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31st December 2020

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

Honourable Speaker,

SUBMISSION OF 2020 ANNUAL REPORT

I have the esteemed honour and privilege to submit the 17th Annual Report of the Office of the Ombudsman covering the period 1st January to 31st December 2020.

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 establishment 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.”*** Therefore, the 1997 Ombudsman Act creates the Office of the Ombudsman and prescribed the powers and functions of the Ombudsman.

Honourable Speaker, I would like to restate 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 achievements were registered but certain obstacles also existed. However, we never relented in that mission and today, in addition to our main mandate of complaints handling and investigations, we have been able to realize our objectives of visiting prisons and all detention centres and the implementation of the Assets declaration by public officers.

We treasure 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 feature of an impartial and reliable system of justice.

Honourable Speaker, my statement will be directed to the 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 ensures 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 has been issuing reports containing genuine evidences of conditions in Prisons, Police cells and all places of detention. In addition, the Ombudsman continues to receive 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. 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 helps 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 dissuades 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.

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 the directives of the President.

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 continues 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 advise 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 17th annual report of the Ombudsman and it covers the period 1st January to 31st December 2020. During the year under review, the Office registered cases from all regions of the country and

continued to successfully settle cases registered. The compliance rate of the Ombudsman recommendations on cases investigated continued to be high.

1.2.1 DATA ANALYSIS

In 2020 the Ombudsman brought forward 47 cases from 2019. The Ombudsman received a total number of 160 cases including the regions. Thus, the Ombudsman had a total of 207 cases to investigate for this year. Out of this number the Ombudsman was able to successfully resolve a total of 147 cases leaving 55 pending.

At headquarters 129 complaints were registered, out of these 36 complaints were from the private sector. 22 complaints were satisfactorily resolved in favour of the complainants, 21 dismissed after full investigation due to lack of merit, 21 discontinued due to the fact that they were frivolous and not made in good faith, 4 withdrawn, 1 sub judice and 24 still pending.

At the Kerewan Regional Office 13 complaints were registered and investigations conducted on all the complaints. Out of these 5 were settled in favour of the complainants, 2 discontinued, 1 sub judice and 5 pending.

At the Mansakonko Regional Office 15 complaints were registered. Out of these complaints 11 were settled in favour of the complainants, 4 discontinued.

At the Basse Regional Office 40 complaints were registered out of these 18 complaints were settled in favour of the complainants, 12 dismissed, 1 discontinued and 7 still pending.

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

- Gambia Police Force 12
- Gambia Armed Forces 7
- Personnel Management Office 5

The report contains samples of cases investigated with summary of the cases. However, the Statistics depicts a true representation of the cases in 2020.

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

Sensitization remains a priority for the Office. This is because the delivery of service of any type is driven by awareness of what the service is about, where to access the service, when and how to access the service.

We therefore create awareness to enhance optimal use of the services of the Office by all victims of administrative injustice.

Through sensitization we also seek to promote good administrative practice with the objective of influencing good administrative practice in public offices with the ultimate goal of reducing incidents of maladministration and enhancing effective, efficient public service delivery.

Also, our sensitization activities, especially in the form of community and intuitional meetings, serve as our form of outreach for taking complaints. Many complaints have been registered during such meetings.

However, the reporting period saw a shift of focus in terms of our sensitization strategy due to the outbreak of Covid -19.

The need for social distancing was at the heart of the measures to combating the pandemic.

In order to comply with the Covid-19 prevention protocols, we suspended workshops, community and institutional meetings as these activities entail bringing people together.

For this reason, we concentrate on activities that involve minimal contacts with people.

During the period under review, we organized community phone-in radio programmes in the North Bank Region, Lower River Region and the Upper River Region.

These programmes contributed to increasing awareness of the role and functions of the Ombudsman.

The fight against all forms of administrative injustice cannot be won in the absence of awareness creation; hence, the Office will continue to create the needed awareness using a multipronged approach.

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. The attached statistics showed a picture of the cases received and their nature.

1.3.3 CONSTRAINTS

The regional offices Mansakonko and the Kerewan Regional Offices are operating from the Governor's Office. The Basse Office is currently 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 implement 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 Soma, 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”
- 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 cognizance of the importance of training and capacity building in the effective implementation of an institutional mandate. During the year under review, one staff is currently pursuing an MSC program at the University of The Gambia on International Relations and Diplomacy. Another staff is pursuing Bachelor of Law (LLB) at the University of The Gambia.

The Deputy Ombudsman participated on the Corporate Governance and Board Effectiveness Workshop held in Dubai from the 10 to 14 February 2020 by the Public Administration International. One of the Senior Investigator was sponsored by the Ahmadiyya Muslim Jammāt to pursue a Master's Program on International Human Rights and Humanitarian Law at Viadrina European Frankfurt (Oder) Germany. The Office granted him study leave with salary from 4 April 2019 to 30 September 2020.

OVERSEAS TRAINING 2020

<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>
Samba Bajie	Deputy Ombudsman	Corporate Governance and Board	Public Administration International	10 to 14 February 2020	with salary	Ombudsman

		Effectiveness Workshop				
Nurudeen Mbye	Senior Investigator	Master's Program on International Human Rights and Humanitarian Law	Viadrina European Frankfurt (Oder) Germany	4 April 2019 to 30 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>
Isatou Fatty		Masters in International Relations & Diplomacy	University of The Gambia	Two years 2019-2021	With salary	Ombudsman
Pierre Simon Secka		LLB	University of The Gambia	Four years 2020-2024	with salary	Ombudsman

CHAPTER 3

3.1: FINANCIAL ALLOCATIONS

During the year ended 2020, 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 2020 is; D 20,400,037.00

The breakdowns of the allocations from January-December 2020 are as follows:

- | | |
|--------------------------|------------------------|
| a. Salaries etc. | D 13,950,037.00 |
| b. Other charges | D 6,450,000.00 |
| c. Total budget for 2020 | D 20,400,037.00 |

