforce was set up and three locations were identified and a report was submitted to the Ministry recommending for EIA to conduct at the three identified locations. The National Environment Agency conducted the EIA study council will collaborate with three projects namely Climate Smart Project under Department of water resources, GCCA + under NEA and AMB project under Fandema to conduct feasibility study on the new identify landfill. The terms of reference of the consultancy has been developed and advertised.

The Council has released a request for EOIs for partners to conduct waste processing on site. The Council received 9 EOIs in December 2019 and most bidders submitted an interest in waste-to- Energy (W2E). However, NAWEC remains uninterested in purchasing additional power at present. The Council mad an agreement with Trisp Gambia Ltd to have Bio-gas plant at site. How this did not materialise due to funding constraints. The Council secured little funding from Gambega to procure bottle crusher machine to grind all the bottles left b the company following their closure. The Council also has signed an agreement with plastic recycling company for recycling of plastic at the dumpsite.

The German Federal Ministry of Economic Cooperation & Development (BMZ), Hermann Gmeiner Fonds Deutschland and the council funded the sustainable waste management to reduce child rights violations at Bakoteh Dumpsite project to the tune of D42million. The overall aim of the project is ensure children and families in the neighbourhood of Bakoteh dumpsite are protected from health, environment, economic risk and violation of children's rights.

The Council remains committed to its goal of closing the Bakoteh Dumpsite. It continued to work with the Ministry of Lands and other council to secure land for the development of a sanitary landfill with the Greater Banjul Area.

COMPLAINT NO:	45/2017
NATURE OF COMPLAINT:	Unlawful Dismissal

COMPLAINT

The complainant stated that he was appointed as the commanding officer in charge of the Counter Intelligence Unit of a security institution with effect from 5 May 2005. He said that in February 2008, his unit was assigned to investigate an alleged case of money laundering, illegal possession of different national travelling documents a certain individual among other diverse criminal activities. Upon the completion of the investigation, the case file was forwarded for legal advice. The case was finally registered in the courts.

The head of institution of the said security institution was later replaced and the new head requested a copy of the case file. The complainant became suspicious since this was not the

normal procedure. Few days later, the new head of institution constituted a panel to investigate the complainant and a colleague of his on the matter. They were eventually incriminated for things they knew nothing about.

He alleged that on 19 September 2009, he was arrested with his colleague and detained at the Mile Central Prisons. They were later arraigned before the Banjul Magistrates' Courts and granted bail. They were later rearrested and remanded at the Mile Central Prisons. He was convicted and sentenced to seven years imprisonment and his colleague was acquitted and discharged.

FINDINGS

On 24 September 2008 complainant was informed that he was dismissed from service with effect from 22 September 2008.

The complainant and colleague were charged with the following offences:

- Conspiracy to commit theft contrary to section 368 of the criminal code cap10, Vol.III Laws of The Gambia
- Theft contrary to section 245(1) of the criminal code and punishable under section 252 of the criminal code cap10, Vol.III Laws of The Gambia
- Neglect of duty contrary to section 113 of the criminal code cap10, Vol.III Laws of The Gambia.
- Abuse of office contrary to section 90 of the criminal code cap10, Vol.III Laws of The Gambia.
- Destroying evidence by concealing contrary to section 368 of the criminal code cap10, Vol.III Laws of The Gambia.
- Public officer receiving property to show favour contrary to section 88 of the criminal code cap10, Vol. III Laws of The Gambia.
- Fraud by public officer contrary to section 112 of the criminal code
- Disobedience contrary to section 116 of the criminal code cap10, Vol.III Laws of The Gambia.

He was found guilty on the following counts theft, neglect of duty and abuse of office and sentenced as follows:

- Theft 3 years imprisonment
- Neglect of duty 2 years imprisonment
- Abuse of office 2 years imprisonment

The sentences were to run concurrently. His colleague was acquitted and discharged on all the counts.

CONCLUSION

Since the complainant was convicted and sentenced to imprisonment, the Ombudsman discontinued the investigation under section 9(3) (a) of the Ombudsman Act 1997.

COMPLAINT NO: 74/2017

NATURE OF COMPLAINT: Unlawful Termination

COMPLAINT

The complainant stated that he was appointed on 4 May 2001. He had an accident in 2005 while at work and sustained severe injuries. He was rushed to Royal Victoria Teaching Hospital (RVTH). He was admitted and later discharged. A medical report was issued to him recommending 15% disability. He was paid a lump sum of D27, 000 as injury compensation by Social Security and Housing Finance Corporation.

Following his resumption from duty, he was still experiencing pain intermittently. He reported to office and was asked to consult any of their retained doctors. He consulted a doctor at the SOS Clinic she examined him, took an X-ray and referred him to RVTH where a doctor recommended that he should go for overseas treatment preferably in UK. The medical report was sent to his institution and he was provided with a copy.

The institution management told him that there was no need for him to go to UK since his ailment could be treated in Dakar. An invoice was received from a doctor in Dakar charging 711,000 CFA for the treatment. The invoice was later replaced with another invoice charging 2,100,400 CFA which was equivalent to D122, 663.36 (exchange rate at the time was D290 per 5000 CFA).

The human resource manager informed him that the cheque was ready for payment. She instructed someone to cash the cheque while she offered the complainant breakfast. He ate little and then decided to follow the person sent to cash the cheque at the cashier's office. He identified himself as the owner of the cheque and signed for 2,100,400 CFA. He returned with him to the human resources manager who confirmed the money. She gave him 1,000,000 CFA and kept the remaining 1,100,400 CFA.

He travelled to a clinic in Dakar. He was received by the receptionist who gave him a form written in French and asked him to sign. He refused to sign because he could not read French. The doctor asked him his reasons for not signing the form. He told him that the form was written in a language that he does not understand. The doctor was angry and told him that he has cost him lots of money because he had already hired two doctors who were waiting for him.

The doctor called the human resources manager and informed her that he was not prepared to undergo the treatment. The human resources manager told the doctor since he refused to undergo the treatment; he should give the money to the doctor to buy medicine. He told her that if he should give the money to the doctor to purchase medicine, the doctor must provide receipts. She told him that he should not be bothered with receipts. He refused to give the money to the doctor and returned to the Gambia. He opted to go for local treatment to Cassamance.

He went to Cassamance for local treatment and upon his return the human resources manager asked him to explain in writing how he spent the 1,000,000 CFA and provide receipts. He explained in writing how he spent the money but management was not satisfied with his

explanation on the grounds that he failed to provide receipts. A panel was setup to investigate how he spent the 1,000,000 CFA. The Doctor from Dakar was invited who told the panel that the complainant informed him that he was not sick and that they should share the money.

As a result, his service was terminated and he was not paid one month salary in lieu of notice. His salaries for December 2009, January and February 2010 were not paid.

FINDINGS

The complainant was appointed on 4 May 2001. On 12 October 2004 he had an accident at work and sustained severe injuries. He was admitted at the Royal Victoria Teaching Hospital (RVTH) and later discharged. A medical report dated 20 March 2006 was issued to him recommending 15% disability. He was paid a lump sum of D27, 000 as injury compensation by Social Security and Housing Finance Corporation.

Following the accident, the complainant resumed duties and was still experiencing pain intermittently. He informed management and was asked to consult any of their retained doctors. He consulted a doctor at the SOS clinic, who examined him and took an X-ray and referred him to RVTH.

The doctor, in a medical report dated 12 July 2009, recommended that if possible the complainant should see specialised spinal unit in the United Kingdom for further treatment. Another doctor examined the complainant at a clinic belonging to his institution and recommended for complainant to go to Dakar for further examination and treatment.

The institution sent a fax dated 20 October 2009 to a doctor in Dakar with the medical report of the complainant attached to advise them whether his treatment was available in Dakar and if so to make arrangement for a doctor and cost of treatment.

The management told him that there was no need for him to go to the United Kingdom since his ailment could be treated in Dakar. An initial invoice was received from a doctor in Dakar charging 711,000 CFA for the treatment. The invoice was later replaced with another invoice increasing the cost of treatment to 2,100,400 CFA which was equivalent to D122, 663.36.

Clinique Pasteur sent an invoice numbered 0003358 dated 23 October 2009 in the complainant's name with a breakdown of the cost of treatment amounting to 2,100,400 CFA. A payment voucher at the sum of D122, 663.36 was prepared, which was equivalent to 2,100,400 CFA for treatment in Dakar.

The human resource manager out of the 2,100,400 CFA gave the complainant 1,000,000 CFA being the cost of treatment and retained the balance of 1,100,400 CFA. The complainant was also given D10, 032 being per diem for two nights and 20,000 CFA to be handed to the Doctor.

The complainant travelled to Dakar on 5 November 2009 but could not come to terms with the doctor and had to return to the Gambia without undergoing any treatment.

He proceeded to Cassamance for local treatment and upon his return the human resources manager asked him to explain in writing how he spent the 1,000,000 CFA and provide receipts. He explained in writing how he spent the money but management was not satisfied with his explanation on the grounds that he failed to submit receipts.

The balance of 1,100,400 CFA out of the 2,100,400 CFA which was under the custody of the human resource manager was disbursed as follows: 1,000,000 CFA was spent on the treatment of an employee's wife in Dakar, Senegal, 20,000 CFA was paid to the doctor and the balance of 80,400 CFA was retired on 15 December 2009.

The institution set up a panel to investigate the alleged financial impropriety against the complainant in connection with his treatment in Dakar, Senegal. The Doctor from Dakar was invited and he informed the panel that the complainant told him that he was not sick and that they should share the money.

The investigation panel interviewed the human resources manager, a medical chief from Dakar, a doctor from the institution's own clinic and the complainant. They reviewed the relevant documents in the case and made the following recommendations:

- That the complainant should be surcharged 1,020,000 CFA being the amount involved in his trip to Dakar.
- He should refund the 2 days per diem allowance amounting to D10,032
- That institution should consider a more reliable method of sending monies to Dakar for treatment of patient for example bank transfers
- Medical treatment outside the Gambia should be based on the recommendations in the service rules.
- That the complainant was not honest in all his dealings and defrauded the institution in an attempt to treat himself in Dakar; therefore stern disciplinary measures should be instituted against him to serve as a deterrent to others.

On 15 February 2010 the complainant was informed that an investigating committee was set up on the alleged misappropriation of funds given to him amounting to 1,020,000 CFA which he was instructed to deliver to the Port of Dakar's medical doctor for his purported medical treatment in Dakar.

Following the committee's findings and his unsatisfactory explanation on the utilisation of the monies, management in consideration of the gravity of the misconduct has no option but to terminate his services with immediate effect, in line with the relevant provision of the institution's service rules.

He was further reminded that his outstanding liabilities with the institution stood at D89, 064.34 which included the monies meant for conveyance to the port of Dakar's Medical doctor which was purportedly misused.

The complainant was unable to account for how he spent the monies on local treatment which was against the policies of his institution. As a result his service was terminated and was not paid one month salary in lieu of notice. His salaries for December 2009, January and February 2010 were also not paid.

The complainant with nine colleagues was sent on training overseas for a period of six months. They were each paid 500 US dollars monthly as sustenance allowance instead of 750 pounds sterling as stipulated in the institutions service rules 2003 version.

Upon their return management wrote to congratulate them on their successful completion of the certificate course. They claimed the difference of their sustenance allowance via letter dated 27 February 2006.

In a management response dated 23 March 2006 they were reminded that prior to their departure for the training, it was clearly communicated to them that the institution being a member institution of the training institution has different arrangement such that some expenses are catered for by the institution and that any student sent there on training would be paid 500 US dollars monthly for stipend and supplementary feeding allowance.

Management regretted that this arrangement was inadvertently not stated in the service rules and promised that it would be rectified. They were told that their claim was not given favourable consideration and they apologised for any inconvenience this may have caused.

Section 0913 of the institution's service rules 2003 version stated: An employee who is sent overseas for training for a period in excess of 12 weeks will be paid a student allowance of 750 pounds sterling per month.

Evidence shows that the complainant and nine colleagues through stipend voucher dated 30 June 2006 were each paid 590 US dollars totalling 5900 US dollars. It was also found that the complainant paid for his accommodation and was issued a receipt. This payment covered from August to December 2005.

RECOMMENDATION

- Since the complainant spent the 1,000,000 CFA without producing any authentic receipts the Ombudsman concurred with the investigation panel's decision that the complainant be surcharged the 1,020,000 CFA being the amount involved in his trip to Dakar, Senegal.
- The institution should consider a more reliable method of sending monies for overseas treatment of staff, for example bank transfers.

- The Ombudsman further upheld the management's decision to terminate the complainant's services in accordance with section 0702 of the institution's service rules.
- The complainant and his colleagues should have been paid 750 pounds sterling as stipulated in the service rules 2003 version and not 500 US dollars. The institution should compute the difference and effect payment to the complainant and colleagues accordingly.
- The management should facilitate the payment of the complainant's terminal benefit with the Social Security and Housing Finance Corporation and deduct his outstanding liabilities amounting to D89, 064.34.

The complainant's entitlements were computed as follows:-

- Amount due to complainant as difference of per diem allowance D131,545.80
- Surcharge of 1,020,000CFA(1020000/500*292) D 59,568.00
- Two days per diem allowance D 10,032.00
- Net amount paid to the complainant D 42,481.50

In addition, the Authority has initiated the process for the payment of the complainant's terminal benefits with social security.

COMPLAINT NO: 88/2017
NATURE OF COMPLAINT: Failure to handle his case with diligence
COMPLAINT

The complainant stated that in 2009 he was knocked down by a van. He was rushed to the Edward Francis Small Teaching Hospital (EFSTH) where he was admitted for almost six months. When he was discharged, he went to the police station to make enquiry on the status of his case because the police had made a sketch plan of the accident.

He alleged that a police sergeant informed him that his case had been concluded. He expressed dissatisfaction in the manner in which his case was handled. His remarks did not go down well with an officer at the station who in turn physically assaulted him.

FINDINGS

The institution complained against informed the Ombudsman that an accident case in respect of the complainant was neither reported at the said station nor the scene of accident visited by any of the officers.

The officer the complainant alleged to have assaulted him was never a traffic officer but officer under Charge Office and no longer in the service.

The said officer was remanded at Mile II Central Prisons after being involved in a drug related matter.

While in Mile II, the said officer got sick and was hospitalized at EFSTH where he subsequently absconded from custody thus his whereabouts was not known and as a result the police could not make a progressive account on the case due to insufficient information.

CONCLUSION

Since the accident was not reported to the police and the mere fact that the complainant had failed to provide the Ombudsman with medical report to prove that he was indeed hospitalized, the Ombudsman decided to discontinue the investigation under section 9(3) (b) of the Ombudsman Act 1997.

COMPLAINT NO:

136/2017

NATURE OF COMPLAINT:

Unlawful Dismissal

COMPLAINT

The complainant was appointed as security guard in 1978. He was promoted to the position of senior security officer in 1982. He stated that since his appointment, he had been efficiently and effectively executing his duty without any query. He alleged that he was with letter dated 20 November 2001 dismissing him from the service of the government with immediate effect.

FINDINGS

The complainant was an employee of a public institution and held the position of senior security officer until his dismissal 20 November 2001. He was dismissed from the service with immediate effect and no reasons were advanced for such decision.

The Ombudsman requested the institution to react to the circumstances that led to the complainant's dismissal. The Ombudsman was informed that the complainant's dismissal was a directive emanating from their line ministry on 20 November 2001.

The ministry was contacted and the reply was that they have gone through their records and consulted the complainant's place of work on the matter. However they were unable to find any correspondence conveying a directive for the complainant's dismissal.

Furthermore, the only correspondence found in their records was a letter from a former department of state giving directives for the dismissal of the complainant and three of his colleagues.

RECOMMENDATION

Since no record could be traced giving directive for the dismissal of the complainant and the mere fact that his colleagues with whom he was dismissed on the same date have been reinstated.

The Ombudsman recommended for the reinstatement of the complainant from the date he was dismissed and to be retired from the service of The Gambia Government with effect from the date he attained the statutory retirement age of 60.

The period from the date of the complainant's dismissal to retirement date will not attract any payment of salary. However, his service will be connected for the computation of his retirement benefits.

The complainant's institution was directed to initiate the computation of the complainant's retirement benefits.

COMPLAINT NO: 151/2017
NATURE OF COMPLAINT: Wrongful Dismissal

COMPLAINT

The complainant was appointed effective in 2001 and rose through the ranks to a senior position on 1 April 2005. He served in various units of his institution. On 13 October 2009, he was dismissed from the service. He considered his dismissal wrongful and sought redress from the Ombudsman.

FINDINGS

The complainant's dismissal from the service of the institution was done without any valid reason. Nothing adverse or incriminating was found in his file to support his dismissal. His dismissal from the service was therefore, arbitrary.

CONCLUSION

The complainant was reinstated via letter Ref: 0401310/ (29) dated on 2 December following the Ombudsman's intervention.

COMPLAINT NO: 168/2017
NATURE OF COMPLAINT: Claiming Salary Arrears

COMPLAINT

The complainant stated that he was appointed by a security institution effective 1 January 2000. He alleged that his service was terminated on 10 August 2010 but reinstated and redeployed to in January 2012. He was therefore claiming salary for the period he was out of service.

FINDINGS

The complainant was written to via letter dated 28 April 2009 in which he was informed of his promotion effective 1 January 2009.

The institution on 10 August 2010 conveyed to the complainant that directives had been received to terminate his services. In addition, the institution's director of finance was duly informed to compute the complainant's benefits.

The relevant institution wrote to the complainant via letter dated 24 January 2012 to convey to him that the termination of his service was rescinded and that he was redeployed to a different security institution with effect from 20 December 2011.

The complainant confirmed that he had a problem while serving in this new institution. He was arraigned before the courts found guilty and dismissed from the serviced.

CONCLUSION

Following the outcome of the panel set up to review the plight of officials whose services were unlawfully terminated during the period 1997 to 2016, it was Government policy that those officers affected would not attract any financial remuneration. However, their services would be connected for future computation of their retirement benefits. Therefore, the complainant was not eligible to be paid salary for the period he was claiming.

COMPLAINT NO:

215/2017

NATURE OF COMPLAINT:

Unlawful Dismissal

COMPLAINT

The complainant was an elected member of the National Assembly. Following the purchase of the Kansala and Al Jamdu Banjul-Barra Ferries, the relevant authority was unable to construct a suitable ram for the docking of the ferries. The complainant stated that on 29 October 2011 during parliamentary session he made a comment that whoever was responsible for the purchase of the ferries was irresponsible because the ferries had no terminal for docking. His research also revealed that the ferries were abandoned in an island in Greece since 1980.

He stated that if the ferries were actually purchased he asked why the government should only receive 45% of the proceeds and the balance of 55% to an unidentified beneficiary. He alleged the secretary general called his attention and told him whether he knew the severity of his comments. He accused him of trying to smear and embarrass the executive of the party and he must face the consequence.

He informed the honourable speaker about the encounter he had with the secretary general and the threats he made to him. The mobilizer of his party told him that he was dismissed from the party. He urged the Ombudsman to intervene for payment of his salaries from October 2011 to April 2012, as well as his gratuity.

FINDINGS

The complainant was a National Assembly member and was dismissed from his party. It is trite law that where a National Assembly member is expelled from the party upon whose ticket he/she entered the National Assembly, such member ceases to become a member of the National Assembly exactly at the time of expulsion.

The complainant ceased to be a member of the National Assembly at the time of his dismissal from the party as indicated under section 91(d) of the 1997 Constitution. He was not entitled to the salary he was claiming. On the issue of gratuity he did not complete his term, thus he was not entitled to be paid gratuity.

CONCLUSION

In view of the above revelation, the Ombudsman discontinued the investigation under section 9(3) (b) of the Ombudsman Act 1997.

COMPLAINT NO:

230/2017

NATURE OF COMPLAINT:

Claiming Leave Arrears

COMPLAINT

The complainant stated that he was appointed effective 1 February 1992 and retired from the service as director of corporate affairs on 23 September 2017. He alleged that due to the nature of his work, he had not taken his annual leave from 1992 to 2017.