Table showing the trend of allocations from 2018 to 2020

YEAR	ALLOCATIONS	DISBURSEMENT	SHORTFALL	INCREMENT	VARIANCE
2020	D20,400,037	18,490,703	1,909,334	59,037	9.36%
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%

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 2020

NO	PARTICULARS OF POSITION	GRADE	SALARY
1	OMBUDSMAN	FIXED	255,834
2	DEPUTY OMBUDSMAN	FIXED	412,308
1	DIRECTOR OF INVESTIGATION	12.8	129,968

1	DIRECTOR OF HUMAN RIGHTS	12.5	112,192
1	DIRECTOR OF COMMUNICATION	12.6	124,784
1	PRINCIPAL INVESTIGATOR / ANTI CORRUPTION	11.8 + L	121,938
1	PRINCIPAL INVESTIGATOR/LEGAL ADVISER	11.6	107,526
1	PRINCIPAL INVESTIGATOR - HUMAN RIGHTS	11.3	102,536
1	SENIOR INVESTIGATOR - HUMAN RIGHTS	10.8+ L	105,926
1	SENIOR INVESTIGATOR - ANTI CORRUPTION	10.7	94,632
1	COMPLAINT OFFICER	10.3	87,978
12	-		1,655,621
1	ADMIN MANAGER	11.8	110,853
1	PRINCIPAL ACCOUNTANT	10.4	89,642
1	PRINCIPAL PRIVATE SECRETARY	9.8+L	91,380
1	ACCOUNTANT	8.4	66,096
1	PROCUREMENT OFFICER	8.1	61,884
1	PLANNER	8.1	61,884

1	SECRETARY	7.7	59,490
1	RECORDS CLERK	6.8	50,894
1	RECORDS SUPERVISOR	5.7	39,636
1	PROCUREMENT CLERK	5.1	32,508
4	DRIVER	3.2,3.3,3.8+L.3.8+L	101,110
1	GARDENER/CARE TAKER	3.8 + L	28,037
1	MESSENGER	3.8+L	30,840
3	CLEANER	3.8,3.5,3.4	72,684
2	WATCHMEN	3.8,3.3	48,276
1	IT SUPPORT TECHNICIAN	5.4	36,072
22			981,286
1	SENIOR INVESTIGATOR	10.2	86,315
1	INVESTIGATOR	8.5	67,500
1	SENIOR TYPIST	5.8 + L	44,906
1	DRIVER	3.5	23,868
1	NIGHT WATCHMAN	3.5	23,868
1	CLEANER / MESSENGER	3.2	22,248
6			268,705
1	SENIOR INVESTIGATOR	10.7	94,632
1	INVESTIGATOR	8.5	67,500
1	SENIOR TYPIST	5.8+L	44,906

1	DRIVER	3.8 + L	28,037
<u>1</u>	CLEANER / MESSENGER	3.8 + L	<u>28,037</u>
5			263,112
1	SENIOR INVESTIGATOR	10.7	94,632
1	INVESTIGATOR	8.5	67,500
1	SENIOR TYPIST	5.8+ L	44,906
1	DRIVER	3.8 + L	28,037
<u>1</u>	CLEANER / MESSENGER	3.8 + L	<u>28,037</u>
5			263,112
50	OVERALL TOTAL BASIC SALARY		3,431,837

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 2020 visited prisons, police cells, immigration detention facilities and military detention facilities.

The visits were unannounced. The objectives of the visits were to follow up on the recommendations made in the previous years as well as to assess the treatment and conditions of persons deprived of their liberty at the time of the visits and make recommendations for improvement and compliance with national, regional and international human rights 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 included cells, food, health care, water, sanitation, treatment, activities, contact with the outside world and staff matters.

4.1.2 Visits to prisons

All the three prisons in the country were visited. Janjanbureh Prison was visited on 29 January 2020, Jeshwang Prison on 29 December 2020 and Mile II Prison on 31 December 2020.

4.1.3 Accommodation

The dormitories and cells in Mile II Prison still needed renovation as they were very old. The cells for convicts in Jeshwang Prison were also very old, but four new blocks had been constructed for remand prisoners. Two of the new blocks were already occupied by remand prisoners. The completion of the four blocks at Jeshwang Prison was in line with the recommendations of the Ombudsman. Some of the cells in Janjanbureh Prison also needed renovation. The floor of the cell in Janjanbureh female wing was in a state of disrepair. It had cracks in several areas.

The cells in all the three prisons were found clean. They had big windows and there were adequate fresh air and natural light. Most of the cells also had sufficient artificial lighting and ventilation.

Mile II remand wing still did not have enough mattresses in the cells. The mattresses in the juvenile wing of Jeshwang Prison were thin and needed to be replaced with thick ones.

Fans and mosquito nets were provided to the inmates. However, remand inmates in the female wing of Mile II Prison informed the visiting team that they had only one fan, which was inadequate. TV sets were also found in most of the cells in the prisons. However, female inmates at Janjangbureh Prison were still not provided with a TV. There were still no wardrobes, chairs and tables in any of cells in the three prisons.

4.1.4 Overcrowding

Mile II remand wing remained congested. Cells 1, 6, 7 and 10 had ten inmates each, cells 2, 3 and 8 had eleven inmates each, cells 4, 5 and 9 had twelve inmates each whilst cell 11 had fifteen inmates. Nine of the eleven cells in the remand wing had fewer than 2 square metres 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 and cells 7, 8, 9, 10 and 11 were supposed to have 7 inmates each.

4.1.5 Sanitation and hygiene

Each of the three prisons had toilets and bathrooms for prisoners. However, the toilets and the bathrooms in the remand wing of Mile II Prison were not in the cells. Only two toilets and two bathrooms were still used by the inmates at the remand wing of Mile II Prison, which were not enough, as there were 124 remand inmates during the visit. The inmates in Mile II remand wing still used buckets in the cells to urinate and defecate at night. Many toilets and bathrooms in the three prisons were not in good condition and needed renovation. Female prisoners were provided with sanitary towels, as recommended by the Ombudsman.