He added that considering the length of his leave arrears, he claimed his leave arrears in two folds, from 1992 to 2011 and 2012 to 2017. However, he admitted that his leave arrears from 2011 to 2017 were paid. He wrote a memo dated 21 August 2017 claiming leave arrears from 1992 to 2010 but received no response.

FINDINGS

The complainant was appointed as civil engineer with effect from 1 February 1992 and gradually rose through the ranks until his retirement as director of corporate affairs on 23 September 2017. Through a memo on 27 December 2017; he was informed that he was due for retirement and also informed that an executive directive had been received that no leave arrears would be monetized.

Records showed that from 2003 to 2017, he had no leave deferred except in 2016 due to exigency of the service. However, he had outstanding leave arrears of 34 working days as of 10 January 2008. Also, he did not proceed on earn leave in 2009 and 2010. Therefore, he accumulated 84 working days without approval for deferment which is against government policy that retiring staff must take any leave earned otherwise such leave would be forfeited at retirement.

In 2011, an email was circulated to all directors which indicated that all leave arrears should be paid against staff existing loans and in the event staffs have no loan or there is a leave balance after the sale, the leave should be taken. Furthermore, by 2012 no loan would be qualified in exchange of any leave arrears.

The complainant requested through memo dated 3 January 2017 for the sale of his leave arrears of 141 working days as at 2016, to be paid against his outstanding liabilities which could not have been substantiated as per records.

Through memo dated 23 February 2017, the institution's internal auditor reviewed his leave portfolio for the period 2003 to 2017. It was realised that there was no evidence of leave deferral except in 2016 and there was no evidence of any sale of leave as the complainant alleged. He was only entitled to 25 working days deferred leave plus 25 working days for 2017 making a total of 50 working days. This was communicated to him on 1 June 2017.

CONCLUSION

According to the institution's Service Rules, "any employee who fails to proceed on leave without any valid reason for deferment during the course of the year shall forfeit such leave"

In addition, an executive directive was issued that no leave arrears should be monetized as per 2012 government circular which was circulated to all public enterprise.

Since the complainant did not have approval to defer his leave arrears amounting to 84 working days. The Ombudsman upheld the institution's decision that he was not entitled to be paid leave arrears.

COMPLAINT NO:

253/2017

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant stated that she worked for a public institution for almost 27 years and was among the cooks responsible for cooking for certain category of employees at that institution. She alleged that one day while serving meals, the head of institution said that the ingredient on the meal was very small, he was furious and kicked the basin on the ground.

As a result of this incident, he was verbally dismissed from the job. She urged the Ombudsman to intervene so that she could be paid her benefits to enable her to go for treatment in Senegal.

FINDINGS

The complainant's institution informed the Ombudsman that they had sought advice from the relevant institution but they were yet to receive response from them.

The relevant institution informed the Ombudsman that an executive directive was granted to retire the complainant from the services of The Gambia government effective 31 March 2012. As such, she was entitled to be paid retirement benefits.

CONCLUSION

The complainant died on 31 July 2018. The Accountant General computed her gratuity and paid to Curator of Intestate Estates on 10 September 2020.

CASE NO:
NATURE OF COMPLAINT:

279/2017
Claiming Retirement Benefits

COMPLAINT

The complainant was employed effective 1 March 1992. In November 2000, he applied for voluntary retirement and was never replied by the management concerning the status of his application.

In August 2017, he applied for his retirement benefit from Social Security and Housing Finance Corporation (SSHFC) and was informed that his institution did not write to them regarding his application. He was given an SS2 form to be filled by his employer. In addition, his employer should advise SSHFC on his entitlement to retirement benefits.

He alleged that he had tried to have the SS2 form filled by his institution's director of human resources for three months but to no avail.

FINDINGS

The complainant was employed as security guard III effective 1 March 1992. He rose through the ranks up to the position of security guard II effective 1 January 1998.

On 19 December 2000, the complainant wrote to his institution's management informing them of his new employment without any formal resignation from his position. In addition, he also informed the management that he is committed to pay off his loan. This letter of the complainant comes in a form of resignation even though it was not explicitly stated in the said letter.

Furthermore, his contention that sometime in November, he applied for his benefits lacks proof. What is clear in the records is that in September 2017, after 17 years of his unceremonious resignation, he applied for his benefits. What is strange is that the complainant did not retire from the services of his employer. He worked for only 8 years then left without informing his employer formally. He resigned indirectly after abandoning his position to take up a job elsewhere.

CONCLUSION

There is no evidence that the complainant retired from the service. He left the service unceremoniously to work for another institution. His claim for retirement benefit was a mere fantasy.

His absence from work could be deemed as abandoning his duty post without permission. The result of his conduct attracts a dismissal without any notice and dismissals do not attract benefits. His complaint had no merit and as such his case was dismissed for being frivolous and not made in good faith.

COMPLAINT NO: 303/2017
NATURE OF COMPLAINT: Claiming Salary Arrears

COMPLAINT

The complainant was enlisted into a security institution on 28 May 2006 and posted to one of its departments on 25 August 2006. He alleged that he had encountered numerous problems which forced him to tender his resignation but was not approved.

He was later transferred to another department. He alleged that during a head count in 2017, they were asked to state the challenges they were facing at work. He enquired why he was still on attachment at that department. At that point, officer commanding was not happy with his question and told him that he was transferred to his former department.

He further alleged that he reported to that department where he met a senior officer who displayed unwelcoming attitude towards him. He tried to talk to him but to no avail. He alleged that since it was very difficult for him to meet the head of his institution to explain his ordeal, out of frustration he applied for discharge from the service.

FINDINGS

The head of institution explained to the Ombudsman that the complainant had applied for discharge from the service and had been published discharged on 16 November 2017.

The complainant via letter dated 21 November 2018 applied for reinstatement but received no response. Unfortunately, the complainant died in February 2019.

The head of institution informed the Ombudsman on 15 April 2019 that the complainant's gratuity had been sent to the Accountant General's Department for processing.

CONCLUSION

The sum of D18, 896 being payment of gratuity was paid to the Curator of Intestate Estate on 11 September 2019.

COMPLAINT NO: 9/2018
NATURE OF COMPLAINT: Claiming Travel Grant

COMPLAINT

The complainant stated that in June 2017, he travelled to the Republic of China for three weeks to attend a seminar. He alleged that upon his return, he claimed payment of travel grant. He was informed by his ministry that his name was omitted because he was not among the joint clearance list. The ministry wrote to the relevant institution to reconsider their request and approve the complaint's travel grant but received no response.

FINDINGS

On 24 May 2017 approval was granted to issue travel clearance to the complainant to attend a seminar in China for officials from African countries to be held from 1-24 June 2017 in the Republic of China.

The ministry informed the relevant institution that the complainant was among the list of students identified for the training programme in China in June 2017. However, his name was omitted because it was not part of the joint clearance. As a result, he was not paid travel grant as his colleagues who attended the training programme with him. The ministry appealed to the institution to reconsider their request for travel grant on his behalf.

The institution informed the Ombudsman that the committee responsible for training had deliberated on the issue of non-payment of travel grant to the complainant. The committee has reconsidered its decision and granted approval for the complainant to be paid five hundred pound sterling as travel grant for attending a training programme in China in June 2017.

CONCLUSION

The complainant was paid D32, 150 (Thirty-two thousand one hundred and fifty dalasis)

COMPLAINT NO:

10/2018

NATURE OF COMPLAINT:

**Refusal to amend typographical error
On the Federated Pension Scheme
Registration Form**

COMPLAINT

The complainant stated that he was an employee of a public institution. He said that he lost his National Identity Card and applied for its replacement from the relevant public institution. He alleged that he submitted a copy of his lost national ID card and was issued a new one. He gave it to his employers to register him with the National Provident Fund. He later realised that an error was made on his date of birth of his national Identity Card. The date of birth indicated was 1959 instead of 1969. He went to the institution that makes ID cards to have the error rectified but all his efforts proved futile. On 24 November 2017 his employers wrote to the pension authority requesting them to rectify the error but their request fell on deaf ears.

FINDINGS

The ID authorities issued the complainant with national identity card serial No. 4500626 indicating that the complainant was born on 15 March 1959. Not realising the error on the date of birth and the fact that he was not literate in English, he used the said identity card to register with the Provident Fund.

When the complainant detected the error, his employer wrote to pension authority requesting for the complaint's date of birth. It revealed the complainant's new national identity card issued to the complainant indicated that he was born on 15 March 1959, instead of 15 March 1969 as indicated on his birth certificate.

The complainant's institution said it was convinced that the date of birth on the complainant's national identity card could be a typographic error. The complainant was directed to report to the pension authority for verification of his original birth certificate against his original national identity card.

The Alkalo in the complainant's village, on 14 October 1996, issued the complainant with an attestation that he was born in 1969. The complainant also possessed a birth certificate serial no. 391148 issued to him on 2 December 1996 and a national identity card serial No: 078087 issued to him on 22 July 1998 both indicating that he was born on 15 March 1969.

Documents obtained from a different public institution which has evidence of the complainant's previous appointment in a different institution also indicated that he was born on 15 March 1969. He was discharged from the service on 5 January 2008 and paid a lump sum gratuity of D15, 286.75.

Due to the error on the complainant's national identity card serial No. 45006263, he was prematurely retired on 11 March 2019.

The pension authority's Department of Research and Policy Planning Standing Policies Registrations under section (b) states "If the date of birth was never supported, then the changes can be allowed when proper documentation is submitted to correspond with provided documentation".

-“date of birth cannot be changed at the time of claim especially when such dates were supported by documentation. In certain instances the department head may allow changes depending on the existing facts”.

RECOMMENDATION

In view of the above and based on our findings, the Ombudsman was convinced that the complainant was born on 15 March 1969 and not 15 March 1959 as indicated in his new national identity card serial No. 45006263. The Ombudsman therefore, recommended for the pension authority to regularize the complainant's date of birth on his pension registration form as per Standing Policy Registration and communicate the change to the Ombudsman.

The Ombudsman further recommended for the complainants employer to rescind the letter dated 11 March 2019, in which he was informed that he was due for retirement with effect from 15 March 2019.

CONCLUSION

The GCAA reinstated the complainant via letter Ref: AVB145/321/01/P3/() dated 19 September 2019.

COMPLAINT NO:

52/2018

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant was enlisted into a security institution in April 2010. After passing out from the training school, he was posted to one of the stations where he spent almost 7 years. In 2017, he was transferred to another station.

In October 2017, he was arraigned on a single count of absence without leave on account of his absence from his post during the 2017 Tobaski Feast. He was found guilty and was ordered to report for 3 days confinement as punishment. Before he left to undergo his punishment, he fought with his relief commander. After serving his punishment, he resumed duties and was arrested for assault and detained. He was later granted bail and asked to be reporting on bail. He added that his case was transferred to one of the stations where his bail was revoked and further detained for 5 days in the cells. He was granted bail for the second time during which his family pleaded with his relief commander for an amicable settlement of the case which was granted on condition. The conditions were that he must apologise for the wrong he did wrong and refund the money spent by his relief commander on his medical bills. He fulfilled the conditions and the matter was withdrawn.

Upon the amicable settlement of his case, he was determined to resume duties at his post, but was informed that his name did not appear in any relief. He added that he made enquiries with his superiors and was later informed that he was dismissed from the service. He further alleged that his dismissal was verbally communicated in violation of the procedure in dismissing an officer. He said that only the head of institution could dismiss him and there was no proof to show that the head of institution dismissed him from the service.

FINDINGS

The complainant while on posting absented himself from his post. As such he was charged and reprimanded by his relief commander. When he was charged on account of his absence, he assaulted his relief commander causing him injuries. The matter was reported at a police station and his relief commander was escorted to a health centre where he was treated and discharged.

It was also found out that the complainant's dismissal emanates from his absence from his place of work starting from the 17 October 2018 to 9 January 2019. During the period of his absence, he was published absent without leave and dismissed from the service in accordance with the institution's Act.

CONCLUSION

The act of fighting alone is enough to dismiss him summarily from the service. He added fuel to fire when he further absented himself from work without any authority. What the complainant did was totally unacceptable in any working environment especially in a disciplined force.

The complainant's allegations are unfounded. His case was dismissed for being frivolous and not made in good faith.

COMPLAINT NO:
NATURE OF COMPLAINT:

65/2018
Unlawful Termination

COMPLAINT

The complainant was enlisted into the service effective 1 October 1979. He rose through the ranks to the position of head of institution.

On 21 June 2017, by an executive decision, he was retired from the service on medical ground. Immediately after his retirement, his personal file was forwarded for his gratuity to be computed.

He alleged that his retirement on medical ground was not supported by a medical board report; that it was only initiated by people who wanted his exit from the civil service.

He urged the Ombudsman to intervene to remedy the injustice meted out on him.

FINDINGS

The complainant was enlisted into the service effective 1 October 1979 and rose through the ranks to the position of head of institution.

By an executive decision, which was conveyed to him by the institution herein complained against, he was retired voluntarily on medical grounds as head of institution effective 19 June 2017. His retirement on medical ground was communicated to him on 21 June 2017. Immediately after his retirement, his personal file was forwarded to the head of his department for the computation of his gratuity. His gratuity was computed and he was paid 244,391.52 on 4 September 2017.

Concerning his wrongful termination, the complainant was not terminated rather he was retired voluntarily on medical ground by an executive decision. The power to appoint the head of the complainant's institution is vested in the president. Since the head of the complainant's head of institution is appointment by the president, section 231 of the constitution gives the appointing authority the corresponding power to dismiss or otherwise end the individual's employment in the public sector. The complainant's retirement from the service by an executive decision did not appear to be wrongful in light of the Code of Conduct Rules of complainant's institution and section 231 of the 1997 Constitution.

CONCLUSION

The authority which appointed the complainant as head of institution is the same authority that retired him from his appointment. As far as section 231 (5) of the 1997 Constitution is concerned, the power to make appointment to any public office includes the power to dismiss or end the appointment of any person so appointed. The institution complained against was merely conveying an executive decision to the complainant. In this regard, the investigation was discontinued under section 9(2) (e) of the Ombudsman Act.

COMPLAINT NO: 77/2018
NATURE OF COMPLAINT: Injustice

COMPLAINT

The complainant was appointed as plumber on contract effective 29 February 2016. At the time of his appointment, he was not given any written contract but was asked to report to work after which his contract letter would be provided. He alleged that, he had requested many times to get his contract document but to no avail.

The complainant further alleged that he had been paid basic salary of D5300 monthly. He also stated that he was not paid allowance. He further alleged that he continued to work until May 2018 when he was stopped from work and was not paid during that period.

FINDINGS

The complainant was first offered one year contract as plumber effective 1 January 2016. In 2017 he was granted extension of contract effective 1 February 2017 to 31 December 2017. He was paid fixed salary of D5324 monthly during his contract period.

His contract expired 31 December 2017 but was not renewed in 2018; instead he continued to work for five months without pay. He was paid a gratuity of D12, 777.60.

CONCLUSION

The institution is not liable for the complainant's claim since the five months period that he worked was not authorized by management. In this vein, the Ombudsman discontinued the complaint under section 9 (3) (a) of Ombudsman Act, for lack of merit.

COMPLAINT NO: 91/2018
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he was appointed on 1 January 2002 as driver. He alleged that on 10 September 2017, he was assigned to drive his institution's director of finance to Senegal for medical appointment. He told management that the institution owed him per diem which he requested on several occasion but received no payment. He insisted that he would not drive the director finance unless he received payment of the arrears of per diem owed to him. He alleged that all the members of staff who travelled outside the country were paid per diem. He questioned why he was treated differently.

He further alleged that the former head of administration asked him to park the vehicle and hand over the keys. He complied and to his surprise on 12 September 2017, he was issued a letter of indefinite suspension. He was of the view that the decision taken against him was unjust and urged the Ombudsman to intervene for redress.

FINDINGS

The complainant was offered temporary appointment as driver through on 10 September 2017; he was instructed to drive the director of finance to Dakar, Senegal on a medical appointment.

The complainant demanded the payment of his per diem arrears failing which he would not drive the director of finance to Dakar, management did not pay him and he refused to carry to drive the said director. Another driver was assigned to drive the director to Senegal.

The complainant was written to, dated 12 September 2017, in which he was informed that management had decided to suspend him indefinitely without salary. The reason for the suspension was as a result of his refusal to drive the director of finance to Dakar.

The complainant was initially assigned to drive to Dakar, from 6 to 9 May 2017 on an official mission. He applied for per diem but was informed that his per diem claim was not approved on the grounds that the trip was not official even though the travel clearance dated 5 May 2017 indicated the trip was official.

The complainant out of frustration reported to an officer attached to another public institution that he was threatened with dismissal if he failed to drive the director of finance to Dakar. This resulted in the institution's vehicle being unlawfully impounded by a person who impersonated a public officer. A police investigation revealed the impersonator's actual place of work.

The issue was tabled before the disciplinary board on 11 September 2017 and on 12 September 2017, the complainant was suspended indefinitely.

The minutes of the meeting of the disciplinary board revealed that he was suspended indefinitely but not the stoppage of his salary.

The complainant's reason for refusal to drive the director of finance was that the institution owed him pending per diem as follows:

- Travel Clearance dated 19 September 2008 issued to the complainant to travel to Dakar from 21 to 23 September 2008 on official mission.
- Travel Clearance dated 24 February 2010 issued to the complainant to travel to Dakar from 24 to 28 February 2010 on official mission.
- Travel Clearance dated 10 May 2010 issued to the complainant to travel to Dakar from 11 to 12 May 2010 on official mission.
- Travel Clearance dated 22 December 2015 issued to the complainant to travel to Kafring, Senegal from 22 to 25 December 2015 on official mission.
- Travel Clearance dated 26 May 2016 issued to the complainant to travel to Mbao, Senegal from 29 May to 1 June 2016.

- Travel Clearance dated 12 January 2017 issued to the complainant to travel to Dakar, from 13 to 16 January 2017.
- Travel Clearance dated 18 April 2017 issued to the complainant to travel to Dakar from 18 to 20 April 2017.
- Travel Clearance dated 5 May 2017 issued to the complainant to travel to Dakar from 6 to 9 May 2017 on official mission.
- Travel Clearance dated 31 August 2017 issued to the complainant to travel to Dakar from 4 to 10 September 2017.

The complainant claimed on several occasions for payment of per diem but received no reply from the management.

The complainant sued his institution to the industrial tribunal. Counsel for the institution objected that the tribunal does not have jurisdiction to hear a matter of civil service as stated in the provision of section 3(2) of the Labour Act.

The tribunal upheld the counsel's objection and ordered as follows:

- The institution fall under civil/public service
- The honourable tribunal lacks the jurisdiction to hear claims of civil service as per section 3(2) Labour Act.
- The case was struck out for lack of jurisdiction.

The complainant on 8 October 2018 was deployed to the administrative department as driver.

The Ombudsman is of the view that the complainant was unfairly treated for the reason that on several occasions he was on official mission without being paid per diem. According to the PMO circular, all officials travelling outside the jurisdiction of The Gambia are entitled to be paid per diem.

The Ombudsman frowned at the complainant's conduct which resulted in the institution's vehicle being illegally impounded. This is an act of insubordination and the institution was right in instituting a disciplinary measure against the complainant to serve as a deterrent.

RECOMMENDATION

The Ombudsman recommended that the complainant be paid per diem as indicated in the travel clearance mentioned above. The institution's argument that the trips assigned to the complainant were not official did not hold water for the simple fact that the travel clearances issued to the complainant all indicated that the complainant was travelling on official mission.

CONCLUSION

The complainant was paid D70, 200 (seventy thousand two hundred dalasis) on two instalments. The first payment of D31, 200 was made via MegaBank cheque No.00188939 dated 19 November 2020 and the second payment D39, 000 was made via Agib Bank cheque No.20290900 dated 11 January 2021.

COMPLAINT NO:

92/2018

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant alleged that, by a letter dated 2 July 2018, he was dismissed from the service. He added that his dismissal from the service stemmed from the petition he filed at the Office of the President on 22 January 2018 against his head of institution. He further added that this petition was to bring to light the system of administration the institutional head was operating. He also alleged that the said petition brought on to him a fierce vengeance and reprisal from the said official who was eager to see his exit from the service. The first punishment was his demotion in rank in relation to charges of discreditable conduct brought against him. He alleged that the convening of the Orderly Room which preceded his demotion was improper because it was done in his absence and the proceedings were conducted when his petition was being investigated by a state institution.

Furthermore, after the conclusion of the investigation into his petition and a report was submitted to the secretary general. The permanent secretary (PS) of his ministry wrote to the secretary general requesting for approval to settle the matter at their level which was granted. He further alleged that since the case was withdrawn and handed over to the PS, no progress yielded on the matter until he received his dismissal letter from the deputy head of institution in a letter dated 2 July 2018. He finally alleged that his action in filing a petition against his head of institution was an exercise of his constitutional right and not an act of discreditable conduct.

FINDINGS

The said institution wrote to the Ombudsman dated 6 December, 2018 in which it acknowledged that the procedure taken in dismissing the complainant was totally wrong and unfair.

RECOMMENDATION

On this basis, the Ombudsman recommended that the complainant be reinstated in protection of his constitutional right not to be removed from office or reduced in rank or otherwise punished without just cause.

CONCLUSION

The institution complied with the Ombudsman's recommendation and reinstated the complainant on 26 February 2019.

COMPLAINT NO:
NATURE OF COMPLAINT:

101/2018
Unlawful Dismissal

COMPLAINT

The complainant stated that he worked for 22 years, from 1 July 1989 to 23 January 2011. He asserted that it was always the norm that officers on duty record the name of anybody who visits the prison. He alleged that on Wednesday 19 March 2011 while on night duty at, their head of institution came with other officers wearing face mask.

They informed him the reason of their visit was to interrogate the prisoners in connection with a mobile phone which was given to one of the prisoners. The gatekeeper booked the names of the prison officers in mask and their arrival time.

They insisted their names should not be recorded and asked them to tear the paper in which their names were recorded. The officers on duty refused but the officers in mask seized the book and tore the paper in which their names were recorded. They entered the premises and took some prisoners to the garden and after a while left.

The tearing of the paper did not happen in the presence of the director general. As the most senior officer at the guard post he picked the torn papers and kept it for future reference.

The incident was leaked that the head of institution came to the prison with some officers wearing face mask but he denied ever coming to the prisons with masked men. The complainant was later invited by a joint security task force and he showed them the torn paper to strengthen his statement.

He alleged that the head of institution gave instruction for him to be charged on four counts to which he pleaded not guilty. Unfortunately, he was dismissed. He believed that he was unjustly treated and urged the Ombudsman to intervene for redress.

FINDINGS

The complainant was enlisted on 1 July 1989. The complainant was on night duty on 19 March 2011 at a prison, when his head of institution came with some security personnel wearing face mask.

The purpose of their visit was to meet some prisoners who were newly transferred there. As the normal procedure, he asked the gate keeper to book the names of the officers on the register but the officers objected that their names should not be recorded. He denied them entry as a result a scuffle ensued between them and in the process the paper in which the names of the officers were recorded got torn.

The complainant was later invited for questioning by a joint security task force. He narrated everything that transpired on the night of 19 March 2011 at the said prison. He showed them the

torn paper in which the names of the officers who accompanied the head of institution were recorded.

On 23 August 2011 the complainant was charged on four counts as follows:

- Without due authority discloses or conveys any information concerning any investigation or other prison or departmental matters to any unauthorised person.
- Omits to make any necessary entry in any official document, book or paper.
- Make or signs any false report or statement in any official record or document knowing or having reasonable grounds to believe that the same is false.
- Makes or joins in making any anonymous complaint to a superior officer contrary to section 23(29) (37) (38) (42) of the institution's Act.

He pleaded not guilty to all the counts preferred against him but he was found guilty without sufficient evidence to prove his guilt. He was dismissed with effect from 23 August 2011.

RECOMMENDATION

It is a procedure that anybody visiting the prisons should be recorded for security reasons. The request by the officers to have their names deleted from the prison register especially at that odd hour insinuated that they had a sinister motive. The Ombudsman was convinced that the complainant was unlawfully dismissed for lawfully carrying out his duty which did not go down well with the head of institution and for the fact that his sinister act was exposed at the complainants meeting with the joint security taskforce.

The Ombudsman recommended that the complainant's dismissal be rescinded and translated to discharge and all his benefits be computed and paid accordingly.

CONCLUSION

The complainant via voucher No. 13PV20001733 dated 8 September 2020 was paid D52, 850, 92 (fifty-two thousand eight fifty hundred ninety-two butut) as gratuity.

COMPLAINT NO:

105/2018

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was appointed on 1 April 1982. Following his appointment, he was posted to different hospitals and health centres in the country.

On 16 May 2014, the complainant was redeployed from a clinic to a health centre. He was later attached to a hospital in 2015. During the nationwide staff audit exercise at the said hospital, his personal details were not captured. This was because his personal details were not available at the hospital but with the ministry. Since he was not physically identified when the staff audit team visited his duty post, he was deemed to have been absent from his duty post without approval. As a result, he was dismissed in accordance with the provisions of Regulation 57 of the PSC Regulation. He considered his dismissal as unlawful and sought redress from the Office of the Ombudsman.

FINDINGS

The allegations of the complainant regarding his appointment and postings were found to be accurate. His dismissal from the civil service was done via letter dated 15 February 2018. The reason for his dismissal as highlighted in the letter was that he was not found in his duty station during the 2017 nationwide staff audit exercise. In addition, he never showed up nor regularized his status.

The complainant's absence from his duty was owing to his redeployment from a clinic, to a health centre from where he was further redeployed to a hospital. His personal details were not available with the hospital administration since he was only redeployed as an additional staff. He did not exist as a staff of the said hospital but remained as a staff of the ministry. This was the reason why the head count team did not physically find him at his duty post.

In the process of fixing the complainant's status, the ministry was advised to transfer the complainant's salary to the hospital where he is redeployed and the ministry complied.

RECOMMENDATION

The ministry was urged to fix his status which was as a result of an administrative lapse.

CONCLUSION

The complainant was reinstated and upgraded from grade 3.4 to 5.1 of the Government Integrated Pay Scale. His personal details were also included in the hospital's Nominal Roll. The complainant from July 2018 received and continues to receive his monthly salary from the hospital.

COMPLAINT NO:	106/2018
NATURE OF COMPLAINT:	Injustice

COMPLAINT

The complainant was enlisted into a security institution in March 2004 and was retired from the service on 6 April 2018. According to the retirement letter from the complainant's institution, he was due since the 15 January 2017 and that he overstayed in the system.

He also alleged that in May 2018, he went to process his gratuity but was informed that the salary he was receiving after the due date of his retirement i.e. 15 January 2017 would be deducted from his gratuity which would take effect from February 2017 to April 2018. He finally alleged that he had worked to earn such salaries and that it is unfair to make such deduction from his gratuity.

FINDINGS

The complainant was enlisted in March 2004. He retired from the service on the 6 April 2018. His retirement was backdated to 15 January 2017 which was his actual date of retirement. He overstayed in the service for more than a year. During the calculation of his gratuity, it was noticed that the complainant overstayed in the service after his due date of retirement and had earned D82, 297.16 as remuneration. This amount was categorized as a negative balance that had to be paid before his gratuity would be paid to him.

It was also revealed that the complainant's gratuity was at the tune of D23, 442.63 and his annual pension was at D6, 472.48. The complainant was given the option to claim his pension from which D82, 297.16 would be deducted. At the end of the said deduction, he would be entitled to his gratuity.

CONCLUSION

The complainant was informed of the option available for him and the reason why his gratuity was not paid. He was admonished to pay the amount unlawfully earned through his overstay in the service so as to be eligible for gratuity.

COMPLAINT NO:

110/2018

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant alleged that he registered a visa case at a police station involving two people. He added that the amount involved was D85, 000 and the accused, was charged and placed in a cell pending the outcome of the police investigation. After the expiry of the 72 hours detention, he was granted bail upon fulfilling the bail conditions. He was to report to the police station on daily basis.

Investigation was in progress when the accused jumped bail and absconded from the jurisdiction. The complainant summoned the surety to report to the station. When the surety reported he forwarded the matter to the Prosecution Unit for necessary action. The case was referred to a magistrates' court for the surety to produce the accused.

The complainant alleged that the police authorities held him responsible for the escape of the accused. He was charged and marched before their deputy head of institution who ruled that he had to pay the D85, 000 which would be deducted from his salary for a period of five years, which was endorsed by the head of institution. Every month D1517 was deducted from his salary with effect from October 2012.

He was surprised and dissatisfied with the decision taken against him due to the fact that he had complied with due procedure and was not negligent in the execution of his duty. He reported the matter to the ministry which promised to work with his head of institution to ensure that he was refunded but the promise was not fulfilled.

FINDINGS

The complainant's salary was deducted for the lost incurred by a person who complained to the police when the accused person duped him D85, 000 in a visa transaction and thereafter jumped bail.

After undergoing the necessary procedures at the police station, the accused was admitted to bail upon fulfilling the condition of the bail. He jumped bail and left the country. The police command was not happy with the accused absconding from the jurisdiction. The complainant was blamed for such occurrence and later deducted his salary to pay the amount involved i.e. D85, 000 as punishment.

CONCLUSION

The complainant was not the surety to the accused person. He merely did his job by granting bail to the accused. The police command could not show where the accused went wrong in the process such that he should be held responsible. Assuming that the complainant did what he was not supposed to, the proper procedure was not to deduct from his salary. The police authority cannot be the judge in their own case.

As an institution that deals with the administration of law and order, they should know better what the correct procedure should be. Again, assuming the complainant was the surety, the proper procedure was to arraign him before a court of law to show cause why the bail bond should not be forfeited. The complainant was not the surety to the accused; why should he be punished for someone's crime? Indeed the police authority acted very unprofessionally in dealing with the situation.

The complainant was paid the sum of D45, 000 as down payment. The remaining balance was to be paid subsequently. He confirmed to the Ombudsman that the entire sum had been paid.

COMPLAINT NO:	130/2018
NATURE OF COMPLAINT:	Unfair Treatment

COMPLAINT

The complainant alleged that he was arrested by officials of a security institution in connection with a court case. He stated that while on duty, seven officers found him at his guard post and asked him whether he went by a certain name to which he replied in the affirmative. He alleged that they started beating him mercilessly, handcuffed and threw him at the back of the pickup vehicle.

As they were taking him away he asked them why they meted out such treatment on him. They told him because he refused to answer to a summons issued by a magistrate's court. He denied ever receiving a summons but they continued to beat him as a result he sustained a permanent injury on his ears.

FINDINGS

The complainant was appointed as security guard by a private security company. In December 2017 the complainant while on duty at a residence saw a gardener dropped a black bag in the residence. He called the attention of his colleague; they opened the bag and found that it was containing suspected cannabis. They informed their boss (the occupant of the resident) about the incident.

The matter was reported to the said institution and the suspected cannabis was handed over to them. On 9 April 2018 some of their officers came to the complainant's place of work to obtain his statement. The complainant refused to cooperate with them because according to him the incident happened about five months ago.

The institution explained to the Ombudsman that the complainant was required to give evidence before the court despite being notified he failed to appear. The prosecution applied for summons to be issued to the complainant to ensure his appearance before the court. The application was granted but still the complainant refused to attend the court. Security personnel were sent to ensure that the complainant appear before the court.

On 22 May 2018, some officers came to the complainant's place of work and told him that he was under arrest. One of the officers slapped him on the right ear, handcuffed him and forcefully put him behind the pick-up and drove to the magistrate's court. In his testimony, he told the court what happened at his place of work on 10 and 11 December 2017. He also narrated the rough treatment he suffered in the hands of personnel who brought him but the magistrate did not take any action against his assailants.

The witnesses interviewed testified that they saw one of the officers gave the complainant a nasty slap and handcuffed him and forcefully bundled him on board a vehicle and drove away. They further said that they can identify the officer who assaulted the complainant whenever the opportunity is given to them.

The medical paper from Bakau Health Centre dated 30 May 2018 indicated that the complainant was slapped and was treated for ear injury.

RECOMMENDATION

The rough treatment meted out against the complainant by the said officers is a violation of human rights, as it contravenes section 21 of the 1997 constitution which states "No person shall be subject to torture or inhuman degrading punishment or other treatment".

The Ombudsman therefore recommended that an identification parade be conducted to allow the complainant to identify his assailant. His assailant should tender an apology to the complainant and the authorities should take the appropriate disciplinary measure against the said officer.

COMPLAINT NO:
NATURE OF COMPLAINT:

170-203/2018
Denial of timetable

COMPLAINT

The complainants stated that they were teachers and posted to an upper basic school. They alleged that following the teacher's sit down strike, they resumed duties but were denied timetable. They further alleged that the principal was not in talking terms with the majority of staff and replaced 17 trained teachers with untrained teachers which led to a shortage of trained teachers in the school.

FINDINGS

At the opening of the academic year 2018/2019, some teachers reported to work and about 20 teachers were on strike. During this period, officials of the regional education commenced their stabilization to account for teachers which coincided with the teachers sit down strike. They realised that some teachers on sit down strike had timetable while those who reported to school late did not have timetable. They recommended that those who reported to school on time should be given timetable and that all the teachers without timetable should be referred to the regional office.

The principal stated that he did not refuse the teachers timetable and he did not have the power to do so. He emphasized that teachers who reported on time were given timetable leaving out those who did not report on time. Due to the large number of affected teachers, they were posted to other regions.

The affected teachers claimed that following the strike, the principal did not welcome them. The principal told them that if they want to know their fate they should report to the regional office. An official of the regional office told them that their names would be sent to the permanent secretary.

Through letter dated 25 September 2018, addressed to the Regional Education Directorate, the principal forwarded a list of teachers without timetable to be redeployed to other schools.

Refusal to give the affected teachers timetable and subsequent transfer to other region was as a result of their late reporting to the school at the beginning of the academic year.

CONCLUSION

The Regional Education Directorate redeployed 70 spilled-over teachers including the complainants to other regions with effect from 19 October 2018. The Ombudsman upheld the decision of the Regional Education Directorate to redeploy teachers without timetable to other regions where their services would be most needed.

COMPLAINT NO:
NATURE OF COMPLAINT:

204/2018
Injustice

COMPLAINT

The complainant alleged that he was allocated a plot of land at a housing estate in 2001. He added that as per the agreement between him and the responsible state institution, he was to pay D66, 000 for the said plot of land. On 26 January 2001, he paid D30, 000 as part payment and further promised to pay remaining balance of D36, 000 in the next few months. He also alleged that before building structures on the land, he sought and obtained the permission of the said institution to build on the land.

Furthermore and after few months of the initial payment of D30, 000, he was written to and asked to complete the payment of the remaining amount or in default, the land would be resold to another buyer. To his surprise, the institution entered the land and resold it to another buyer even though he had started to construct a house on the land. He added that he spent D34, 456 on the construction of the house. He further alleged that he was refunded the D30, 000 he paid but was not compensated the expenses he incurred in building the house. He finally alleged that several follow-ups and promises were made to compensate him on the expenses he incurred in building the house but to no avail.

FINDINGS

On 24 January 2001, the complainant was offered a plot of land at an estate by the said institution at the tune of D66, 000. The conditions of the offer were that the complainant would make a down-payment of D40, 000 and settle the remaining balance of D26, 000 within 3 months and he agreed. The complainant paid D30, 000 towards the down- payment and promised to pay the remaining D10, 000 in the following week to complete the first payment of D40, 000. This marked the first breach of contract committed by the complainant. Notwithstanding, the institution condoned the said breach and allowed the complainant some time to fulfil his pledge. Regardless of his breach of the agreement, the complainant went ahead and built a small house on the land. He alleged to have the permission to do so but there was no proof of such permission given to him.

Furthermore, he was given until 26 June 2001 to pay the balance or else, the land would be sold to another buyer. The complainant failed to adhere to the deadline of payment and the land was sold to another buyer. In a letter dated 6 August 2001, he was advised, through the institution's solicitor to come for the refund of his D30, 000 which was in fact refunded to him.

In addition to the refund of his money, he claimed compensation for the amount of money spent in the building of the house. Verily, the complainant has put the cart before the horse. At the time he built the house on the land, he had neither ownership nor authority to commence building. The position of the law which is in accordance with common sense is that a person who spends money on developing or improving the land of another has no claim to reimbursement or to any proprietary interest in the land.

CONCLUSION

The complainant has himself to blame for his loss. His complaint lacks merit. The case was dismissed.

5.2 UNLAWFUL TERMINATION & DISMISSAL

COMPLAINT NO:

4/2019

NATURE OF COMPLAINT

Unlawful dismissal

COMPLAINT

The complainant was enlisted into the service of a public institution on 26 May 2014. After 23 months of her enlistment, the management realized that she was 9 months pregnant. As a result, she was given a verbal dismissal by the head of institution. After the change of government in 2016, she made several attempts to be reinstated but to no avail.

FINDINGS

The complainant was enlisted into the service of the said institution on 26 May 2014. After 23 months, she was found to be pregnant for 9 months resulting in her dismissal from the service by the head of institution.

It was a requirement that female recruits were supposed to sign a declaration form which indicated that they would respect orders, and subject themselves to the ordinances, regulations and standing orders relating to the services of the said institution. However, the declaration form which was produced to the Ombudsman was not signed by the complainant.

CONCLUSION

The Ombudsman is of the view that the declaration form and the Standing Order which is a requirement for female recruits to sign contravenes Section 33 of the 1997 Constitution and section 22 (1) (2) (3) of the Women's Act 2010 which prohibits every form of discrimination against women on grounds of her marital status. No woman should be dismissed from her employment on grounds of maternity or on the basis of her marital status.

It states further that any employer who contravenes this provisions commits an offence and is liable to a fine of D50,000 on conviction or imprisonment for a term of one year or both fine and imprisonment. The Standing Order therefore, contravenes the provisions of section 33 of the 1997 Constitution and section 22(1) (2) of the Women's Act. The Ombudsman recommended that the complainant's dismissal be rescinded and reinstated with immediate effect. The complainant was reinstated.

COMPLAINT NO:

24/2019

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was appointed as security guard in 2014. He was responsible for escorting delivery of fuel to various stations in The Gambia. In 2015, he was redeployed to a certain

station. He served in the said station until his dismissal in December 2018. He alleged that on his dismissal letter, it was stated that he had been warned three times and suspended on two occasions which was never the case. The complainant further alleged that he was warned once not suspended. He said that he had applied for annual leave in 2016, 2017 and 2018 but was not granted. He alleged that he was denied one-by- six salary advance and the yearly rotation to other filling stations which his colleagues were enjoying.

On the issue of regularity and punctuality, the complainant said that he had been punctual and regular at work. He alleged that his dismissal was wrongful since the management did not exhaust all due process.

FINDINGS

The complainant was appointed as security guard in 2014. He was responsible for escorting fuel delivery from the depot to various filling stations.

He was involved in the illegal selling of fuel in consequence of which the management gave him a warning letter dated 18 September 2013.

On 19 December 2014, the complainant's supervisor filed a complaint against him for his irregularity and lateness to work. This was followed by a warning letter to him for irregularity and lateness to work dated 26 January 2015.

On 16 December 2015, management wrote a letter of suspension and warning after he was reported by his head of department. He was suspended for three weeks without salary.

On 9 June 2016, the complainant was deducted one day salary for not reporting to work on 8 June 2016. On the 1 August 2017, he was issued with the final warning and suspension letter.

The management went further to inform the complainant's family about his attitude towards work and warning that he would be dismissed if he continued with his behaviour.

He insulted the institution's chief security officer on mobile phone in the office of a senior officer.

The complainant had undergone several disciplinary procedures before his dismissal.

According to the institution's staff service rules, the complainant was liable for termination of services as he had at this point exhausted the number of times a staff should receive warning letters before dismissal.

Following review of the report of the disciplinary committee as per the staff service rules, the complainant was finally dismissed from the institution's service through a letter dated 28 December 2018.