4.1.6 Food and water

Many of the inmates at Mile II Prison said that the food provided to them was of good quality compared to the past. However, an inmate in the prison said that only 'domoda' or groundnut soup was good. She added that they were always given 'tapalapa' or local bread for breakfast. Some of inmates in the juvenile wing of Jeshwang Prison complained about the quantity and quality of the food given to them. They also stated that they received lunch late, sometimes at 5pm or even 7pm. The inmates had access to clean water for drinking and other purposes. There were taps in most of the toilets.

4.1.7 Health care

The visiting team found that it was still only Mile II Prison that had a clinic. Sick inmates at Jeshwang and Janjanbureh prisons were still taken to the nearby health facilities. However, at the time of the visit, a new clinic was being built at Jeshwang Prison by the UNDP. It was expected to be completed in February 2021.

A new room had been added to the clinic at Mile II Prison to serve as a sick bay. This was in line with the recommendation made by the Office of the Ombudsman. It was not operational at the time of the visit as beds, tables and chairs were yet to be provided. The sick bay was expected to take up to 8 patients.

The visiting team was informed by the nurses that the clinic had been provided with strips to test diabetes, scales to weigh TB patients, a PCV machine to test HB and other equipment. The need to provide these items was mentioned in the Ombudsman's previous recommendations. However, the clinic was still not provided with a computer and a printer.

The nurses at Mile II Prison informed the visiting team that painkillers such as paracetamol, diclofenac and Ibuprofen had not been available in the clinic for months. The DG said that there was no budget for drugs in 2020. The officers at Jeshwang Prison also said that the drugs provided to them were inadequate.

It was still only Mile II Prison that a doctor from the police headquarters visited once a week. Of the eight nurses at Mile II clinic, only one was undergoing training to be a registered nurse (RN). It was still only Mile II Prison that had an ambulance.

4.1.8 Covid-19

The Director General informed the visiting team that 76 cases of Covid-19 were detected at Mile II Prison. He added that the cases were found in different categories of inmates, such as remand inmates, convicts and female inmates. He further stated that some of the inmates with Covid-19 came from Jeshwang Prison but there was no case at Janjanbureh Prison. He added that the inmates with Covid-19 were taken to Bambo Hotel, which was located in the Senegambia area. The Director General also said that Ministry of Health sensitized prisons to Covid-19 and provided them with three thermometers and a tank for washing their hands. He added that the First Lady Fatou Bah Barrow had given them thermometers and other institutions and individuals also provided them with hand sanitizers and other items.

4.1.9 Clothing

The DG informed the visiting team that they had implemented the Ombudsman's recommendation of giving two pairs of uniform to each inmate. However, the inmates were still not given sweaters to protect them from cold during harmattan. The Director General pointed out that the amount allocated for uniforms was inadequate as it was meant for both the inmates and the officers.

4.1.10 Ill-treatment

The inmates said that they were not ill-treated. They added that the prison officers treated them well and were nice people.

4.1.11 Access to justice

There were still remand prisoners who had spent several years in prison waiting for their cases to be decided on. For example, four remand inmates had been in Jeshwang Prison since 7 March 2013, which means nearly eight years on trial. There were still delays in taking remand prisoners to court. The visiting team was informed by the authorities at the prison that court sittings were infrequent as the judge often travelled to Banjul. There was no high court in Central River Region (CRR) and North Bank Region (NBR). Inmates were taken to either Basse High Court or to the high court in Lower River Region (LRR).

A juvenile at Jeshwang Prison informed the visiting team that he was not provided with legal aid. He added that he informed the prosecutor about it. He was told by the visiting team to inform the magistrate about his right to legal aid.

4.1.12 Education and vocational training

The visiting team found a new building in Jeshwang Prison, which the officers said was built by Ministry of Basic and Secondary Education and would be used for classes. The officers also said that there was still no vocational training in Jeshwang Prison. However, the DG informed the visiting team that they had started providing training in welding to inmates in Jeshwang Prison. There were still no educational classes and vocational training in Janjanbureh Prison. There was a library at Mile II Prison. However, the team could not see any library at Jeshwang and Janjanbureh prisons.

4.1.13 Work

The visiting team found that most of the inmates were still not provided with any work. Only a few of them were involved in cooking, baking and gardening. The Director General informed the visiting team that some inmates took part in constructing the new dormitory in Jeshwang Prison and each of them was paid D3000, which was presented to their families. He added that some inmates in Mile II Prison were also paid D3000 or thereabouts for doing certain type of work.

4.1.14 Religion

The inmates were still provided with religious services. Mile II and Janjanbureh prisons each still had a mosque. Pastors were still allowed to offer voluntary services to Christian inmates.

4.1.15 Contact with the outside world

Remand inmates were still allowed to have visitors every day whilst convicts were visited only once a month. Inmates in the female wing of Mile II Prison informed the visiting team that they were not allowed to talk direct to their families. They added that it was the prison officers who passed information from them to their families and also from their families to them. There were still no landlines or other official communication facilities in Jeshwang and Janjanbureh prisons for inmates to communicate with their families and friends. Inmates were still allowed to be out of their cells from 8 am to 5 pm, which is nine hours. The inmates at Jeshwang Prison were still not permitted to go beyond the verandas.

4.1.16 Exercise and recreation

There were still no sporting facilities for adult inmates in Jeshwang Prison. Only the juvenile wing had a lawn, which was used by juveniles for playing basketball and football. Janjanbureh Prison also had no sporting facilities. Inmates were still not given the opportunity to do daily exercise for one hour.

4.1.17 Security and safety

The fences of Jeshwang and Janjanbureh prisons were still low. The two prisons still did not have towers. None of the three prisons had CCTV cameras, alarm bells, metal detectors and razor wire. There were also no fire extinguishers in the cells. The Director General informed the visiting team that they intended to include a request for CCTVs and fire extinguishers in their proposal to the UNDP.