CONCLUSION

The Ombudsman upheld the management's decision to dismiss the complainant from the service after exhausting all the disciplinary procedures. The complaint was therefore dismissed under section 9(3) (a) for not made in good faith.

COMPLAINT NO: 27/2019
NATURE OF COMPLAINT: Unlawful Discharge

COMPLAINT

The complainant alleged that he was falsely accused of having a conversation with someone which was recorded. He was invited for questioning by a public body different from his institution which he believed was not in line with his institution's procedure but nonetheless he complied. In the first invitation, he was interrogated and his statements were obtained. In the second meeting, a witness was brought who they alleged was the one with whom he had been having conversation with. The said witness denied having any conversation with him and that he had never seen him. He was unlawfully discharged from the service.

FINDINGS

The Ombudsman was informed that his discharge from the service was directive from the commander in chief who according to the institution's Act, has the powers to do so.

Furthermore, the Ombudsman was informed that the complainant was paid all the benefits due to him and that his discharge was lawful.

CONCLUSION

The Ombudsman did not have the mandate to investigate or make recommendation on any matter relating to the affairs of the president as stated under section 9 (2) (e) of the Ombudsman Act 1997. The investigation was therefore discontinued as the inquiry would be unnecessary, improper or fruitless.

COMPLAINT NO: 44/2019
NATURE OF COMPLAINT: Wrongful Dismissal

COMPLAINT

The complainant was enlisted on 1 March 2017. She had a child while in active service. She alleged that upon her delivery, she did not apply for maternity leave but her immediate supervisor knew that she had delivered. She alleged that in September 2018, one month after her delivery, she was verbally informed of her dismissal from the service. She further alleged that she was not issued with any dismissal letter.

FINDINGS

The complainant was enlisted on 1 March 2017. According to complainant's maternity card, she delivered on the 16 August 2018. She sought maternity leave through the medic at her place of work who later forwarded it to the assistant head of institution but was not granted leave.

The days the complainant was said to have AWOL (absent without leave) were from the 27 August 2018 to 6 September 2018. The above-mentioned dates presented as evidence by the institution leading to the complainant's dismissal was days after her delivery.

Reference to Part IV, section 15 (3) of the women's Act 2010 states that "without prejudice to the provisions of subsections (1) and (2), every organ, body, public institution, authority or private enterprise shall take appropriate measures to protect the maternity status and reproductive health of women, including allocation of special facilities, time, and resources, aimed at protecting maternity, and such special measures shall not be considered discriminatory".

Also section 04112 of the General Order grants six months maternity leave with full salary which commences one month before the expected date of confinement upon the production of a medical certificate.

CONCLUSION

The Ombudsman recommended that the complainant be reinstated to her position and be paid her salary arrears since her right to maternity leave was violated. The complainant was reinstated effective 11 September 2018 and paid her salary arrears.

COMPLAINT NO:

56/2019

NATURE OF COMPLAINT:

Unlawful dismissal

COMPLAINT

The complainant copied the Ombudsman a petition dated 15 January 2019 addressed to the Secretary General and Head of Civil Service pertaining to his unlawful dismissal from the service of The Gambia government.

He stated that he was interviewed by a public body as part investigations. He explained the unfortunate incident that befell him during his tenure as head of a public institution. He was told that the investigating body would forward its findings to the relevant authorities. He had since not heard from the authorities in relation to his plight.

FINDINGS

The panel established to review wrongful dismissal and termination from 1997 to December 2016 reviewed the complainant's petition of wrongful unlawful dismissal but did not find any evidence that the complainant's dismissal was as a result of executive directive. He was referred to the Office of the Ombudsman for redress.

The said investigating authority informed the Ombudsman that their investigation revealed that the complainant was employed in the said institution and rose through the ranks to head the institution in 2005. He was dismissed in 2010 without stating any reason.

Their investigation further revealed that he was arrested, investigated, charged for economic crimes (section 5(h) ECA), arraigned before a court of law convicted and sentenced to 8 years imprisonment.

CONCLUSION

In the light of the above, the Ombudsman did not have the mandate to review judicial decision as stated under section 9 (2) (a) of the Ombudsman Act 1997. The investigation was therefore discontinued.

COMPLAINT NO:

71/2019

NATURE OF COMPLAINT

Unlawful Dismissal

COMPLAINT

The complainant was appointed as security guard effective 1 January 2011. In May 2014 while on duties, he quarrelled with his immediate boss. He said their quarrel was as a result of a request he made to the director of administration, appealing for the restoration of his rank since he was demoted from the rank of Sergeant to Corporal.

However, since this request was perceived by his boss as an act of hypocrisy, he insulted the complainant. The complainant eventually felt offended and reminded him that he was taking advantage of his relation with the former president by bullying people under him. This further annoyed him and as a result, he (the complainant) was matched to the Special Operation Unit where he was informed that he was under arrest. On the same day, he was taken to a police station and detained without a charge. The following day, he was taken to his institution's headquarters and served with an unsigned dismissal letter.

The complainant further alleged that despite being served with an unsigned dismissal letter, he was taken to another public body and subjected to several cross examinations. From there, he was taken to the police headquarters and then to a magistrate's courts where he was charged with giving false information. He added that even with all that he went through; he was finally acquitted and discharged after a year's trial.

FINDINGS

The complainant was appointed as security guard effective 1 January 2011. In May 2014 while on duties at Special Operation Unit, he quarrelled with his immediate boss. The quarrel was as a result of a request the complainant made to the institutions director of administration, appealing for the restoration of his rank since he was demoted from the rank of Sergeant to Corporal.

This was perceived by his boss as an act of hypocrisy, he insulted the complainant. The complainant was matched to the Special Operation Unit where he was informed that he was under arrest. On the same day, he was taken to a police station and detained without charge.

The following day, he was taken to his institution's headquarters and served with an unsigned dismissal letter.

The complainant was further taken to another state institution and subjected to several cross examinations. Thereafter, he was taken to the police headquarters in Banjul and then to a magistrate's court where he was tried for giving false information. Ultimately, he was acquitted and discharged after two years of trial.

CONCLUSION

Following a review of the complainant's dismissal, his service was reinstated effective 1 August 2019. Besides, his service with The Gambia government was reconnected from the date of his dismissal.

COMPLAINT NO: 78/2019
NATURE OF COMPLAINT: Unlawful dismissal

COMPLAINT

The complainant stated that while on parade on 21 June 2019, he was asked to report to a state agency. Upon reporting, he was escorted to his institution's headquarters where his statement was obtained. A panel was set up comprising senior officers and he was informed that his name was mentioned by an officer that he was among the group plotting to assassinate their head of institution. He was informed that he and his colleagues met at a certain officer's resident to discuss the strategy to use to carry out their sinister plans.

He refuted the allegation and emphasized that his relation with the said officer was only based on the job and nothing else. He alleged that one of the culprits denied the said officer's statement and emphasized that the complainant was not part of the group. He alleged that he was asked to write his statement and forced to plead guilty. He was detained for four (4) months seventeen (17) days. Following their detention, another panel was set up to inquire into the matter. He told them that he knew nothing about the plot. He was dismissed from the service.

FINDINGS

The complainant's head of institution informed the Ombudsman that the complainant was part of a group of junior officers who were alleged to have involved in mutinous conduct.

The group planned to arrest the head of their institution and other senior government officials both civilian and security to make certain unlawful demands which include that ECOMIG Forces must leave the Gambia within 72 hours.

The plot was disclosed by some officers, whom some of the purported mutineers approached to inform them of their plot and to solicit support from them. All officers that were part of the group were arrested and detained pending the outcome of the investigation.

The preliminary investigation revealed that there was ample evidence against all the group members that were planning to stage a mutiny. As a result, a multi-security taskforce was set up and found the group members blameworthy.

They recommended for their immediate trial and if found guilty to be dismissed from the service. The complainant and colleagues were tried in line with their institution's law, rules and procedures. They were found guilty and dismissed accordingly.

Both investigations that is, the one conducted by the complainant's institution and the multi-security taskforce did not pronounce the complainant's innocence. The complainant's head of institution contested that the complainant's argument that his name was mentioned by only one person and refuted by a different person was untenable. Moreover, there was other evidence against the complainant to show his complicity in the said offence which triggered his dismissal.

CONCLUSION

The said institution is a disciplined force and the mere fact that the confidence bestowed on the complainant has been eroded for security reasons it would not be prudent to keep him. The Ombudsman upheld the decision to dismiss the complainant from the service.

COMPLAINT NO:

88/2019

NATURE OF COMPLAINT:

Unlawful Discharge

COMPLAINT

The complainant was enlisted on 23 September 2002. He was promoted to a senior rank with effect from 1 November 2016. He alleged that on 6 October 2017, he was unlawfully discharged from the service. His bone of contention was that his discharge did not arise as a result of him being found wanting in the execution of his duties. He had never contemplated to retire voluntarily from the service. He stated that his right as a civil servant had been violated.

FINDINGS

The complainant's institution informed the Ombudsman that his discharge from the service was a directive from the commander in chief who is vested with such powers according to the institution's Act.

Furthermore the Ombudsman was informed that the complainant had been paid all the benefits due to him and that his discharge was lawful.

CONCLUSION

The Ombudsman did not have the mandate to investigate or make recommendation on any matter relating to the affairs of the president as stated under section 9 (2) (e) of the Ombudsman Act 1997.

5.3. UNFAIR TREATMENT

COMPLAINT NO: 1/2019
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant alleged that a public institution imposed a levy on him on a provisional land allocated to him. He applied for the allocation of a plot of land in 2015. He was granted approval for the land after waiting for a period of three years. However, he was taken aback by the new levy requirement of almost 25, 000 US dollars. He believed that this amount should not apply to him for the following reasons;

- The new levy came into force three years after his application.
- There was no mention of this levy anywhere on the requirement at the time of his application.
- If his application was processed on a timely manner then this levy would not have applied.
- It was not his fault that his application was not processed on time.
- The said institution is requesting for the levy without allocating them a specific area of allocation prior to making the payment.
- The current value of land at the possible land allocation area is way less than the levied amount.
- There is a systematic favouritism towards foreigners for these land allocations due to bribery. He has undeniable evidence of this claim.

FINDINGS

The said institution wrote to the complainant dated 13 August 2018 to grant him provisional offer for a land for the construction of an Indoor Water Amusement Park and requested for the non – refundable development levy of 10% of the total project cost amounting to forty-nine thousand five hundred and thirty-six US Dollars (49,536)

He was further informed that following a Cabinet resolution for the reduction of the non-refundable development levy it has been reduced from 10% to 5% of his total project cost. Therefore, he was advised to pay the non –refundable development levy amounting to twenty-four thousand seven hundred and sixty-eight US Dollars (24,768).

The institution explained to the Ombudsman that a provisional allocation of land to the complainant was done on its terms. It made clear the criteria for at the time of allocation. They emphasized that land allocation has never been automatic. A proper application needs to be made, and such an application is dealt with in accordance with the procedures in place before finally placing it before the committee which eventually makes the provisional land allocation.

They stated that there is limited land available for allocation in the area the said land is situated. Applications are subject to conditions and rules that are reviewed from time to time. The terms of the allocation are determined from time to time depending on circumstances and considerations in existence.

The complainant did not have automatic right to be granted land or to have his application processed on a particular date. He has proceeded on the basis that he was entitled to have his application granted merely upon application.

In the event the complainant was unwilling or be unable to comply with terms of his allocation he should have made it known to the board so that the said land can be reallocated to applicants who were in the queue and are prepared to pay the applicable levy.

The complainant has failed to provide evidence to substantiate his claim that there is systematic favouritism towards foreigners in land allocations due to bribery received from foreigners.

CONCLUSION

The Ombudsman recommended that the complainant should adhere to the terms of the provisional offer and pay the non –refundable development levy amounting to twenty-four thousand seven hundred and sixty-eight US Dollars (24,768), failing which, the land should be reallocated to applicants who are in the waiting list.

COMPLAINT NO:

11/2019

NATURE OF COMPLAINT:

Stoppage of Salary

COMPLAINT

The complainant was appointed as qualified teacher effective 1 September 2004. She alleged that she was sick and applied for sick leave on 10 February 2014. She received a response dated 1 April 2014 informing her to provide medical report from Edward Francis Small Teaching Hospital (EFSTH) before approval could be granted. She said while she was on the process of acquiring the medical report from EFSTH, to her dismay, her salary was stopped. She got the medical report on 13 November 2017 and submitted it. She was given one month's sick leave without salary effective 12 December 2017. At the end of the one month, she was informed of her dismissal from the civil service. She urged the Ombudsman to intervene so that she could be reinstated and posted to a nearby school.

FINDINGS

The complainant was appointed as qualified teacher effective 1 September 2004. She was sick and applied for sick leave in February 2014 and was requested to produce a medical report from EFSTH but she failed to produce it and was not reporting to work.

The 2017 Nationwide staff audit report revealed that she was not found at her duty post and was neither granted permission nor sick leave to justify her absenteeism. Her absence without permission prompted the stoppage of her salary in May 2017.

Upon the stoppage of her salary, she responded to the missive written to her in 2014 by producing a medical report from EFSTH dated 13 November 2017, after which she was granted one month's sick leave.

At the end of the one month, she was dismissed from the civil service after being absent from work without permission.

CONCLUSION

Since the stoppage of complainant's salary was as a result of her absence from work without permission which later resulted to her dismissal for not following due process to obtain sick leave, the Ombudsman dismissed her complaint under section 9,3 (a) of the Ombudsman Act for lack of merit.

COMPLAINT NO:

12/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainants were appointed as gardeners with effect from 11 November 2014. They alleged that in 2017 one official ordered them to go home until further notice. Some of their colleagues were issued with letters terminating their services but they were never written to regarding their fate.

FINDINGS

The complainants were appointed as gardeners with effect from 11 November 2014. Their appointments were terminable either by government or themselves upon giving a month's notice in writing or the payment of one month's salary in lieu of notice.

They were each issued with termination letters dated 23 January 2020 conveying to them that their appointing authority has concurred with their institutions decision to terminate their service retrospectively with effect from 24 November 2017. They are entitled a month's salary in lieu of notice.

The institution informed the Ombudsman that in line with the termination letters issued to the complainants, they were processing the payment of one month's salary in lieu of for the complainants.

CONCLUSION

The complainants were each paid one month's salary in lieu of notice.

COMPLAINT NO: 15/2019
NATURE OF COMPLAINT: Unfair Transfer and Unlawful Suspension

COMPLAINT

The complainant alleged that he was unfairly, unjustifiably illegally transferred by his institution's head of administration. He wrote to the said official asking important question before complying with the internal transfer but he did not receive any response. He admitted that the said official has the powers to make internal transfer but his bone of contention was that the circumstance under which he was transferred. He believed that he has the right to know the reasons for his transfer, where he was being moved to and to what position.

He alleged that he was given an instruction and directives by the minister that contravened a court order, and when he refused to execute the minister's directive, it was executed by the same official who was requesting for his transfer. He alleged that the minister and the said official teamed up against him and wanted to push him out from his position.

He further alleged that the said official's implementation of the minister's directive violated a court order.

He stated that he received a letter asking him to comply with the posting order if not he would be punished in accordance with section 7 of the Code of Conduct of the Civil Service. He was not informed which position he was going to handle at the division he was being transferred to.

He refused to comply with the posting order. He got another letter dated 16 January 2019 suspending him for one month without salary. He stated that he was punished for going against the code of conduct and nothing is happening to those who have violated a court order.

He still did not comply for the simple fact that his transfer was unfair, unjustifiable and illegal. He urged the Ombudsman to recommend to the relevant authority to reverse their decision to suspend him until the records are set straight.

FINDINGS

The relevant authority explained to the Ombudsman the circumstances that led to the transfer and suspension of the complainant as follows;

- The complainant was served an internal memo dated 24 December 2018, informing him of his redeployment to another division with effect from 24 December 2018. He was requested to handover the office to another official.
- When it was realised that he did not handover the office, he was served another memo dated 3 January 2019, requiring him to handover by Friday 4 January 2019 to avoid any further disruption of work at the division he was supposed to leave.

- The complainant responded on 4 January 2019 requesting to know the reason for his redeployment as well as the position he was going to occupy at the division he was being transferred to.
- In reply, he was told that no reasons needed to be given for the redeployment of any staff “as all staff were expected to serve in any area of the ministry’s mandate”. However, his movement resulted from his refusal to adhere to the written instructions on the official position of the ministry. Even after the minister called his attention to his refusal to comply with the written directive, he showed no remorse and insisted that he had his own view on the matter and preferred to act on that instead of the directive of the minister. He regarded the complainant’s attitude as a clear case of insubordination which amounts to gross misconduct under section 6.1.1 of the Code of Conduct. He was told that the transfer would not affect his salary as he would retain same grade he held at the time of his transfer.
- The complainant wrote a letter dated 7 January 2019 challenging the reason cited for his redeployment stating that the minister wanted him to violate a court order which he refused to carry out. He emphasized that he did not act on his own view but the view of the court order as directed by the sheriff of the High Court to enforce the said judgment. He challenged the minister to produce a Cabinet Decision or Official Position Paper of the ministry on the ownership of the contested business if not he would not go on transfer..
- The complainant’s head of administration wrote to the relevant public authority dated 8 January 2019 and gave an account of all what transpired between him and the complainant. The authority wrote to the complainant on 9 January 2019 conveying the decision of the appointing authority requiring him to comply with the posting memo issued to him dated 3 January 2019. He was told that the decision was within the mandate of his administrative head. He was strongly advised to vacate his office with immediate effect and handover to the incoming officer to avoid further escalation of the situation. He was warned that refusal to comply with posting order would be considered as gross misconduct which is punishable in accordance with section 7 of the Code of Conduct.
- The complaint’s head of administration wrote to the relevant authority explaining that they had received further correspondence from the complainant and that the minister no longer had the confidence to work with the complainant. He urged the authority to resolve the issue as a matter of urgency because the unit that the complainant was asked to vacate has been dysfunctional since 24 December 2018 when the complainant was issued his internal transfer letter.
- The complainant via letter dated 16 January 2019 was informed that the appointing authority has approved the decision to suspend him in accordance with section 7.6 of the Code of Conduct for one month without salary with immediate effect following his refusal to comply with his posting. He was asked to hand over his unit to the institution’s head of administration. He was required to comply with the posting order upon expiry of his suspension.
- On 16 January 2019 the complainant wrote to the secretary general informing him about the issues between him and his institutions head of administration. He urged the Secretary General to intervene so that the head of administration would respond to his question so that the matter could be settled.

- The head of admin wrote to the relevant public body dated 24 January 2019 to inform the permanent secretary of the complainant's failure to comply with the directive of the appointing authority. Accordingly, they requested the Inspector General of Police to ensure that the complainant surrenders the keys to his office and the official vehicle. The public body wrote to the inspector General of Police requesting to ensure that the complainant surrenders the keys to his office and the official vehicle.
- The head of admin wrote to the public body dated 11 February 2019 and explained that the complainant went further to place confidential official information on social media (Freedom Newspaper) as well as granted an interview to the same medium, making disparaging remarks against the head of admin and the minister which was considered to be unethical behaviour on the part of a public official.
- The relevant public body on 27 February 2019 invited the complainant for disciplinary hearing following the allegation of his alleged insubordination.
- The body informed the Ombudsman that the complainant was taken through a disciplinary procedure in accordance with the Public Service Regulation and based on the adverse findings preferred against him; an appropriate disciplinary measure was taken against him by terminating his service with The Gambia government effective 13 March 2019.

CONCLUSION

The Ombudsman agreed with the decision of the appointing authority that the complainant's failure to obey both the posting order issued by his institution and the authority requiring him to comply with the posting contravened section 6.1.1(4) and (9) of the Code of Conduct of the civil service constituted gross misconduct.

The complainant's granting of interview on the social media platforms and making disparaging remarks against the minister and head of admin is not in line with the fundamental ethical values and standards of the code of conduct.

The Ombudsman upheld the appointing authority's decision to terminate the service of the complainant. The investigation was discontinued under section 9 (3) (a) of the Ombudsman Act 1997.