4.1.18 Budget

The Director General informed the visiting team that the budget allocated to them was inadequate as they needed to build infrastructure. He added that they were often not given the amount allocated to them in the national budget.

4.1.19 Staff matters

The structures in the staff quarters were still dilapidated and in poor condition, especially the toilets and bathrooms. The visiting team was informed that prison officers could not have a bath in some quarters during the day because of the deplorable condition of the bathrooms. There were still no telephones, computers, internet, printers and photocopiers in most offices. The prisons still had a problem of getting vehicles. Jeshwang Prison still had only one vehicle whilst Janjanbureh Prison had no vehicle. The other problems included inadequate staff, irregular supply of uniforms, limited office space and inadequate furniture.

4.1.20 Recommendations

The following are some of the recommendations made.

- A new prison should be built to replace Mile II Prison, which is not in a conducive environment and not up to regional and international standards. A similar recommendation was made by the UN Working Group on Enforced or Involuntary Disappearances in its report on its visit to the Gambia in April 2017.
- As a matter of urgency, Ministry of Interior should take measures to address the problem of overcrowding in the prisons, especially the remand wing of Mile II Prison.
- The judiciary should address the problem of prisoners being held in remand for a very long time, as justice delayed is justice denied. It should consider having visiting judges and magistrates who go to prisons to check the legality and length of pre-trial detention in prisons.
- The judiciary should ensure that CRR and NBR each has a high court for easy access to justice.
- Delays in taking remand prisoners to court should be avoided. Ministry of Interior should set up a committee comprising representatives from the police, prisons, the judiciary and Ministry of Justice to address the issue.

- Ministry of Justice should ensure that the government uses non-custodial measures or alternatives to imprisonment, such as probation, community services and suspended or deferred sentence, as recommended in Kampala and Ouagadougou Declarations and the UN Tokyo Rules on non-custodial measures.
- Government should ensure that prisoners have access to legal aid services. Rule 61(3) of the Mandela Rules states that prisoners should have access to effective legal aid.
- Ministry of Interior should ensure that adequate and quality food is always provided to inmates at the right time.
- The prison authorities should put an end to Mile II remand wing prisoners' use of buckets in cells to urinate and defecate at night. All prisoners should have access to toilets at any time, including at night.
- Ministry of Health should ensure that the clinic at Mile II is provided with adequate drugs, equipment and qualified health personnel.
- Ministry of Interior should ensure that Jeshwang and Janjanbureh prisons are provided with ambulances.
- The cells should be renovated as they are old. Old mattresses should be replaced with new ones in the cells of all the prisons.
- Prisoners at Jeshwang and Janjanbureh prisons should attend basic education and vocational training.
- Ministry of Interior should ensure that inmates are provided with toothpaste and tooth brush regularly. Inmates are also to be provided with towels to dry their bodies after having a bath. They should also be given enough soap for both bath and washing of their clothes, rather than soap for only washing their clothes.
- Convicts should be allowed to have visitors at least once a week, to be in line with international standards, rather than once a month.
- Each prisoner should be allowed to have at least one hour of exercise in the open air each day, weather permitting, as required by rule 23(1) of the Mandela Rules. Measures should be put in place to ensure that prisoners in the adult wing at Jeshwang are not kept only under the veranda of the building.
- There should be enough furniture in the cells, including wardrobes for inmates to keep in their clothes.
- The staff quarters should be renovated. The asbestos in the staff quarters at Janjanbureh Prison should be removed as a matter of urgency.
- All the prisons should have CCTV cameras, security alarm, fire extinguishers and other facilities. Jeshwang and Janjanbureh prisons should have towers and high fences.
- Ministry of Finance should increase the amount allocated to the prisons so that the recommendations made can be implemented.

4.2.1 Visits to police cells

A total of 34 police stations and 15 police posts were visited and a total of 61 cells inspected.

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

The police stations and posts visited in CRR were: Kaur Police Station, Njau Police Station, Firdawsey Police Station, Kuntaur Police Station, Jareng Police Station, Brikama Ba Police Station, Janjanbureh Police Station, Bansang Police Station, Karantaba Police Post, Wassu Police Post, Kudang Police Post, Fulabantang Police Post and Dankunku Police Post.

The police stations visited in URR were: Fatoto Police Station, Sare Ngai Police Station, Diabugu Police Station, Bakadagi Police Station and Basse Police Station.

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

The police stations and posts visited in Banjul were: Banjul Police Station, Crab Island Police Station, Banjul Ferry Terminal Police Post, Primet Police Post and Seaport Police Post.

The police stations visited in Kanifing Municipality were: Serrekunda Police Station, Bundung Police Station, Kotu Police Station, Bakoteh Police Station and Anti-Crime Unit.

The police stations visited in West Coast Region were: Kalagi Police Station and Sibanor Police Station.

4.2.2 Condition of cells and detention rooms

The Office made several recommendations in 2019 concerning condition of cells. The Office wrote to Ministry of Interior to find out what it had done to implement the recommendations.

The Ministry did not inform the Ombudsman of any plan it had made to renovate and modernize police cells, as recommended. The Ombudsman was also not informed of any plan developed by the ministry to build separate cells for juveniles, for female detainees and for male detainees. It only provided the Ombudsman with responses from different security agencies that have detention facilities, instead of what it had done itself to ensure that the recommendations were implemented.

Police cells still did not have any artificial light. Most of the cells still had small windows that could not allow adequate fresh air and natural light. Many of the cells still had only small openings instead of large windows. There were also cells that had neither a window nor an opening. For example, Brikamaba Police Station had no window or opening and was very dark during the day.

There were no separate cells or detention rooms for juveniles, for female detainees and for male detainees in any of the police stations or posts visited and bigger cells were also not built at Serrekunda, Bundung and Brikama police stations.