COMPLAINT NO: 16/2019
NATURE OF COMPLAINT: Claiming Arrears of Risk and Inducement Allowance

COMPLAINT

The complainant was appointed in July 2011 and served in various regions of the country. In May 2014, he was redeployed. He alleged that at the time of his redeployment, he was not opportune to have access to risk allowance paid to respective categories instead he accepted the terms and conditions of the new position.

In September 2017 he alleged to have realized that the amount he was paid as risk allowance from the time of redeployment in May 2014 to September 2017 was less than the approved amount for staff on the same category (Grade 8). He said that he was paid D3000 as risk

allowance while his colleagues on the same Grade were paid D4800 monthly. Subsequently, in January 2016, the risk allowance was increased to D5300 for all staff on Grade 8 but the complainant was paid D3700 instead.

He alleged that he received a memo from the director of finance informing him that his claims were genuine but any attempt to make good of the difference would open the flood gates for other staff. He also alleged that he decided not to approve the refund based on that advice of the finance director. He responded to the memo dated 17 October 2017 informing him to correct the error as it has significant financial loss to him. The complainant further alleged to have written a reminder in May 2017 about the abnormalities on the staff payroll which was corrected within the shortest possible time and asked why his case was treated differently.

In January 2018, he was transferred to a regional office maintaining his Grade 8 and was paid risk allowance of D5300. In January 2019, he was redeployed to his former position as assistant database supervisor and to his utmost dismay; his risk allowance was again reduced to D3700 which he had queried in 2017.

FINDINGS

It was found out that the complainant was first appointed as assistant regional officer on Grade 7.1 in 2011 with risk allowance of 2500 and was later redeployed to assistant database officer on Grade 8.1 in 2014 with risk allowance of 3000.

It was found out that the risk is determined by responsibility because those in regional offices are more prone to risk than the Database Unit where the complainant was posted.

It was found out that the person occupying the assistant database officer position who is now the complainant's supervisor confirmed that he was being paid D3000.

The complainant first made claim for refund of risk allowance on 9 October 2017 but he was informed that his claim was not genuine according to the terms of conditions of his appointment through a letter dated 16 October 2017.

Upon rejection of complainant's claim, he reacted abnormally to the decision. He then sent letter of apology to the head of institution for his abnormal reaction through a letter dated 23 October 2017 and further appealed to him to reconsider the decision about his risk allowance.

In response he was informed that the institution was not in a position to pay any amount of money to the complainant as risk allowance instead risk and inducement allowance are paid according to place of posting and risk not according to Grade.

The complainant was later redeployed to a regional office for one year effective January 2018 to December 2018 as acting regional officer where he was paid risk and inducement allowance of D5300 which was the allowance attached to the position.

The complainant is currently paid risk and inducement allowance of (3700) as the approved allowance which other staff of the Database Unit within the same category were being paid and was confirmed by the head of data base unit and accounts.

Risk inducement and responsibility allowance is not determined by grade but the portfolio or responsibility of the officer.

The institution's handling of the matter is in line with its service rules.

CONCLUSION

The office upheld the institution's decision. The complainant's predecessors who served in the position were paid the same amount. The complaint is therefore dismissed under section 9 (3) (a) for lack of merit.

COMPLAINT NO: 23/2019
NATURE OF COMPLAINT: Refusal to Pay Salary Arrears

COMPLAINT

The complainant was appointed as technical cleaner in the 1980s. In May 2011, he fell ill and proceeded for local treatment. While undergoing treatment, his salary was stopped. He alleged to have stayed without salary for five years.

In April 2017, he alleged to have received letter of retirement effective 27 October 2017. After his retirement, he was given retirement "handshake" package from the management. He alleged to have applied for his Social Security benefits but was informed that there was pending years that was not paid by his institution. His institution was therefore written to for the outstanding contributions to be paid to the complainant's account and it was paid.

He further alleged that upon receipt of his provident fund, he applied for his salary arrears of the pending years during his period of sickness but was denied.

FINDINGS

The complainant was not reporting to work due to illness for two consecutive years. The institution after knowing this still chose to pay him half salary as per its service rule which states "any sick leave in excess of twelve months in the period of three years shall be without salary and shall not qualify for increment or count as pensionable service. Sick leave in excess of twelve months in any period of four years will be without salary and will not be reckoned for purposes of increment or pension".

The payment of salary gap for the computation of his retirement benefit was based on the recommendation of the social security. It was based on humanitarian ground that management

effected the payment of the complainant's salary gap to enable him receive his full retirement benefit.

CONCLUSION

The complainant's claim for salary arrears was therefore baseless and just a trick to capitalize on the payment of his federated pension scheme. The Ombudsman therefore dismissed the complaint under section 9, 4 (b) of the Ombudsman Act, 1997 as further investigation would be unnecessary, improper and fruitless.

COMPLAINT NO:

28/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that he was appointed as counsellor and posted to a Gambian embassy in 2010. He was dismissed from the service of the government in 2012.

He was reinstated in August 2017 following the change of government and posted to a ministry. He stated that he has been executing his duties with diligence and demonstrated utmost respect for authority while ensuring that a light hearted atmosphere is maintained with all his colleagues at work.

He stated that he was assigned to a division with responsibilities of the diaspora and immigration. His division has been regularly attending workshops organised by an international organisation that he worked with in addition to attending joint committee meeting as well as the reception party for Gambian voluntary returnees from Libya.

He was issued with a letter dated 24 September 2018 signed by the director of admin and finance. Also attached to the said letter was a letter dated 12 September 2018 accusing him of writing and sending inappropriate texts to four female members of staff of the said intentional organisation. He was informed that one of the public offices has proof of these texts but did not produce any of them.

He claimed that he is a bachelor, in search of a wife and he admitted approaching only one female member of staff but she rejected his advances and he has never approached her in that manner ever again.

He alleged that following the reception of this letter from the ministry, he was covertly stripped of his duties and currently he is no longer assigned duties to that organisation and his diaspora duties were also revoked. He alleged that currently he has not been assigned a single file by the director of the division he worked under.

He has contacted the director of admin and finance, the minister and the permanent secretaries 1 and 2 to register his concerns but all his efforts were fruitless. He alleged that the new permanent secretary 1 told him that she had requested for the proof to be made available to her from the relevant office but had no evidence to the effect and she promised to follow it up. To this effect he had followed it up with her on four different occasions but to no avail.

He further alleged that a meeting was held between the government of the Gambia and Senegal in relation to Senegalese returnees who were issued Gambian emergency passports and being transported by land into Senegal as some of them could be potential terrorist. As it was his job he ensured that this occurrence was not repeated. He claimed that he did his job with utmost dignity to attain a 100% success.

He urged the Ombudsman to investigate and clarify this situation for him so that his name could be cleared and the complaint letter be expunged from his personal file as this does not represent his standing within the government and the noble aspiration he harboured for his country.

FINDINGS

The complainant was an employee of a ministry assigned to a division with responsibilities of the diaspora and immigration. On 30 August 2018, the head of an international organisation in The Gambia complained that on various occasions, the complainant adopted inappropriate and unwelcomed behaviour towards four female members of staff of the said organisation.

The first three incidences were inconsistent with the guidelines of the said organisation on preventing sexual abuse and exploitation and the fourth incident is considered unprofessional conduct which contravened the code of conduct. As a consequence, she took it upon herself as the head of the institution overseeing the activities of the said international organisation to register their displeasure and sought advice and action on the matter.

On 12 April 2018, during the reception operations following the arrival of a chartered flight, the complainant inappropriately complimented the protection officer of the said organisation by kissing her hand and demanded her contact number. However, due to embarrassment the protection officer provided him with her work phone number.

Thereafter, the complainant called her during non- working hours and at various times. At one point when she picked up the phone the complainant requested to know where she lived and what she was doing at that moment. She warned him that his attitude represented an unprofessional behaviour which was not welcomed and as a result the complainant stopped calling her.

The organisation's senior programme assistant was the facilitator of a workshop which was held on 23-24 May 2018. In order to arrange logistical details after the workshop, she had an agreement to meet the complainant at the organisation's office on the morning of 25 May 2018. The complainant turned up at 4pm after working hours and called to request where she was. She made it clear to the complainant that she was at home as the office shuts at 2:30pm on Fridays.

The complainant became extremely unpleasant on the phone and started shouting and swearing at her. On the morning of 28 May 2018, the complainant sent her inappropriate text messages. All her interaction with the complainant has made her feel vulnerable, at some point worried for her safety.

The organisation's chief of mission also received text messages from the complainant stating that he wish to take her out that night if she were "not spoken for" and if she had not "growled at him" she found these text messages inappropriate.

On 17 August 2018, the organisation's operation officer on the phone told the complainant that she is always agitated by his harsh tone. The complainant shouted at her telling her that she was a very rude and arrogant person. He kept cursing and saying "fuck off, fuck you, fucking bitch and who the hell do you think you are", he then hung up on her.

Due to the complainant's disrespectful behaviour towards staff of the organisation, the head of an international organisation requested for another focal person who could communicate and would be able to facilitate a mutually respectful working environment.

In a letter dated 24 September 2018 the complainant was informed that the said organisation had written indicating that in various circumstances and during multiple episodes, he had adopted an inappropriate and unwelcome behaviour against four of their female staff. He was requested to explain why disciplinary action should not be taken against him.

The complainant through letter dated 26 September 2018 responded that his dealing with staff of the said organisation had been strictly professional. He denied any inappropriate and unwelcome behaviour towards any member of staff. He said the gross accusation is not supported or corroborated by evidence. He requested for the production of the necessary evidence to enable him respond fittingly.

The complainant had sent inappropriate text messages and used abusive language towards staff of the organisation which contravened the code of conduct. Furthermore, investigations through Interviews of staff at the ministry revealed that the complainant could be very unpredictable in that he could be very nice and sometimes very hostile bursting into anger and inclined to fight with some of his colleagues.

Following withdrawal of the complainant from the Diaspora/ Migration Portfolio, he has been continually harassing the new officer appointed to the division. He would rain insults on him, banging tables, knocking doors and in the process insulting other members of staff.

RECOMMENDATION

The Ombudsman was convinced that the complainant's behaviour and comportment towards the four members of staff of the international organisation was disrespectful and unprofessional. The Ombudsman therefore recommended that the complainant tender a letter of apology to the four members of staff through the head of the overseeing international organisation.

The Ombudsman further recommended that the complainant be admonished to always behave in a manner that is professional and that deserves and retains the confidence of all those with whom he has dealings, failing which stern disciplinary measures should be taken against him by the relevant authority.

The Ombudsman upheld the decision to remove the complainant from working with the said organisation and also supported the recommendation to transfer the complainant to another ministry to avert further embarrassment to government.

COMPLAINT NO: 31/2019
NATURE OF COMPLAINT: Claiming longevity

COMPLAINT

The complainant was appointed as senior typist under a ministry effective 1 November 2009. She alleged that on 1 November 2019, she was due for longevity and informed the authority but there was a delay in processing her longevity.

FINDINGS

The relevant public authority informed the complainant that her employer had reappointed her as senior typist with effect from 1 November 2009

The complainant was due for longevity with effect from 1 November 2019.

CONCLUSION

The director of administration at the complainant's ministry informed the Ombudsman that the complainant's longevity claim had been processed and paid.

COMPLAINT NO: 33/2019
NATURE OF COMPLAINT: Non Compliance with Recommendations

COMPLAINT

The complainant was married to a senior officer of a security institution. She alleged that in April 2011, she travelled to England and left her keys with him. She alleged to have also left her car and restaurant keys with him. The said officer later travelled to India and left the complainant's belongings with another officer.

Upon her return to The Gambia, the complainant further alleged that her cars with other belongings were vandalized. She alleged to have reported the matter to a police station but nothing was done. She then proceeded to lodge a complaint to another public body which conducted investigations and issued the following recommendations:

- I. The officer she was married to should be accountable for D150, 000 being the estimated cost of the vehicle or return the vehicle.
- II. He should be severely reprimanded for conducting himself in a manner prejudicial to the good order of his institution.

The complainant further alleged that the above recommendations were not implemented as she recovered neither her vehicle nor her money.

FINDINGS

The money claimed by the complainant against the officer was not fraudulently obtained instead the money was given to him to purchase the vehicle for their common benefit during the course of their relationship. The issue was found to be within the officer's matrimonial course not within his official duties.

The public body's report which was issued to the complainant was meant to guide the command as a possible course of action to be taken in resolving the situation. Their recommendations are not conclusive and do not place any obligation on the command to be implemented due to the fact that it did not go through the right process for action. The command had the discretion to either implement the recommendation subject to the report to legal advice or authorized by more informed decision.

CONCLUSION

In light of the foregoing, the complainant was advised to file her case with the courts. The investigation was discontinued under section 9 (3) (a) of the Ombudsman Act.

COMPLAINT NO: 35/2019
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he was admitted into a higher institution of learning in January 2016. On 26 September 2018 he was on his final year and alleged to have written to the head of department, on the possibilities of arranging a lecturer for a course which, though a requirement had not been taught for two consecutive semesters and the complainant could not graduate without the course. Approval was granted on 2 November 2018 for the course to be mounted for eight students.

Upon completion of the course, the complainant's results were not released by the lecturer who claimed the payment of his salary from the institution. He stated that upon completion of his final semester exams, he went to the relevant faculty officer to make a printout of his final transcript but the faculty officer as alleged by complainant always report to work after 11am.

He alleged that when he met the faculty officer and requested the printout of his transcript, he was told that most of his grades were in the manual system and not uploaded to the digital system. He alleged that the faculty officer could have uploaded them to the digital system herself but she told complainant to go to various departments responsible for specific courses to upload their respective courses in the system.

The complainant further alleged that all departments uploaded his grades within a short period. On 4 April 2019, the complainant said he went to the faculty officer to audit his result in order to be issued clearance for graduation but she was nowhere to be seen. In this light, he want the Ombudsman to intervene so that his course auditing could be facilitated and be issued clearance for attestation and transcript be provided within the soonest possible time.

FINDINGS

The relevant authority informed the Ombudsman that the complainant was at his office on the same issue. He was informed that the complainant's grades were withheld by the lecturer. The authority informed the Ombudsman that the grades were withheld because the lecturer was not issued his appointment letter to lecture the particular course in order for him to be paid salary.

The complainant also wrote to the relevant ministry in relation to the release of his grade.

The lecturer was issued his appointment letter and the grades were released to the faculty officer. The complainant was informed to check his grade with the faculty officer.

CONCLUSION

The complainant informed the Office that his grade was released and had started auditing his courses for graduation. The matter was settled.

COMPLAINT NO:	43/2019
NATURE OF COMPLAINT:	Unfair Treatment

COMPLAINT

The complainant worked for a design and printing company, she alleged that in April 2019, the manager told her to go and collect the pending payments from various vendors. She responded that she was in constant touch with the vendors. She alleged that the manager shouted and insulted her describing her as inefficient and that was why the company was indebted. She said to have responded to him that she could not force the vendors to pay and all she could do was to persuade them to pay. She alleged that the manager continued to insult her and her husband. She stated that she told him not to include her husband since he was not part of the conversation. During the exchange of words, she was told that her service was terminated. She later went to a public body to lodge a complaint but was advised to wait until she was given a termination letter. She added that she was issued with a termination letter effective 30 April 2019.

She alleged that on 29 April 2019, the manager prevented her from sitting in her office and removed her computer from the desk. He went further to ask the complainant whether she had paid the sales tax to GRA. She replied that she did not receive instructions from him for such payment. She further alleged that he continued to insult her. She told him that she could no longer continue to accept his insults. She alleged that as she was moving to get the tax file, he

rushed to her and beat her seriously. She went to report the matter to a public body which advised her to report the matter to the police. She then proceeded to a police post.

Upon her arrival at the station, she alleged that her statement was not written. The police invited the manager to the station and his statement was also not written. She alleged that the manager was given special treatment at the station. When he was narrating his statement, the complainant was denied opportunity to speak up even if she wanted to make clarification. They were both asked to call their witnesses who were staff of the company. The witnesses did not come because they do not want to lose their jobs. The only witness who came to the station was the manager's contractor who narrated his statement but nothing was documented. After the completion of the witness's narration, the police told her that they could not proceed on her case.

FINDINGS

The complainant lodged a complaint of assault at a police post. Her statement was not recorded by the officers on duty instead the case was only booked in the station diary.

The person complained against was also invited to the station but his statement was not also written.

The relief commander on duty after hearing from both parties decided that the case was civil and told the complainant to file a civil suit.

RECOMMENDATIONS

Since the complainant's statement was not recorded for further action, the station officer was advised by a superior officer to recall both parties for their voluntary and cautionary statements to be obtained. Upon receipt of their statements, the necessary action to be taken to ensure that justice is done.

CONCLUSION

The station officer recalled the parties with their witnesses and obtained their statements. The case was then processed and forwarded for prosecution. The case was finally registered at a magistrate's court.

COMPLAINT NO:

64/2019

NATURE OF COMPLAINT:

Claiming Salary Arrears

COMPLAINT

The complainants were appointed by a school to serve in different positions. According to them, in 2015 an upper basic school was established and the school management started receiving School Improvement Grant (SIG) from the government in 2016.

Since then the school was sub-vented by government and as a result the students were not required to pay school fees.

They alleged that in the last quarter of 2018, the school was struggling financially and as a result their salaries of November and December 2018 were not paid.

They further alleged that on 31 January 2019, they received letters ending their terms of appointment on the basis that the school is now privately owned but sub-vented by government. They were also informed that the funds paid by government was strictly for teachers' salaries and SIG for the day to day running of the school including ancillary and support staff wages. It went on to state that the funds could not sustain payments of their salaries. However, they were promised to be paid each two months' salary but to no avail.

FINDINGS

The school was privately owned and managed since its establishment up to 2015/2016 academic year when they adopted the SIG Scheme due to the influence of the late proprietor.

After the adoption of the said scheme, the school began receiving subvention from the government for teachers' salary and SIG funds for the day to day running of the school and for paying the salaries of the ancillary staff.

After the demise of the proprietor in October 2017, the heirs took over the ownership of the school. They immediately formed a board of governors to regulate the affairs of the school.

The school's finance was audited during which auditors discovered some issues. Due to this discovery, the school subvention and SGI funds were blocked and the ministry demanded that the school's finance be regulated according to government regulations.

The subvention which was wrongfully used to pay salaries of ancillary and support staff was stopped. The school could not continue paying salaries of the ancillary staff because their salaries were above the funds allocated by the ministry. The school management decided to terminate the services of the ancillary staff by giving them one month salary in lieu of notice.

Due to the fact that the school's subvention was blocked, the complainants' notices and previous two months' salaries were not paid.

CONCLUSION

The school upon regularising its system in line with government standards were paid their subvention arrears. As a result, the complainants were paid their salary arrears and notice.

COMPLAINT NO:

66/2019

NATURE OF COMPLAINT:

Stoppage of Salary

COMPLAINT

The complainant was enlisted into a security institution in 2007. He stated that he fell ill and applied for sick leave but approval was not granted. He continued to work irregularly. He absented himself from duties for 27 working days as a result of ill health. When he resumed duties and tendered his medical papers to justify the reason for his absence, his July and August salaries were restored through a memo dated 2 January 2018.

Few months later he was posted to one of the regions where he served until September 2018 when his salary was again stopped. He alleged that he did not understand the reason for the stoppage of his salary. He tried all possible avenues for the release of his salary but to no avail.

FINDINGS

The head of institution informed the Ombudsman that the complainant absented himself for a period of 28 days without his whereabouts being known to the command. As a result a memo dated 5 October 2017 was addressed to the relevant unit for the blockage of his salary.

Following the blockage of his salary, the complainant reported to work and was redeployed on 25 December 2017. Subsequently, a request was made to release his salary via memo dated 2 January 2018. He was then paid salary until September 2018 when his salary was again blocked.

The complainant contacted a senior officer who advised him to report to his unit's headquarters so that all necessary documentation could be done to facilitate the release of his salary. Unfortunately, he did not turn up until change of deployment in December 2018.

Following the change of deployment, the complainant was referred to the finance unit issued with a copy of memo requesting release of his salary. In April 2019 he was redeployed to another post where he worked for only one week and stopped reporting to work.