The recommendation that Ministry of Interior should ensure that all the police cells have mattresses and sheets for detainees to sleep on was also not implemented. Detainees continued to sleep on mats or cartons provided by police officers whilst others slept on bare floors.

The cells at most police stations needed renovation. The floors of the cells at Kuntaur and many other police stations were not tiled, compared to the ones at most immigration detention facilities. The cell at Sankandi Police Post was still not roofed and the one at Karantaba Police Post in CRR was in a state of disrepair.

Many police cells were still not big enough to keep the number of detainees that the station officers said they could keep.

4.2.3 Sanitation and hygiene

There were still many police stations that used pit latrines instead of flush toilets, such as Karantaba Police Post and Kwinella Police Station. In Jareng, Fatoto and Brikamaba police stations, officers and detainees used the same pit latrines. Keneba Police Station had no toilet.

The toilets at many police stations were in bad condition. For example, the toilets at Barra Police Station were full and in unpleasant condition. The authorities at the station said that the toilets were not enough for the officers and the detainees. At Bansang Police Station the toilet was found filthy and strongly smelling of urine.

The visiting team found 20-litre gallons and plastic bottles full of urine in the cells of Banjul Ferry Terminal Police Post, Kuntaur, Amdallai and many police stations, which made the cells smelled bad. The visiting team was informed that detainees always urinated in 20-litre gallons or plastic bottles in these police detention facilities at night.

Many police stations were still not provided with adequate detergents such as dettol, soap and omo. Many cells were not clean.

Ministry of Interior did not also implement the recommendation that all police stations and posts with detention facilities should have bathrooms for detainees, rather than toilets being used as bathrooms.

4.2.4 Food and drinking water

In most police detention facilities visited, the government did not provide food to detainees. Most detention facilities did not provide the three meals required for the day.

It was still the police officers or families who provided food for detainees in many police detention facilities. Some police detention facilities provided food for detainees and then claimed reimbursement from the police headquarters. However, only D5 was allocated by government for each detainee per day. This is too small, taking into account the current cost of living. Banjul, Fatoto and a few other police stations received food from the Police Intervention Unit (PIU), which they shared with detainees.

There were still many police stations and posts that did not have taps or had difficulties in having access to water. At Kalagi Police Station the visiting team was informed that the station was connected to the village borehole, which always stopped functioning at 3pm. Ndungukebbbeh, Njain Sanjal, Kwinella, Jareng, Firdawsey, Bakadaji, Diabugu and Bureng police stations also had no taps.

4.2.5 Health care

The visiting team found that officers at many police detention facilities still paid D25 for a ticket when they took detainees to health facilities. The visiting team was informed in many police detention facilities that it was still police officers who used their own money to buy medicines for sick detainees when they were not available at the health facilities. In some places it was detainees themselves or their families who bought the medicines. At Serrekunda, Farafenni and several police detention facilities, the visiting team was informed that health facilities still asked for D500 for a medical report.

As regards the recommendation that cells and detention rooms be fumigated regularly, the visiting team found that cells at Serrekunda, Brusubi and many other police stations were still not fumigated. Only the cells at Bundung Police Station were fumigated regularly since the beginning of 2020.

The visiting team was informed that doctors, nurses and other health professionals still did not visit places of detention to assess the health condition of detainees.

4.2.6 Covid-19

The visiting team was informed by the officers at Serrekunda Police Station that they had been given equipment to protect them from Covid-19. They added that they had received masks, bleaches and hand sanitizers from police headquarters and the Mayoress of Banjul and also a thermometer from a philanthropist. However, at the time of the visit they did not have masks and sanitizers for two weeks as they had already finished what was supplied to them. The officers at the station further stated that they gave masks and sanitizers to detainees and checked some of them with the thermometer. They also informed the visiting team that no one had Covid-19 at the station.

Those at Bundung Police Station also said that they had received a sanitizer, masks and a water tank in the first week of Covid-19 from police headquarters but had used everything. They added that they asked detainees to wash their hands at the water tank sanitizer when they were brought newly and when they were being taken to court. They further stated that no one had Covid-19 at the station. However, they informed the visiting team that there was no spacing of detainees to protect them from Covid-19.

4.2.7 Contact with the outside world

Most of the police detention facilities had no landlines or other communication facilities for detainees to communicate with their families. In most places it was the police officers' personal phones that detainees used to speak to their families.

4.2.8 Treatment

During the visit, the visiting team was informed by the detainees at Sibanor, Juffureh, Bundung, Banjul and many other police stations that they had not been beaten or ill-treated in any other way.

4.2.9 Lawfulness of detention

Ministry of Interior and the police did not indicate in their responses whether the 72 hours stipulated under section 19(3)(b) of the 1997 Constitution was adhered to in police detention facilities.

During the visit the team found that detainees were kept beyond 72 hours in some police detention facilities due to the absence of a travelling magistrate. For example, at Farafenni Police Station the visiting team found two Senegalese who were detained for 11 days from 15 to 25 March 2020 because of the absence of the magistrate at the time and Covid-19 restrictions.

4.2.10 Staff matters

There was no indication that Ministry of Interior had drawn up a plan or programme to provide each police station with a car within a specified period. Most police stations still did not have any vehicle. Serrekunda and Bundung police stations each still had only one vehicle (pickup) which was shared with nine other police stations. The whole of URR had only three vehicles, one for Basse Police Station, 1 for Fatoto and one for Sare Ngai.

There was also no indication of any plan drawn up by Ministry of Interior to renovate all the police stations and staff quarters that were in a state of disrepair. Most police stations and staff quarters were still not renovated. Some of the buildings at the staff quarters still had asbestos, which is hazardous. Many police stations still did not have staff quarters.

Most of the police stations and posts still did not have computers, access to the internet, printers, photocopiers, scanners, telephones, furniture, fans and TV sets to facilitate their work. Keneba, Kwinella, Diabugu and several other police stations and posts still had no electricity. Uniforms were still not provided to many police officers for several years. The officers used their own money to buy and sew uniforms. The prosecution units were still not provided with the required law books to facilitate their work. No police station was provided with CCTV.

4.2.11 Recommendations

Since most of the recommendations have not been implemented, the Office includes them in the following:

- As a matter of urgency, Ministry of Interior should draw up and implement a plan to renovate and modernize police cells in line with international standards. Ministry of Finance should be contacted for additional funds.
- Ministry of Interior should ensure that all the cells have adequate natural and artificial (electric) light and sufficient ventilation. The reasons given by police officers for not putting electric light in cells cannot be accepted, as international standards require that all cells have artificial light. Windows should be large enough to let fresh air and natural light into the cells. Ceiling fans should also be provided in cells and detention rooms as places get hot during summer.
- Ministry of Interior should develop and implement a plan for each place of detention to have separate cells or detention rooms for juveniles, for female detainees and for male detainees. Juveniles are not to be detained in the same cell or detention room as adult detainees.
- Ministry of Interior should ensure that there is no overcrowding in police cells, as was the case in Bundung and Serrekunda police stations.
- Ministry of Interior should ensure that all police detention facilities have flush toilets for detainees, as was the case at Anti-crime Unit.

- Inspector General of Police (IGP) should ensure that detainees do not urinate in buckets or bottles in cells at night, as was the case in some police detention facilities. Detainees should have access to toilets at all times when requested, including at night.
- Ministry of Interior should ensure that cells in all police stations and posts have toilets so that detainees can use them even late at night.
- Ministry of Interior should ensure that all police stations and posts with detention facilities have a bathroom for detainees.
- Ministry of Interior should ensure that all police stations and posts are provided with adequate supply of cleaning products such as soap, omo, Dettol and vim. All police cells, detention rooms and toilets are to be kept clean all the time to avoid unpleasant smell and infectious diseases such as tuberculosis.
- Ministry of Interior should ensure that all the police cells have mattresses and sheets for detainees to sleep on, rather than detainees using mats being provided by police officers or sleeping on a bare floor.
- Ministry of Interior should contact Ministry of Finance for allocation of adequate funds for the feeding of detainees at police stations and posts. The funds should be adequate for breakfast, lunch and dinner, rather than only lunch or breakfast.
- Ministry of Interior should ensure that police stations and posts that do not have taps or have difficulties in having access to water are provided with taps, especially those in the regions.
- Ministry of Interior should contact Ministry Health to ensure that police officers do not pay D25 for a ticket at health facilities for the treatment of detainees or D500 for a medical report.
- Ministry of Interior should contact Ministry of Health for health professionals to regularly visit places of detention to assess the health conditions of detainees, as was done at the Anti-crime Unit. Ministry of Health should also be contacted for cells and detention rooms to be fumigated regularly.
- Communication facilities should be provided in police stations and other places of detention for detainees to communicate with their families.
- The IGP should ensure that no police station or post detain any person beyond 72 hours without the permission of a magistrate. The failure of the detainee to meet bail conditions cannot justify detention beyond 72 hours as he or she should be taken to court to decide what action to take.
- Ministry of Interior should discuss with the judiciary the need to appoint sitting magistrates in all the regions in the country to avoid detainees being kept beyond 72 hours and delay in justice, as it happened in Basse, Bansang, Barra and several other places.
- The IGP should ensure that station officers always inform detainees of their basic human rights.
- Ministry of Interior should draw up and implement a plan to ensure that each police station is provided with a car within a specified period of time for effective service delivery, rather than nine police stations sharing only one car.
- Ministry of Interior 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 Interior should ensure that all police stations and posts have electricity. Where the station or post is not connected to the national grid, solar panels should be provided, as done by the former IGP in stations and posts.
- As we are in the age of technology, Ministry of Interior should ensure that all police stations and posts are provided with computers, printers, photocopiers, scanners, internet and CCTV cameras.

4.3.1 Visits to immigration detention facilities

A total of seven immigration stations and two immigration posts were visited in 2020. The immigration facilities visited were: Bundung Immigration Station, Kotu Immigration Station, Basse Immigration Station, Bureng Immigration Station, Farafenni Immigration Station, Soma Immigration Station, Bansang Immigration Station, Bakadaji Immigration Post and Kerr Jain Immigration Post.

4.3.2 Condition of detention rooms

Immigration stations and posts had no cells. They had only temporary detention facilities. Only Bundung Immigration Post and Kotu Immigration Station had detainees at the time of the visits. Bundung had one detainee whilst Kotu had nine detainees.

Not all immigration stations and posts had detention facilities. For example, Basse Immigration station, Bakadaji Immigration Post and Ker Jain Immigration Post had no detention room or centre. The officers at Basse Immigration post stated that they did not allow any detention at the station as there was no facility for that. They added that they intended to have a detention room at the site for a new immigration station. At Bakadaji Immigration Post detainees were still kept in the control office.

The detention room at Soma Immigration Station remained spacious and tiled. It still had very good natural light and ventilation. It also had a ceiling fan, a TV, a fridge and chairs.

Both Kotu Immigration Station and Budung Immigration Post were opened on 24 December 2019. The detention room at Kotu Immigration Station was tiled and had a slab. It was found clean. However, it did not have artificial light. The officer in charge said that he would put it in the detention room that very day. The detention room did not also have a fan but the officer in charge told the visiting team that they were expecting someone to come and fix it for them.

In contrast to the one at Kotu Immigration Station, the detention room at Bundung Immigration Post had artificial light and a fan. It also had a big window with burglar proof that allowed fresh air and natural light to enter. The detention room was tiled, spacious and clean. It had slabs on all sides.

The immigration stations and posts still had no separate detention facilities for women and juveniles. Some of the immigration officers said that they hardly detained women and juveniles whilst others stated that they did not detain juveniles. Some of the officers said that they still kept female detainees outside the detention room or near the counter.