A security institution wrote to the complainant's institutional head that the complainant was arrested at Darsilameh Border Post by its operatives with two big bundles of suspected cannabis sativa and that he was being investigated awaiting prosecution.

CONCLUSION

In view of the above revelation, the Ombudsman discontinued the investigation under section 9(3) (b) of the Ombudsman Act 1997.

COMPLAINT NO:

72/2019

NATURE OF COMPLAINT:

Claiming Pensions Drawback

COMPLAINT

The complainant was an employee of a public company. He reached the statutory retirement age in 2013.

He alleged that in January 2019 relevant public institution paid drawbacks to pensioners but he did not benefit. He went there to enquire why he was not paid. An official promised him that he would be paid. Despite several consultations, his pension drawback remained unpaid.

FINDINGS

The said institution informed the Ombudsman that it had thoroughly reviewed the alleged non-payment of pension drawback and discovered that the complainant was duly paid via his savings account with financial institution.

CONCLUSION

The complainant informed the Ombudsman that he had checked his savings account and confirmed that he was paid D9000 as pensions drawback.

KEREWAN

CHAPTER 6

6.1 CASES INVESTIGATED

COMPLAINT NO: 2/2019

NATURE OF COMPLAINT: Wrongful Allocation of Ambulance RFH 161

COMPLAINT

The complaints stated that since February 2018, the medical ambulance RFH 161 allocated to their health centre was reallocated to a hospital as a result of a breakdown of that hospital's ambulance. As a result, the community and its satellite villages were faced with challenges whenever the health center had to make referrals.

They alleged that since 2018, they had to rely on the ambulance of another health centre for referrals, in which instances there would either be delays in referrals or that the ambulance would not be available.

FINDINGS

The relevant authority confirmed the reallocation of the said ambulance to the said hospital. It was found that the ambulance of that hospital was involved in an accident and was beyond repairs. Consequently, the said ambulance was reallocated to the hospital.

Another ambulance was already earmarked for the hospital and as soon as it is delivered, the ambulance belonging to the complainants' health centre would be returned without delay.

The reallocation of their ambulance to the hospital was done out of necessity and not to occasion injustice to their community and its satellite villages.

CONCLUSION

The said ambulance was returned on 28 March 2019. The Alkali and VDC Committee commended the Office of the Ombudsman on the role played in facilitating the return of the ambulance.

COMPLAINT NO: 3/2019
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant alleged that she lodged a complaint with a police station that her husband was in possession of a gun. He had on several occasions threatened to kill her. She stated that she was divorced a month ago but he kept threatening her. She further stated that because of fear, she reported the matter to the police but they failed to take action. He urged the ombudsman to intervene so that the police could confiscate the gun.

FINDINGS

The complainant had lodged a complaint against her husband for threatening to kill her. On 23 April 2019, the police raided the compound but no pistol was found in his possession.

CONCLUSION

The investigation was discontinued under section 9 (3) (b) of the 1997 Ombudsman

COMPLAINT NO: 22/2019
NATURE OF COMPLAINT: Corrupt Practice

COMPLAINT

The complainants are vegetable gardeners from different villages. They alleged that whenever they take their produce to the market to sell, the revenue collectors would charge D10 per bag or basket and issue them with D10 receipt even if they were charged for more than one bag or basket. They further alleged that some of them would pay more than D50 but only issued with a D10 receipt.

FINDINGS

It was found out that the daily market charges were only D10 and any revenue collector collecting more than D10 is doing it at his or her own volition.

CONCLUSION

The chief executive officer of the area council stated that henceforth they would take stringent actions against any officer found wanting.

The Ombudsman recommended that the area council should strictly adhere to the tariff stipulated by the law and that in the future, stern disciplinary measures be taken any officer found wanting.

COMPLAINT NO: 24/2019
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant stated she was appointed by a ministry as laundress on 25 November 2013. She started saving with the ministry's credit union in 2014. She alleged that in May 2019 she applied for a loan of D2000 (Two thousand dalasi) from the credit union. She was told that she could instead withdraw up to D5750 (five thousand seven hundred fifty dalasi) from her saving. She complied and withdrew D2000 (Two thousand dalasi). She further alleged that the credit union continued deducting D1000 (one thousand dalasi) from her salary every month even though she has no outstanding arrear with the union.

FINDINGS

It was found that the complainant was appointed by the ministry as a laundress effective 25 November 2013.

It was revealed that on 29 August 2017, the complaint was issued with a loan amounting to D3000 (three thousand Dalasi) on 15th May 2018 she paid back D1153.59 to offset her previous loan balance and her loan balance was nil.

On 15 May 2018, it was found out that she was issued with another loan amounting to D5000 (five thousand dalasi) and relevant deduction started.

On 1 May 2019, she was issued with yet another loan amounting to D5000 (five thousand dalasi). Her loan balance as at 30 April 2019 was D5700 (five thousand seven hundred). She was advised by the loans committee to withdraw from her savings instead of adding another loan which would overload her loan deduction and may be very difficult on her and might not go home with 50% of her salary as she is already servicing another loan.

CONCLUSION

The complainant was not unfairly treated as alleged. She had taken multiple loans from the credit union and the necessary deductions were taking effect. As a result, her complaint was dismissed for lack of merit.

COMPLAINT NO: 27/2019
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he was appointed as qualified teacher with a Higher Teachers Certificate (HTC) with effect from 1 September 2015 and posted to an upper basic school.

He stated that since his posting, he had been obedient to the school administration in the execution of his duty and never had problems with either the principal or other staff members of the school. He alleged that he had problems with the school's administration in 2018 when he was contracted by another school to teach Social and Environmental Studies. He allocated his

free periods to the school where he was teaching on contract to avoid his lessons coinciding. He was able to effectively teach in both schools without being late in either school.

He also alleged that the vice principal was not happy with this arrangement and had on several occasions asked him to terminate the contract for reasons best known to him.

He further alleged that the vice principal was on contract with an upper basic school and also engaged with Second Chance Education. Three other teachers were also on contract with other schools the settlement. Furthermore, he alleged that as a result of this double shift, the vice principal arranged for the service of a junior teacher at the upper basic school to be teaching at a school with an agreement to share the salary on a 60 and 40 per cent basis between the vice principal and the junior teacher respectively since he would not be able to effectively teach as a result of his engagement as a vice principal. This arrangement in the later part broke and the vice principal took the said teacher to the police.

He further alleged that in the 2019 academic year, he (the complainant) was again contracted by the same school to teach Literature and the cluster monitor was aware of it. He stated that he was advised by the cluster monitor to voluntarily write and forgo his double shift contract with the upper basic school. He complied in a letter dated 21st October 2019 and another SES teacher was given his period in the afternoon shift whilst he teaches only in the morning shift. To his dismay on 2 December 2019, he was handed a letter deploying him to another part of the country.

FINDINGS

The complainant was appointed as qualified teacher HTC effective 1 September 2015 and posted to the said upper basic school.

It was revealed that the complainant was not in any way unfairly treated as claimed. In September 2016, he was promoted to senior master responsible for monitoring SES teachers and paid a monthly allowance of D600 like any other senior teacher.

The bone of contention was the contract appointment which he entered into without the prior notice of the school's authorities. The contract resulted to a number of unethical behaviours in the execution of his assigned responsibilities as a senior teacher. He was unable to assess the third term result of grade eight SES students which resulted in the administration making an internal arrangement with another teacher to conduct the said assessment. He could be seen appearing and disappearing at will to meet up his dual engagement at the detriment of the students and the school administration.

The complainant had five classes of twenty periods in the morning shift, four classes of sixteen period in the afternoon shift and seven teachers in his department to monitor and observe. This had made it practically impossible for him to take up a contract with another school and teach his lessons adequately without any infringement. Hence, he had sacrificed his duties and responsibilities to the detriment of the students and the school's administration.

It was found out that the complainant was engaged in a number of dialogues at administrative level but to no avail. The matter was subsequently reported to the cluster monitor who also engaged him to a similar dialogue but he was adamant. The matter was reported to the regional directorate for redress. He was again engaged in another dialogue by the regional directorate where he agreed to discontinue his contract. He wrote to the school authorities formally revoking his contract with the school dated on 21 October 2019. The reasons he advanced in the said letter was that he had a confrontation with the administration of his school and the regional directorate; hence he was left with no option but to terminate his contract.

Regardless of the dialogue and confrontation he had with the school administration and regional directorate, he still went ahead to renew his contract with the same school to teach Literature in English without notifying the principal and administration. He surrendered his afternoon shift to another teacher to enable him to continue with his contract thereby committing insubordination. The principal and his administration were left with no choice but to refer the matter to the regional directorate for his redeployment to another school in a letter dated 20 November 2019, subsequently he was redeployed by the regional directorate conveyed to him in a letter dated 2 December 2019.

CONCLUSION

On 6 January 2020, the Ombudsman instructed the complainant to report to the school where he was redeployed since his position and teaching periods were given to another teacher and his service was no longer needed at his school. He was asked to adhere to the instruction given by regional directorate and advised to comport himself and to avoid future confrontation and administrative sabotage in his new school.

On 13 January 2020, the complainant called the regional Ombudsman officer stating that he had finally accepted his redeployment and intended to withdraw his complaint and take the decision with good faith. The investigation was discontinued.

MANSAKONKO

CHAPTER 7

7.1 CASES BROUGHT FORWARD

COMPLAINT NO:	15/2018
NATURE OF COMPLAINT:	Claiming Late Father's Death Gratuity

COMPLAINT

The complainant's father was appointed on 12 February 2002 as a caretaker at a school. He served the school until his untimely death on 19 August 2009. After the death of his father, the family made several follow-ups for his death gratuity but to no avail.

FINDINGS

It was detected that the complainant's father's death gratuity was not processed due to the following discrepancies:

- The name that the complainant gave as his father's was different from what was on her death certificate and appointment letter.
- His father died on 19 August 2009, while on the death certificate it was indicated that he died on 13 April 2007.
- It was further revealed that his father died at the age of 80 while in the TIN certificate the date of birth of his late father was 30 December, 1963.
- All the evidence forwarded did not corroborate each other.

CONCLUSION

Since the information provided by the complainant was not accurate, the Ombudsman therefore decided to discontinue the investigation as frivolous and not made in good faith.

COMPLAINT NO:

20/2018

NATURE OF COMPLAINT:

Non-Payment of Gratuity

COMPLAINT

The complainant was employed on 2 January 2012 as security officer. He alleged that to his utmost surprise, on 3 July 2018, he was served with a leave and retirement letter with immediate effect. After sitting home for six (6) months without retirement benefit, he decided to see his institution's head of administration to seek redress but to no avail.

FINDINGS

The complainant started work at I in 2000 and served six and a half years on temporary basis. After that period, he left his place of work and was later appointed on permanent basis on 2 January, 2012 as security officer.

The computation of his retirement benefit began from the date of his appointment to the age of retirement.

CONCLUSION

On Monday 29 July 2019, the complainant was paid D8, 368.95 as gratuity and the case was closed accordingly.

COMPLAINT NO: 22/2018
NATURE OF COMPLAINT: Claiming for Allowance Draw-Back

COMPLAINT

The complainant was appointed on 1 November 2013 as an orderly at a health centre. He alleged that in March 2018, some of his colleagues were paid allowance draw-back but he was not paid.

FINDINGS

The complainant was appointed on 1 November 2013 as an orderly.

He was part of the first batch of staff that was paid the risk allowance draw-back in September 2016. The allowance draw-back was D200 per month and his total accrued arrears was 20 months. In September 2016, the sum of D4, 000 was paid to him.

The records clearly showed that the ministry did not owe him any allowance draw- back. It was the same risk allowance draw- back which was paid to his colleagues who were not paid in September 2016.

On 1 January 2018, the complainant's risk allowance was increased from D200 to D1, 000.

CONCLUSION

Based on the above findings, the complaint was dismissed under Section 9(3)(a) of the Ombudsman Act 1997 for lack of merit.

7.2 CASES INVESTIGATED

COMPLAINT NO: 3/2019
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant was appointed as cleaner on 1 April 2011. At the time of complaining to the Ombudsman, she was not given an appointment letter. She only received D800 monthly and believed that management needs to look into the possibility of employing her permanently.

FINDINGS

The complainant had served the institution for a long time on temporal basis. Her hard work, dedication and punctuality according to the admin and human resource manager, qualified her to be appointed on full time basis.

CONCLUSION

The complainant was issued with appointment letter dated 13 July 2019. The case was settled and closed accordingly.

COMPLAINT NO:

6/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that since his promotion to the position of senior security manager in 2012, he had not been promoted whilst his juniors were promoted. He wrote a letter dated 2 May 2019 drawing the managing director's attention to the delay of his promotion which was a great concern to him and he sought the managing director's timely intervention to address his plight but he received no response. He sent a reminder dated 8 June 2019 but to no avail. He has the conviction that promotion of his subordinates was based on nepotism.

FINDINGS

The institution revealed to the Ombudsman that management had reviewed the complainant's letters of complaint. They acted on the merits of his complaint and at a budget meeting agreed to redress the anomaly.

CONCLUSION

The complainant was informed that management had approved his promotion and re-designation to the position of security manager with effect from 1 January 2020.

COMPLAINT NO:

8/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The shop owners of a certain village stated that they owned canteens and shops both in Soma and their village. They stated that the area council always request them to pay annual license but collectors would fix any price for them to pay without any bench mark. Some of the vendors negotiated with the tax collectors and pay less than others. They felt that this was unjust as they should all be treated equally. They alleged that they had made several demands from the area council to provide them with a copy of their duty tariff but to no avail.

FINDINGS

There was a fix tariff in place at the council and it's clearly indicated how much is payable annually per retail and whole sale shops both in Soma and the surrounding villages.

The shop owners were not given the opportunity to lay hands on the duty tariff. This was what brought the misunderstanding between the shop owners and the council.

CONCLUSION

The complaint was dismissed under section 9(3) (a) of the Ombudsman Act 1997 for lack of merit.

COMPLAINT NO:

10/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The community stated that in July 2019, a ministry was engaged in distribution of groundnut and rice seeds to various villages. Their community was given 3 bags of 25kg of rice seeds and 2 bags of 50 kg groundnut seeds to be shared among them.

They alleged that it came to their notice that there were some villages that were given 10 bags 25kgs of rice seeds and 12 bags 50kgs of groundnut seeds while their village which is bigger in terms of population received less. They are of the opinion that the ministry was supposed to treat all the villages (farmers) equally and that the distribution was based on tribalism, nepotism and politics.

FINDINGS

It was found out that the crop inputs were not meant for the community as a whole but for only ten (10) farmers who were technically selected as vulnerable. The selection was done by an international organisation to support vulnerable household in partnership with the ministry and a state agency.

The selected farmers identified the crop of their choice. There were two farmers who chose cowpea 15kg; four farmers, 35kg groundnut; two farmers, rice 30kg; one farmer, 15kg maize and another farmer, 7kg findi.

The selected farmers would also receive the required fertilizer from the ministry.

CONCLUSION

The distribution of the seed was not conducted on the basis of tribalism, nepotism and politics as alleged by the complainants. Based on the above findings, the complaint was therefore dismissed under section 9(3)(a) of the Ombudsman Act 1997 for lack of merit.

COMPLAINT NO:

12/2019

NATURE OF COMPLAINT:

Non- Payment of Terminal Benefits

COMPLAINT

The complainant stated that on 4 November 1977, he was elected as chief of a district. His appointment was confirmed on 10 May 2005. He served for thirty-five (35) years as chief when he was issued a letter stating that approval was granted for him to proceed on statutory retirement.

He was later issued with another letter dated 25 July 2007 reinstating him. On 20 April 2008, he was issued with another letter terminating his service. He further alleged that he was not paid his retirement benefits and was of the view that the administrative procedure taken against him was wrong.

FINDINGS

The complainant was written to via letter dated 10 May 2005 informing him that the president had approved his confirmation in appointment in the permanent and pensionable establishment with effect from 31 January 1979.

Subsequently via letter dated 24 May 2007, the permanent secretary conveyed his approval of the appointment of a certain person as acting head chief and that the complainant should proceed on retirement with immediate effect.

In another letter, dated 25 July 2007, a governor conveyed to the complainant approval of his reinstatement as head chief with immediate effect.

In response to the complainant's allegation that he was elected as chief on 4 November 1977 and confirmed in appointment on 10 May 2005, the ministry acknowledged that a letter of confirmation of appointment is in their records. However, there was nothing in their records substantiating any election on 14 November 1977 and there was no appointment letter in 1979 as alleged by the complainant.

Furthermore, the ministry confirmed that the complainant was served a letter of retirement on statutory grounds from the governor's office and that he should officially handover to the person identified to take over from him but later on 25 July 2007, he was reinstated with immediate effect as head chief.

Also his allegation that he was not paid his retirement or terminal benefits was correct as their records revealed that an approval was given to terminate his services as head chief.

RECOMMENDATION

The Ombudsman recommended that the ministry facilitate the computation and payment of the complainant's retirement benefits and any other benefits that he was entitled to the Curator of Intestate Estate.

That the computation of his terminal benefits should commence with effect from 31 January 1979 as indicated in his confirmation in appointment to the date his services were terminated.

BASSE

CHAPTER 8

8.1 CASES INVESTIGATED

COMPLAINT NO: 4 /2019
NATURE OF COMPLAINT: Deny of parking his vehicle

COMPLAINT

The complainant owned a motor vehicle Reg. No. BJL64 64 B Nissan which he used to park by the fence of a health centre. He alleged that on 14 January 2019, a member of staff of the health centre ordered him not to park his vehicle near the health centre's fence. He said that he had been parking there for the past two years uninterrupted and urged the Ombudsman to intervene.

FINDINGS

On 15 January 2019, the Ombudsman visited the health centre and found the complainant's vehicle and another vehicle brand Rav 4 parked by the fence. The said member of staff of the health centre denied the allegation that he had ordered any one not to park his/her vehicle by the said location. Moreover, none of the members of staff of the health centre made such orders.

CONCLUSION

The complainant was informed to continue parking by the health centre's fence.

COMPLAINT NO: 5 /2019
NATURE OF COMPLAINT Unlawful Detention

COMPLAINT

The complainant is a member of a women "Osusu" group and had been contributing D10, 000 monthly to the "Osusu". At the end of each contribution, a draw was done and the winner received D10, 000. On 31 December 2018, not everybody contributed. However, a member of the "Osusu" Kaddijatou Jallow reported the complainant to a police station that all the members had contributed but she spent the money. She was arrested and detained.

FINDINGS

The complainant was arrested and detained on the allegation of unscrupulously using the said “Osusu” money. However, it was also found out that this matter was not entered into the station’s diary, detention and release of prisoners register. The matter was purely civil in nature and as such the complainant was not supposed to be detained.

CONCLUSION

The Ombudsman ordered the release of the complainant which was complied with. The officer was also warned to desist from such unethical conduct.

COMPLAINT NO:

6/2019

NATURE OF COMPLAINT

Abuse of Power

COMPLAINT

On 13 January 2019, the complainant alleged that his son was riding his motor cycle when he was stopped, detained, and his motor cycle parked behind a police station by a police officer. He was stopped and detained on account of the fact that he took a bend toward the police station without noticing a sign board indicating one way or no entry. He urged the Ombudsman to intervene because he is of the view that he was unfairly treated by the police.

FINDINGS

It was found that the complainant’s son was detained at the said police station for disregarding the one-way sign /no entry. His motor cycle was parked by the said officer and he was later detained.

The complainant’s detention was neither entered in the station’s diary nor in the detention and release of prisoners register.

CONCLUSION

The offence committed was a minor traffic offence and the complainant should not have been detained. Therefore, the Ombudsman directed that the complainant should be released which was complied with.

COMPLAINT NO:

7 /2019

NATURE OF COMPLAINT;

Unfair Treatment

COMPLAINT

The complainant is a butcher at a village “Lumo” (weekly market). He alleged that the corrugated sheets on the roof of his stall were spoiled. He alleged to have complained to the council for redress but to no avail.

FINDINGS

The head of administration at the said council confirmed that the complainant had lodged a complaint to him in 2018 alleging that the roof of his stall was in bad condition. He stated that maintenance of council's stalls was captured in 2019 budget and promised to repair when funds are available.