4.3.3 Sanitation and hygiene

All the immigration detention facilities that were visited had toilets for detainees. Soma and Kotu immigration stations and Bundung Immigration Post each had one flush toilet with a tap for detainees. The toilet at Bundung Immigration Post also had artificial light. The toilets were found clean.

4.3.4 Food and drinking water

The visiting team was informed by the officers at Kotu Immigration Station and Bundung Immigration Post that the Immigration Department had started providing them with food items such as rice, oil and onions every week to feed detainees. They added that this began two or three weeks before the visit. In the previous years it was the immigration officers who used their own money to feed detainees. The provision of food to detainees by the Immigration Department was in line with the recommendation made by the Ombudsman in its report following its previous visit. However, the officers at Basang Immigration Station said that the Immigration Department did not provide them with any food to feed detainees. The immigration detention facilities visited provided drinking water to detainees from their taps.

4.3.5 Lawfulness of detention

The visiting team was informed by the immigration officers that detainees did not normally spend the night in their detention facilities. They stated that it was foreigners who failed to regularize their stay that they always detained for a few hours.

4.3.6 Staff matters

Many immigration stations and posts still had no vehicle such a pickup for effective operation. There was still a shortage of staff at some immigration stations and posts.

Communication facilities were still not available at some immigration stations and posts at the time of the visit. There was no landline or mobile phone in the charge office of Bansang Immigration Station. Other problems faced by many immigration officers included lack of computers, scanners, printers, photocopiers, internet, electricity, TV, taps, fans, inadequate furniture, infrequent supply of uniforms, delay in promotions and meagre rent allowance

4.3.7 Recommendations

The following are some of the recommendations made.

- Ministry of Interior should ensure that all immigration detention facilities have fans and artificial lights, as was done for Bundung Immigration Post and Soma Immigration Station.
- Ministry of Interior should ensure that there is no overcrowding in any immigration detention facility, especially at Kotu Immigration Station.
- Ministry of Interior should ensure that mattresses and sheets are provided to all the immigration detention facilities for detainees to sleep on whenever they are kept overnight, as was done for Tanji Immigration Post.
- Ministry of Interior should ensure that adequate funds are provided for the feeding of detainees at immigration detention facilities. The funds should be adequate for breakfast, lunch and dinner.
- Ministry of Interior should ensure that communication facilities are provided at immigration detention facilities for detainees to communicate with their families and others.

- Ministry of 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.
- Ministry of Interior should ensure that immigration stations and posts are provided with enough vehicles for effective service delivery.
- As we are in the age of technology, Ministry of Interior should ensure that all immigration stations and posts are provided with computers, printers, photocopiers, scanners, electricity and internet access.
- Ministry of Interior should ensure that structures are built on the piece of land allocated to the immigration officers in Basse.
- Ministry of Interior should ensure that Bureng Immigration Station has a toilet. The ministry should also ensure that the station has a solar battery.

4.4.1 Visits to military detention facilities

The team visited two barracks: Farafenni Barracks in NBR and Basse Barracks in URR. A total of four cells were inspected.

4.4.2 Condition of cells

At the time of the visits there was no detainee in the cells. 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. They informed the visiting team that they would like to have better cells built for them.

The cells at Farafenni Barracks were a bit dark. They did not have adequate natural light and there was no artificial light. Ventilation was poor as the cells had only four small openings and no windows. Each cell measured 6 square metres.

Each of the cells at Farafenni Barracks had one mattress and a sheet for a detainee to sleep on. The authorities at the barracks informed the visiting team that mattresses were changed frequently. The visiting team was also informed that detainees always slept outside the cells on the corridor where mosquito nets were provided.

An empty bag of rice was found in one of cells, which the officers at the barracks said was used by detainees to pray.

4.4.3 Sanitation and hygiene

The cells at Farafenni Barracks were found clean. The authorities at the barracks said that it was the regimental police who cleaned the cells in the morning every day using detergents such as Dettol and vim.

Farafenni Barracks had two toilets for detainees, one flush and one squat. The flush toilet could not be flushed at the time of the visit because of the broken handle. One of the toilets had a tap. Both toilets were found clean.

4.4.4 Food and drinking water

Detainees at the two military detention facilities were provided with breakfast, lunch and dinner every day. The authorities at Farafenni Barracks informed the visiting team that they had a government feeding scheme from which they provided food to detainees. Detainees at both military detention facilities were also provided with adequate drinking water.

4.4.5 Health care

Farafenni Barracks had a clinic at the time of the visit. The visiting team was informed by the officers at the barracks that they frequently conducted medical examination 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 nurse, making it a total of five medics. They further said that they received 15 to 20 patients daily, including civilians from the community.

4.4.6 Contact with the outside world

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.

4.4.7 Treatment

There was no complaint of torture or ill-treatment in any of the military detention facilities visited. There was also no complaint of use of force.

4.4.8 Staff matters

The visiting team was informed by the military officers at the two barracks visited that the problems they faced included lack of communication gadgets, computers, internet, inadequate furniture, inadequate office space, inadequate accommodation, lack of borehole at Basse Barracks and non-payment of risk allowance compared to other security agencies.

At Basse the visiting team was further informed that the place was not suitable for military barracks as it was surrounded by residences. The military officers at the barracks further said that the place was too small. They added that they had been allocated land at Sabi, which should be developed. They also said that they had a platoon in Fatoto but would also need at least two more platoons to be stationed in URR North, where they had no presence.

4.4.9 Recommendations

The following are some of the recommendations made.

- The cells at Farafenni Barracks should have large windows to allow the entrance of fresh air and natural light, rather than small openings on the walls. Artificial light should also be provided in the cells at Farafenni Barracks, as done in the cells at Fajara Barracks. The cells should also have ceiling fans as places get hot during summer.
- Ministry of Defence should ensure that adequate drugs are provided to the clinics at the barracks.