CONCLUSION

On 29 January 2019, the complainant informed the Ombudsman that the council had repaired the roof of his stall.

COMPLAINT NO:

8 /2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainants inherited a piece of land. The land was leased bearing a lease on 26 May 2011. In 2016, when the state was constructing a by-pass road from Allunhare to Mansajang Kunda, a large portion of their land was encroached. The state authority responsible for the construction promised to compensate the complainants but failed to honour their promise.

FINDINGS

The complainants inherited a piece of land which was leased. The Ombudsman visited the site and confirmed that the land was encroached upon by the state authority. The deputy permanent secretary informed the Ombudsman that the ministry had concluded the computation of the compensation to the complainants in the sum of D374, 140 (Three hundred and seventy-four thousand, One hundred and forty dalasi) and the said amount was paid to the Curator of Intestate Estate.

CONCLUSION

The Ombudsman informed the complainants that the ministry had paid the compensation of D374, 140 to Curator of Intestate Estate.

COMPLAINT NO:

9 /2019

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant alleged that he bought a piece of land measuring 100m by 80m. On 8 February 2019, he went with 3 of his brothers to erect a fence on the land. While digging the foundation, the Alkalo of the said village, ordered them to stop even though he had lawfully acquired the said land. The complainant stated that he lawfully bought the land and was issued a certificate of ownership which was endorsed by the said Alkalo. He urged the Ombudsman to intervene for redress.

FINDINGS

It was found that the complainant owned a plot of land measuring 100m by 80m which he legally acquired. He was issued a certificate of land ownership which was signed and stamped by the said Alkalo. In addition, a witness to the sale of the land confirmed that the complainant lawfully acquired the said land.

The Alkalo informed the Ombudsman that he stopped the complainant and his brothers from digging the foundation of the fence because he was not consulted by the complainant prior to digging the foundation.

CONCLUSION

The Alkalo was informed that he need not to be given prior notice for the development of land legally acquired. The Alkalo was therefore ordered by the Ombudsman to allow the complainant to continue his work on the land.

COMPLAINT NO:

10 /2019

NATURE OF COMPLAINT:

**Claiming Salary Arrears and
Contract Gratuity**

COMPLAINT

The complainant alleged that he was appointed on contract as caretaker effective 1 September 2017 and posted to a lower basic school. He alleged that since the receipt of his letter of appointment, he had been working but never received salary. He made follow-ups for the payment of his salary but to no avail.

FINDINGS

The complainant was appointed on 26 February 2018 as care taker effective 1 September 2017.

The complainant had been working but not receiving his salary. The officer in charge of ancillary staff informed the Ombudsman that he had sent the complainant's documents to the ministry for the payment of his salary. The permanent secretary directed the principal accountant to pay the complainant as per his letter of appointment.

CONCLUSION

The complainant informed the Ombudsman that he was paid his salary arrears amounting to D2, 273.90 and contract gratuity of D6000 on 1 March 2019.

COMPLAINT NO: 11 /2019
NATURE OF COMPLAINT: Unlawful Detention

COMPLAINT

The complainant alleged that he was into a log business with a Senegalese. On 16 February 2019, the guy reported the complainant to a police station that the complainant sold logs amounting to D6000 and converted it to his personal use. He alleged that a detective was assigned to investigate the matter but had no evidence to prove the allegation against him. Since he had spent more than 72 hours under detention at the said station, he called the Ombudsman to intervene.

FINDINGS

It was confirmed that the guy reported the complainant to the police station on 16 February 2019 on the allegation of fraud. A detective was assigned to investigate the case but could not come up with any evidence to prove the allegation due to the fact that the Senegalese man was nowhere to be found. For this reason, the station officer detained the accused for more than 72 hours.

CONCLUSION

The accused was detained for more than 72 hours due to lack of evidence. The Ombudsman ordered the station officer to release the complainant.

The Ombudsman further cautioned the station officer to desist from such practice of detaining accused persons beyond the constitutional requirement of 72 hours.

COMPLAINT NO: 12 /2019
NATURE OF COMPLAINT: Injustice

COMPLAINT

The complainant alleged that he had paid for his water service connection fee amounting to D9, 200 to the state water company since 18 June 2018 but could not get his water service connected. He urged Ombudsman to intervene to expedite the process.

FINDINGS

It was confirmed that the complainant's water service connection was delayed due to lack of water meter. Notwithstanding, the branch manager promised to get it fixed as soon as meters were available.

CONCLUSION

On 10 March 2019, the complainant informed the Ombudsman that his water service was connected.

COMPLAINT NO:
NATURE OF COMPLAINT:

13/2019
Corrupt Practice

COMPLAINT

The complainant alleged that he was the chairman of a development organisation. On 26 February 2019, he was called by a village Alkalo and informed that the Imam and 12 others including himself were arrested and taken to a police station on the allegation of cattle wrestling or theft. He added that when he went to the station, he found these people in the detention room.

He alleged that the matter was handled by a police officer who requested each suspect to pay D1000 in order to be granted bail. Since he had only D7000, he made an arrangement with the police and paid D7000 for all the suspects with the agreement to pay the balance the next day. When the suspects were released on bail, he went to the Office of the Ombudsman to seek redress.

FINDINGS

It was established that the said officer had arrested 13 suspects from a village on allegation of cattle theft. The suspects were the Alkalo, the Imam and 11 others. The arrest was however done without the knowledge of the divisional police commissioner and the operation commander.

Two police officers had ordered the suspects to pay D1000 each in order to be granted bail. The complainant paid D7000 on behalf of all arrested suspects and promised to pay the balance the following day. Having paid the D7000, the suspects were granted bail.

On 26 February 2019, the two police officers were ordered by the divisional police commissioner to return the D7000 received from the complainant without delay. The money was returned. Ultimately, the police officer was ordered by the commissioner of police to discontinue the investigation as the allegations could not be substantiated.

CONCLUSION

The two officers were warned for illegally obtaining money from the alleged suspects and as well as conducting arrest and investigation without informing their superiors.

In addition, the two officers were charged for discreditable conduct under the Police Act and punished accordingly as recommended by the Ombudsman. The complainant thanked the Ombudsman for his intervention.

COMPLAINT NO:
NATURE OF COMPLAINT:

14/2019
Abuse of Power

COMPLAINT

The complainant alleged that on 20 February 2019, he sent his son to take his sick wife to a health centre on his motor cycle. While on the way, they were stopped at the traffic check point by a police officer. He stated that when his son was asked to produce documents of the motor cycle, he could not produce a driving license. The road tax has expired and only the certificate of insurance was valid. The officer allowed him to take the sick woman to the health centre and report to him. The complainant further alleged that they did everything possible to get their motor cycle documents which were seized by the said officer but to no avail.

FINDINGS

It was found out that the complainant's son was on 20 February 2019 stopped at a check point and his motor cycle documents were seized by the said officer, who kept the documents because he was unable to trace the complainant.

CONCLUSION

The Ombudsman advised the officer that he should have obtained the particulars of the complainant and asked him to report or summons him for the offence committed. At this juncture, an officer handed over the documents to the complainant. The complainant thanked the Ombudsman for the intervention.

COMPLAINT NO:

15/2019

NATURE OF COMPLAINT:

Injustice

COMPLAINT

The complainant alleged that on 11 March 2018, he went to his farm and found someone collecting the sand from his farmland with a tractor. He added that when asked why he was collecting the sand from his farm, he said he was granted permission by the Alkalo. He was of the view that an injustice was done against him.

FINDINGS

The Alkalo confessed that he was the one who sent the person to collect sand from the complainant's farm to construct a house. An officer from the environment authority visited the site and assessed the extent of damage on the said land. He confirmed the damage to be huge.

RECOMMENDATION

The Ombudsman ordered the Alkalo to fill the area that they had collected sand from to enable the complainant continue using the land for farming.

CONCLUSION

The officer from the environment authority advised the Alkalo that in the future he should seek approval from the authority before collecting sand.

COMPLAINT NO:

17/2019

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant alleged that on 16 April 2019 while riding his motor cycle, he was stopped at a police check point. When the motor cycle was inspected, nothing illegal was found. However, the officer said the exhaust pipe of his motor cycle was emitting smoke and as such he had to pay D500 otherwise he would be taken to court where he would be obliged to pay D2500. The complainant then left the scene leaving his motor cycle with the police and reported to the Ombudsman for redress.

FINDINGS

The complainant was stopped by two police officers at a check point on 16 April 2019. His motor cycle was parked by one of the officers on the ground it was emitting smoke.

It was also established that no testing certificate was issued to the complainant because the motor cycle was not tested.

CONCLUSION

The station officer ordered the said officer to release the complainant's motor cycle and he complied.

COMPLAINT NO:

18/2019

NATURE OF COMPLAINT:

Claiming Salary Arrears

COMPLAINT

The complainant stated that he was transferred to a region since June 2016. He said he had appealed to his immediate boss to help facilitate his transfer to a certain post because he was the head of his family. In January 2019, the complainant decided to transfer himself to that post without an official publication of the force orders. He alleged he had not received his salary for 4 months and urged the Ombudsman to intervene so that he could get his salary arrears.

FINDINGS

The complainant's immediate boss confirmed that the complainant had requested assistance from him to be posted to the said post but was not told that he was the head of his family. However, before the completion of the process, the complainant posted himself to the said post without any publication in the force orders.

When the authorities in Banjul knew about his transfer, they instructed the account department to stop the complainant's salary. The complainant was advised by a senior officer to return to his former postings and then apply for transfer and he would support him for consideration. The complainant was also warned that failure of which he could lose his job.

Therefore, the complainant's conduct as per Section 04111 of the General Orders was subject to disciplinary action.

CONCLUSION

The complainant's act of posting himself without approval amounts to gross insubordination. The Ombudsman advised the complainant to report to his former posting and he complied. The case was dismissed in accordance to Section 9(3) (a) of the Ombudsman Act 1997.

COMPLAINT NO: 19/2019
NATURE OF COMPLAINT: Unlawful Detention

COMPLAINT

The complainant alleged that an officer arrested his brother on 22 May 2019 and took him to a police station where he was put in a cell without obtaining any cautionary statement from him. He was of the view that this was a wrong procedure and as such urged the Ombudsman to intervene.

FINDINGS

The complainant's brother was arrested and detained at the said police station on 22 May 2019. A senior police officer in the region stated that they were informed that the complainant's brother was engaged in a log business despite it being banned in The Gambia.

It was also found that the complainant was detained in the detention room without any charge preferred against him.

CONCLUSION

Since the detention of the complainant was lawful, the Ombudsman discontinued the investigation for lack of merit under section 9 (3) (a) of the 1997 Ombudsman Act

COMPLAINT NO: 20/2019
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT

The complainant alleged that he owned a compound at a certain place. He added that in 2017, the residents of the place appealed to a public company to provide them with electricity. In April 2019, the public company contracted a private company to electrify the place. However, the engineer placed 2 sets of wires (high tension cable) over the complainant's house which he felt could endanger the life of his family. He alleged that he complained to the manager of the company but to no avail.

FINDINGS

It was established that 2 sets of wires crossed over the complainant's house. This situation was found to be wrong and life threatening. However, an engineer of the public company and a

physical planning officer directed the manager of the said company to relocate the 2 sets of wires or high tension cable.

CONCLUSION

On 1 July 2019, the complainant informed the Office of the Ombudsman that the 2 sets of electric cables were removed over his house.

COMPLAINT NO: 21/2019
NATURE OF COMPLAINT: Unlawful Detention

COMPLAINT

On 17 June 2019, the Ombudsman's regional officer was strolling along the river side when a fish monger informed him that a man had taken his 10 year old son to a security base for punishment. The man alleged that his son smoked cannabis and wanted the security personnel to reform him.

FINDINGS

On 18 June 2019, the Ombudsman regional officer went to the said base and found the boy sweeping the premises of the base.

The boy's father had instructed the personnel to punish him because he smokes cannabis. As a result, his son was detained for 3 days by a junior officer who asserted that he was punishing him because he wanted the child to reform.

RECOMMENDATION

The Ombudsman ordered the officer to release the boy in his custody. The detention was unlawful and can be considered a violation of his right to liberty, which contravenes section 19 of the 1997 Constitution of the Republic of The Gambia.

CONCLUSION

The detainee was immediately released and the said officer apologized to him.

COMPLAINT NO: 22/2019
NATURE OF COMPLAINT: Denial of Copy of Judgement

COMPLAINT

The complainant stated that he filed a civil suit at a district tribunal dated 21 March 2018 against someone for road blockage and also putting up a wall on top of his fence.

Judgement was entered against the plaintiff. He requested a copy of the judgement but he was not provided with a certified copy of the judgment. Thus, he urged the Ombudsman to intervene so that he could be provided with a copy.

FINDINGS

On 3 July 2019, the Ombudsman was informed by the presiding chief that the complainant could not be provided a copy of the judgement because he was waiting for the governor who had travelled to the Kombos.

CONCLUSION

When the governor returned on 6 July 2019, the complainant was issued with a copy of the judgement.

COMPLAINT NO:

23/2019

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant stated that the chief had asked that the Alkalo of a certain village to create a cattle track for 2017 and he complied. An agreement was signed by three authorities including the chief himself.

According to the agreement, the cattle track was to pass temporarily through the farm land of the complainant for the year 2017 only. The following year 2018, a cattle track would be identified in consultation with the Alkalo.

On 9 July 2019, the Chief went to the said Alkalo and instructed him that the cattle track which was created for 2017 be maintained permanently. The Alkalo refused to comply with the chief's instructions and urged the Ombudsman to intervene.

FINDINGS

The chief had requested the Alkalo to create a cattle track for only 2017. An agreement dated 17 June 2017 was signed by the Chief, the Alkalo and the owner of the land.

According to the agreement, the cattle track was to temporarily pass through the farm land of the complainant for the year 2017 only. The following year 2018, a cattle track would be identified in consultation with the Alkalo.

The chief on 9 July 2019 instructed the Alkalo to permanently maintain the cattle track but the Alkalo refused to adhere to the chief's instructions.

The governor had instructed the chief to live by the agreement to use the land for cattle track in only 2017.

CONCLUSION

The chief agreed to honour the agreement and the case was amicably settled.

COMPLAINT NO:

24/2019

NATURE OF COMPLAINT:

Request for Mediation

COMPLAINANT

The complainant stated that he was transferred in 2014. On 28 May 2019, he was again transferred. He alleged that this posting was not in his favour because he was the head of the family. Therefore, he urged the Ombudsman to mediate on his behalf to remain in his place of posting.

FINDINGS

The complainant was transferred in 2014 and later transferred again in 2019. His transfer was as a result of dating the wife of a villager.

CONCLUSION

With the intervention of the Ombudsman, the complainant was eventually transferred. The complainant complied with the new transfer.

COMPLAINT NO:

26/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that his wife was delivered of a baby at a hospital on 22 September 2019. He alleged that while driving to the hospital, upon reaching a check point, he was stopped by an officer who inspected his vehicle and noticed that the vehicle had fog lights. He instructed the complainant to park the vehicle as the instruction was from the high command. The complainant called the Office of the Ombudsman for redress.

FINDINGS

There was a press release banning vehicles from using fog lights.

CONCLUSION

Since the incident happened during the day, the driver was warned to remove the fog light and the vehicle was subsequently release.

COMPLAINT NO:

27/2019

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that he paid for a cash power meter on 29 January 2019 and was issued receipt numbered 160439. He further stated that he also paid for water service connection fee on 30 January 2019 and was issued with receipt numbered 0053739. Since then, he had neither received his cash power meter nor his water connection.

Thus, he urged the Ombudsman to intervene so that he could get his cash power meter and water service connected.

FINDINGS

On 24 September 2019, it was found out that cash power meters were already in Basse. The cash power installations were about to begin and the complainant was among the beneficiaries. However, the water service connection could not be done because the required materials were not available in Basse at the time. It was also revealed that the complainant had not paid his water service connection fee and his complaint of water service connection was immaterial.

CONCLUSION

The complainant was advised to pay for the water service connection so that it could be connected. The complainant complied and his meter was connected.

COMPLAINT NO:

29/2019

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant stated that his motor cycle was impounded by a police officer on 5 September 2019. He alleged that the said officer stopped him, requested his motor cycle documents and found they were valid. Thereafter, he was alleged to be over speeding. He appealed to him but he insisted that the complainant should pay D1, 000 which the complainant could not afford. As a result his motor cycle was impounded and taken to the police station. He urged the Ombudsman to intervene for redress.

FINDINGS

On 18 October 2019, the motor cycle was found impounded at the police station by the said officer. The officer –in-charge of traffic was found to have held the key to the said motor cycle but could not give any substantial reason why the motor cycle was impounded because he had forgotten what the said officer had told him. He therefore handed over the motor cycle key to the complainant.

CONCLUSION

The officer in charge of traffic was warned to desist from such practice and advised to follow due process.

STATISTICAL APPENDICES

CASE SUMMARY OF THE YEAR 2019

TABLE 1: NO. OF CASES REGISTERED BY OMBUDSMAN'S HEAD OFFICE AND REGIONS

CASES REGISTERED BY LOCATION	
LOCATION	NO. OF CASES
HEAD OFFICE	91
KEREWAN	27
MANSAKONKO	12
JANJANGBUREH & BASSE	38
TOTAL	168

TABLE 2: PUBLIC SECTOR CASES REGISTERED AT THE HEAD OFFICE IN 2019

AUTHORITY COMPLAINED AGAINST	ABBREVIATION	NUMBER OF COMPLAINT	PERCENTAGE
Gambia Police Force	GPF	11	12
Gambia Armed Forces	GAF	9	10
Banjul City Council	BCC	5	5.5
Gambia Prisons Service	GPS	5	5.5
Gamtel	Gamtel	4	4.4
Kanifing Municipal Council	KMC	4	4.4
Ministry of Basic & Secondary Education	MoBSE	4	4.4
Personnel Management Office	PMO	4	4.4
Office of the President	OP	4	4.4
Ministry of Foreign Affairs	MoFA	3	3.2
Gambia National Petroleum Company	GNPC	2	2.2
Gambia Ports Authority	GPA	2	2.2
Gambia Tourism Board		2	2.2
Ministry of Health & Social Welfare	MoHSW	2	2.2
Ministry of Justice	MoJ	2	2.2

Ministry of Local Government & Lands	MoLGL	2	2.2
Social Security& Housing Finance Corporation	SSHFC	2	2.2
Senior Secondary Schools	SSS	2	2.2
University of The Gambia	UTG	2	2.2
ASSETS MANAGEMENT &RECOVERY CORPORATION	AMRC	1	1.1
Bansang Hospital	BH	1	1.1
Department of Park &Wild Life	DPWL	1	1.1
Gambia Fire & Rescue Service	GFRS	1	1.1
Gambia International Airline	GIA	1	1.1
Gambia Immigration Department	GID	1	1.1
Gambia National Sports Council	GNSC	1	1.1
Gambia Revenue Authority	GRA	1	1.1
Gamworks	Gamworks	1	1.1
Governor's Office West Coast Region	GO	1	1.1
Independent Electoral Commission	IEC	1	1.1
Judiciary	Judiciary	1	1.1
Ministry of Environment	MoE	1	1.1
Ministry of Finance & Economic Affairs	MoFEA	1	1.1
Ministry of Interior	MoI	1	1.1
National Agricultural Research Institute	NARI	1	1.1
National Drug Law Enforcement Agency	NDLEA	1	1.1
National Water & Electric Company	NAWEC	1	1.1
Sheik Zayed Regional Eye Care	AZREC	1	1.1
State Intelligent Service	SIS	1	1.1
Total		91	100

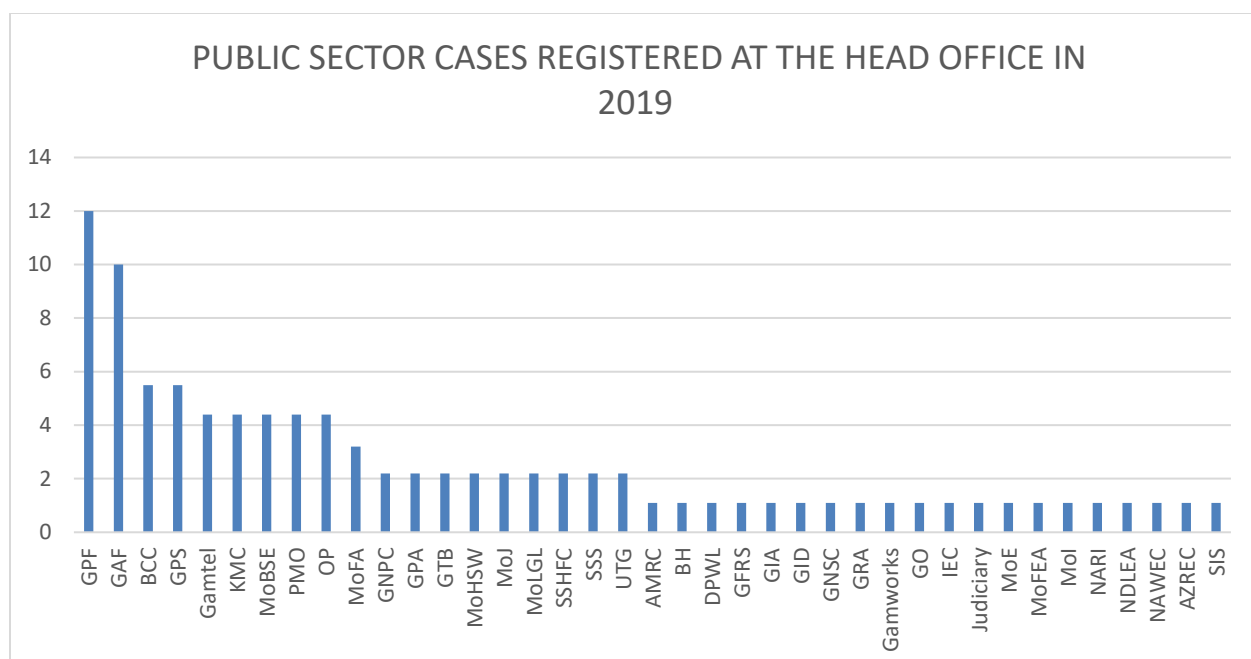


TABLE 3: NATURE OF COMPLAINTS REGISTERED IN 2019

NATURE OF COMPLAINT	NUMBER OF CASES	PERCENTAGE
Unfair treatment	35	39
Injustice	11	12
wrongful Dismissal	10	11
Gratuity and Pensions	10	11
Salary/Wages	8	9
Wrongful Termination	10	11
Suspension	2	2
compensations	3	3
Wrongful Discharge	2	2
TOTAL	91	100

NATURE OF COMPLAINTS REGISTERED IN 2019

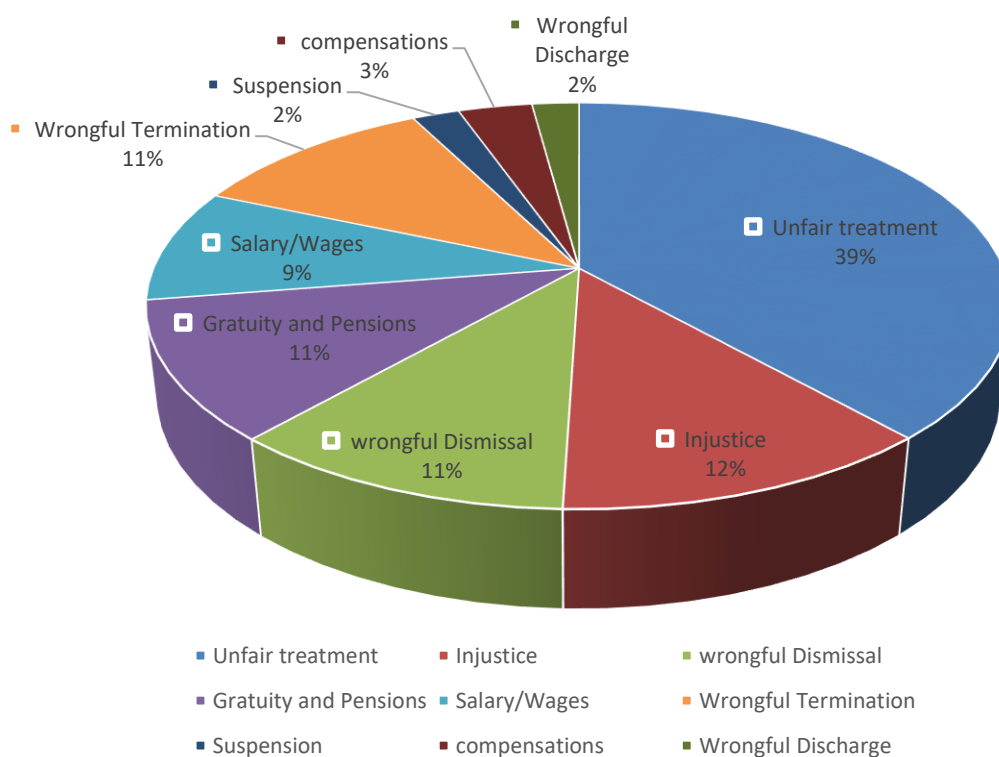


TABLE 4: NATURE OF CLOSURE OF COMPLETED CASES 2019 AT HEADQUARTER

NATURE OF CLOSE	NUMBER OF CASES	PERCENTAGE
Settled	14	15
Dismissed	31	34
Discontinued	19	21
Pending	23	26
Sub-judice	1	1
Withdrawn	3	3
Total	91	100

NATURE OF CLOSURE OF COMPLETED CASES 2019 AT HEADQUARTER

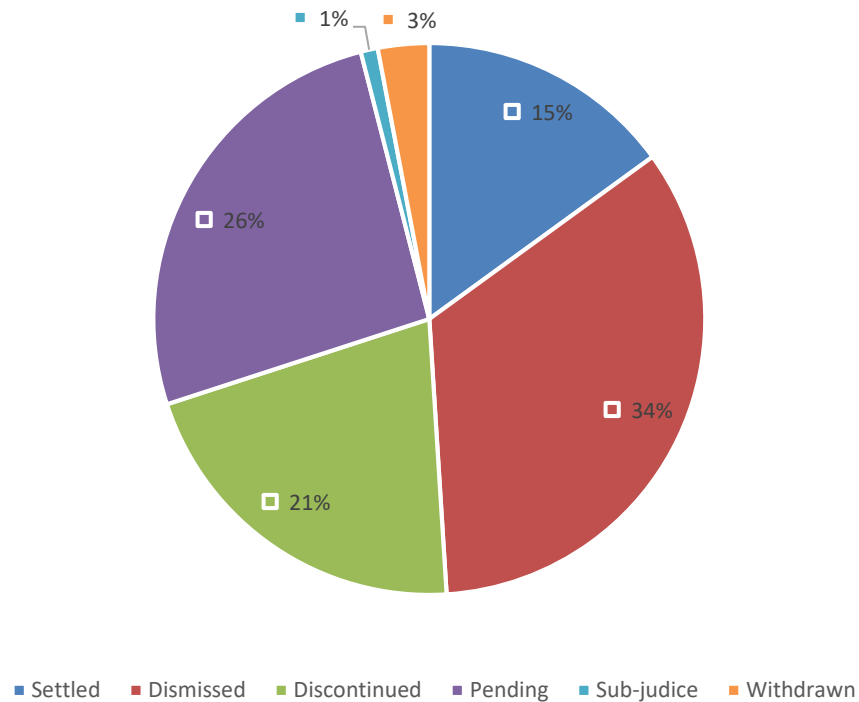


TABLE 5: SUMMARY OF CASES INVESTIGATED IN 2019

CASE SUMMARY	NUMBER
Brought forward cases Investigated (2018)	105
Cases Registered in 2019 at Headquarters & the Regions	168
Total cases investigated in 2019	273

CHAPTER TEN OF THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA 1997

CHAPTER X THE OMBUDSMAN

**163. National -
Assembly
to
establish
Office of
Ombudsm
an**

- (1) Subject to the provisions of this Constitution, an Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision for his or her functions and duties-
 - (a) in the investigation of any action taken by a government department or other authority, or public body, to which the Act applies, being action taken in the exercise of the administrative functions of that department or authority, on a complaint by a member of the public who claims he or she has suffered injustice in consequence of maladministration or mismanagement, or discrimination on any ground set out in Chapter IV, in connection with such action;
 - (b) in the investigation, on his or her own initiative, of allegations of maladministration, mismanagement or discriminatory practices in any government department, authority, or other public body, to which the Act applies; and
 - (c) in the investigation of complaints of any failure to observe the code prescribed in Chapter (XXI) for the conduct of public officers.
- (2) Without prejudice to the generality of subsection (1), an Act of the National Assembly may;
 - (a) determine the departments, authorities and other public bodies to which the Act shall apply;
 - (b) determine the actions or classes of action which may be subject to such investigations;
 - (c) determine the departments, authorities, public bodies and actions which shall be excluded from such investigations;
 - (d) determine the procedure to be adopted in any investigation and the powers which may be exercised in the course of such investigation, including the power of the Ombudsman to require persons to furnish documents and other information and to provide evidence, and provide for the right of any department, authority, other public body or person to be heard when its, or his or her, actions are the subject of an investigation;
 - (e) provide for sanctions for the obstruction of the Ombudsman in the exercise of his or her functions or a failure to comply with his or her lawful requirements;

- (f) provide for the making of reports by the Ombudsman, including an annual report to the National Assembly, and reports to the Inspector General of Police in the event of his or her investigations disclosing the commission of a criminal offence or to the Attorney-General in the event of their disclosing any other failure to comply with a provision of law;
- (g) provide for the appointment of one or more Deputy Ombudsman to exercise, under the directions of the Ombudsman, the functions of that office.
- (h) Make such administrative and financial provisions as may be necessary or desirable for the efficient functioning of the Office of Ombudsman.

**164.
Appointment and
tenure of
office of**

Ombudsman

- (1) The President shall appoint an Ombudsman and his or her Deputies in consultation with the Public Service Commission, subject to confirmation of the National assembly within seven days of the presentation of the request.
- (2) In making an appointment under this section, the President shall have regard to the need for persons exercising the functions of Ombudsman to have substantial administrative or professional experience.
- (3) The Office of the Ombudsman and Deputy Ombudsman shall be offices in the public service.
- (4) A person shall not be qualified to hold office as Ombudsman or Deputy Ombudsman if he or she is a Member of the National Assembly, a Secretary of State or State or holds any other public office.
- (5) Subject to this Constitution, an Act of the National Assembly shall prescribe the tenure and terms of service of the Ombudsman and any Deputy Ombudsman.
- (6) An Ombudsman or Deputy Ombudsman may only be removed from office by the President for inability to discharge the functions of his or her office (whether arising from infirmity of mind or body or from any

other cause) or for misconduct, and shall not be removed unless the National Assembly has appointed a tribunal to investigate the case and his or her removal has been approved by resolution of the National Assembly supported by the votes of not less than two-thirds of all the members of the National Assembly. The Ombudsman or a Deputy Ombudsman shall have the right to be heard and to be legally represented before the tribunal.

165.Independence of Ombudsman

- (1) Subject to the provisions of this chapter, in the exercise of his or her functions, the Ombudsman and a Deputy Ombudsman shall not be subject to the direction or control of any person or authority but subject only to the Constitution and the law.
- (2) All departments, authorities and other public bodies which are subject to investigation by the Ombudsman shall accord such assistance as he or she may require for the protection of the independence, dignity and effectiveness of the Ombudsman in the performance of his or her functions.

THE OMBUDSMAN ACT 1997

AN ACT to establish the Office of the Ombudsman and to define and prescribe the powers, duties and functions of the Ombudsman was assented to by the President on 29th September 1997.

ENACTED by the President and the National Assembly of The Gambia.

Short Title	1. This Act may be cited as the Ombudsman Act 1997 and shall come into force on such date as the Secretary of State may by order published in the Gazette appoint.
Establishment	2. (1) There is hereby established the Office of the Ombudsman which shall consist of the Ombudsman and two Deputy Ombudsmen. (2) The Ombudsman and Deputy Ombudsmen shall be appointed by the President in consultation with the Public Service Commission and subject to confirmation by the National Assembly. (3) The Ombudsman and Deputy Ombudsmen shall be appointed for a period of five years and shall be eligible for re-appointment. (4) The Ombudsman and Deputy Ombudsmen shall, before entering upon the duties of office, take an oath of office. (5) The Ombudsman and Deputy Ombudsmen shall not hold any other public office. (6) The Ombudsman and any Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision.
Functions of the Ombudsman	3. (1) In addition to the functions of the Ombudsman under the Constitution, the Ombudsman shall have the following functions - a. to investigate complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of official duties; b. to investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the

complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment to those services or fair administration in relation to those services.

- (2) The Ombudsman may, where it is considered desirable, investigate into any matter referred to in paragraphs (a) and (b) of subsection (1)

Action or steps to be taken in connection with outcome of inquiry or investigation

4. (1) The Ombudsman shall after holding any enquiry or investigation
- a) recommend appropriate action or steps to call for or require the remedying correction and reversal of matters or instances specified in section 3 through such means as are fair, proper and effective;
 - b) notify the person who laid the matter before the Ombudsman of the outcome of such inquiry or investigation in such manner and form as the Ombudsman may determine and to such extent as the Ombudsman may deem necessary in the public interest or that the matter shall not be further enquired into or investigated in terms of section 8.

General powers of the Ombudsman

5. (1) For the purposes of performing his or her functions, the Ombudsman shall have the following powers –
- (a) to determine the nature and extent of any inquiry or investigation referred to him or her;
 - (b) upon the issue of a warrant under the hand of the Ombudsman to enter at any time any building or premises or any part of any building or premises to make enquiries and put such questions to any person in connection with the matter in question;
 - (c) access to all books, vouchers, stamps, securities, equipment, stores and other movable goods in the possession or under the control of any person;
 - (d) to request particulars and information from any person;
 - (e) to make enquiries into, extracts from or copies of any book, voucher or other document which he or she deem necessary in connection with any inquiry or investigation;

- (f) to seize anything which they deem necessary in connection with an inquiry or investigation.

**Power
summon
witnesses**

to 6. (1) The Ombudsman shall have the power to summon witnesses and to examine witnesses under oath.

(2) A summons for the attendance of a witness or the production of documents shall be served in the same manner as if it were a subpoena for the attendance of a witness in court.

(3) The ombudsman may by warrant order the arrest of any person, who after being served with a summons fails to appear before it.

**Orders
Ombudsman**

by 7. Orders, writs and directions issued by the Ombudsman shall have the same force as an order, writ or direction of the High Court.

**Certificate of the
President**

8. (1) Notwithstanding section 5, where the President has certified that the giving of any information, or the production of any document: –

- a) might prejudice the security, defence or international relations of the State or the investigation or determination of offences; or
- b) might involve the disclosure of the deliberation of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest;

The Ombudsman shall not require the information to be given or the document to be produced.

**Jurisdiction
Ombudsman**

of 9. (1) The Ombudsman shall have jurisdiction to inquire into the conduct of any person to whom this Act applies.

(2) Notwithstanding subsection (1), the Ombudsman shall not have power to question or review -

- a) the decision of any court of law or of any judicial officer in the exercise of judicial functions;

- b) decisions of any tribunal established by law;
- c) any matter which is sub-judice;
- d) any matter relating to the exercise of the prerogative of mercy, and
- e) any matter relating to the affairs of the President.

(3) (1) The Ombudsman may decide to discontinue an investigation where he or she is satisfied that -

- a) the complaint is trivial, frivolous, vexatious, or not made in good faith; or

b) the inquiry would be unnecessary, improper or fruitless.

(4) The Ombudsman shall, in any case in which he or she decides to discontinue an investigation, inform the complainant in writing accordingly but shall not be bound to give any reasons.

Investigations to be in camera

10. (1) Every investigation under this Act shall be in camera.

(4) Notwithstanding subsection (1), the Ombudsman may in the public interest publish his or her findings at the end of an investigation.

Provisions relating to complaints and allegations

11.(1) A complaint under this Act can be made by anybody in any form; provided that where a complaint is made orally it shall be reduced into writing by a member of staff of the Ombudsman.

(2) Notwithstanding the provisions of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, such allegation or complaint shall not be made through, or subject to the scrutiny of any other person.

Evidence and procedure

12. (1) The procedure for conducting an investigation shall be such as the Ombudsman consider appropriate in the circumstances.

(2) The Ombudsman may authorise any of his or her staff to exercise any of the powers under section 5.

(3) Where the Ombudsman proposes to conduct an investigation, it shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action complained of, an opportunity to comment on any allegation made to him or her.

Reports

13.(1) The Ombudsman shall submit to the President a report of every investigation it has conducted which shall contain -

(a) a summary of the evidence taken together with the conclusions and recommendations;

(b) a statement of any action that has been taken by any person whose conduct is under investigation or by the department or authority of which such person is a member, to correct or ameliorate any conduct, procedure, act or omission that is adversely commented upon in the report;

(c) where any person has suffered loss or injury as a result of any alleged misconduct, maladministration or abuse of office or authority by any person whose conduct is under investigation, the Ombudsman may in his or her recommendations state that compensation should be paid to the person who has suffered such loss or injury or to any dependent of such person, and shall determine the sum which it recommends as compensation.

Enforcement and notification

14. (1) The President may, on receipt of the report of the Ombudsman on any investigation conducted by him or her, or during the continuance of any such investigation, take such decision in respect of the matter investigated or being investigated into by the Ombudsman as the President deems fit.

(2) When the Ombudsman receives such decision he or she shall notify the complainant and the person complaint against whom the complaint or allegation was made.

Report to National Assembly

15. (1) The Ombudsman shall submit to the National Assembly an annual report of his or her operations.

(2) The annual report shall be submitted within six months of the following year.

(3) A report under this section shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation is made.

**Staff of
Ombudsman**

16. The Ombudsman shall employ such staff as he or she shall determine, who shall become public officers.

**Finality of
Ombudsman's
acts**

17. (1) No investigation, proceedings, process or report of the Ombudsman shall be held bad for any error or irregularity of form or be challenged, reviewed, quashed or called into question in any court save on the ground of lack of jurisdiction.

(2) The High Court shall be the final court of appeal in all matters in which the Ombudsman is a party.

**immunity of
Ombudsman and
members of staff
of office of
Ombudsman**

18. (1) No proceedings, civil or criminal, shall lie against any Ombudsman or member of staff of the Ombudsman for anything done in good faith in the course of the exercise of his or her official functions.

(2) Subject to the provisions of this Act, the Ombudsman or member of staff of the office of the Ombudsman shall not be called to give evidence before any court or tribunal in respect of any information received in the exercise of official functions.

Expenditure

19. (1) All expenditure in connection with the office of the Ombudsman shall be charged on the Consolidated Revenue Fund and shall be paid at the beginning of each financial year.

(2) A person summoned as a witness under this Act may on the order of the Ombudsman be paid such allowance as the Ombudsman may prescribe.

Offences

20. (1) If any person who: -

- (a) being a witness before the Ombudsman without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put;
- (b) having been sworn or affirmed knowingly gives false testimony touching any matter which is material to any question under investigation;
- (c) intentionally insults, interrupts or otherwise obstructs the Ombudsman or member of staff of the Ombudsman in the performance of functions under this Act;
- (d) intentionally disobeys any order made under section 6; commits an offence and shall be liable to the same penalty as any person who commits a like offence in relation to a court.

Power to make rules

21. (1) The Ombudsman may make rules for the better carrying into effect of this Act and, without prejudice to the generality of the foregoing, for any of the following matters:
- (a) prescribing terms in respect of proceedings before the Ombudsman;
 - (b) prescribing the duties of officers and other persons appointed under this Act; and
 - (c) prescribing the procedure for conducting investigations.

Passed in the National Assembly this Fourth day of July, in the year of our Lord one thousand Nine hundred and Ninety-Seven.

D S Njie

Clerk of the National Assembly