- Detainees should not be in the cells or detention rooms the whole day. They should be allowed to be out of cells and detention rooms for at least eight hours every day, including at least one hour for exercise or sports in an open air in appropriate weather conditions.
- Farafenni barracks should allow detainees to communicate with their relatives, as done in Yundum and other military detention facilities.
- Ministry of Defence should ensure that the water problem at Basse Barracks is addressed, for example by digging a borehole in the place.
- Ministry of Defence should ensure that adequate troop carriers, pickups and other relevant vehicles are provided to the military barracks for effective operations.
- Ministry of Defence should ensure that all the military barracks are provided with adequate communication gadgets for effective communication and better security.
- 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 CCTVs are provided in key locations of the barracks for better security.
- Ministry of Defence should address the issue of Basse Barracks being in an unsuitable location and the need to station two platoons in URR.
 - Ministry of Defence should ensure that risk allowances are paid to those in the armed forces, as done for the police, prison and immigration officers.

CHAPTER 5

5.1 CASES BROUGHT FORWARD

COMPLAINT NO:	4/2019
NATURE OF COMPLAINT:	Wrongful Dismissal

COMPLAINT

The complainant was appointed as process server effective 1 August 2000. He stated that he was redeployed from Finance Department to Environment and Sanitation Unit as cleansing service supervisor on 25 April 2018.

He further stated that management rescinded his redeployment on 26 April 2018 and required him to report to finance as cost recovery supervisor with immediate effect which he complied with.

The complainant was issued with another redeployment letter dated 26 June 2018 informing him that management had decided to redeploy him to Environment and Sanitation Unit as cleansing service supervisor with effect from 27 June 2018. He explained that his salary grade was still the same.

He alleged that he was tasked with supervising the cleaners on a daily basis and report weekly to his supervisor. Three weeks later he was assigned to hire labourers to empty drainage. Work was on-

going when he received a call from the assistant manager Cleansing Service who told him to report to the human resource office.

Upon arrival, he was issued with a notice of disciplinary hearing scheduled in two weeks' time. At the hearing, he was queried for failing to perform his duties as expected and for being involved in unauthorized transportation of sand.

He denied the allegations and alleged that his rights attached to the notice of hearing were denied. On 30 August 2018, he was issued with a dismissal letter. He requested for a review of what he considered a harsh decision meted out on him in view of the fact that he had served the council for almost 20 years without any warning letter. He made a follow-up on his request for a review but to no avail.

FINDINGS

- He was issued with a warning letter dated 21 April 2010 for fighting with a colleague while at work.
- The complainant was also issued with a letter dated 27 March 2014 for disobeying posting orders and alternatively chose to operate in a zone not assigned to him. It was also revealed that he exchanged GTR books and drew receipts on books not issued to him.
- He was summoned to a disciplinary hearing on 27 August 2018 at the council and was accused as follows:
 - (1) On 3 August 2018, he allegedly failed to perform his duties and left the drain gang idle for more than 2 hours without doing any work which was considered a great loss to the council.
 - (2) On 4 August 2018, he authorized the tractor driver of the council to transport sand for personal gains at the expense of the council. As a result, this hindered the night cleaning at a major market.

During the hearing the complainant admitted to all the accusations made against him as a result he was dismissed on 30 August 2018.

CONCLUSION

Refusal to honour posting orders contravened Code 6.1.1 (4) of the Code of Conduct 2013 which states that refusal to comply with a posting order is gross misconduct.

Evidence gathered revealed that the complainant's attitude to the council was unsatisfactory. The Ombudsman upheld the decision of the council to dismiss him.

COMPLAINT NO:

32 - 38/2019

NATURE OF COMPLAINT:

Claiming Longevity Increments

COMPLAINT

The complainants are employees of a ministry. They alleged that they were due for longevity increment in accordance with revised General Orders Code: 02119 but did not receive their increments.

FINDINGS

A memo was circulated to all government departments and line ministries informing them that longevity increments would be paid unless notification has been received that the increment has been deferred as stated in General Order Code: 02120.

CONCLUSION

The complainants' longevity increments were paid accordingly and they confirmed receipt. The complaint was settled.

COMPLAINT NO:

75/2019

NATURE OF COMPLAINT:

Claiming Gratuity

COMPLAINT

The complainant was appointed as French teacher on grade 8.3 effective 1 September 2015 on a month-to-month basis. He stated that he was assigned to teach grades 10, 11 and 12.

He wrote a letter dated 4 September 2017 requesting his gratuity at the end of his two years' service as stipulated in his letter of appointment. He explained that foreign teachers were paid gratuity every 2 years because they were not benefiting from the pension scheme.

He resigned from his post on 22 September 2017. He alleged that since then he could not lay hands on his gratuity. He wrote a reminder on 31 July 2019 but to no avail.

FINDINGS

The complainant was appointed on 1 September 2015 on a month-to-month basis. He applied for local contract on 4 September 2017 which would have qualified him for gratuity but he resigned on 22 September 2017 prior to the board's decision on his application.

The complainant resigned unceremoniously failing to pay outstanding arrears of 1 x 6 salary advance of D3672 and 1 Techno tablet DP10A pro costing D16000 for 12 months instalment which he paid one month leaving a balance of D14, 666. He also failed to hand over the school's database and Wi-Fi passwords.

The principal received a letter from the complainant dated 3 May 2018 acknowledging the settlement of an outstanding balance of D18, 334. He also handed over all belongings of the school under his custody but he denied being the only custodian of the WI-Fi password.

CONCLUSION

The complainant applied for a local contract and resigned before a decision was made on his

application. The claim for gratuity was insignificant and invalid as he was not entitled.

5.2 UNLAWFUL TERMINATION & DISMISSAL

COMPLAINT NO: 7/2020
NATURE OF COMPLAINT: Wrongful Dismissal

COMPLAINT

The complainant was appointed as nurse attendant on 1 April 2003 by the board of directors of a hospital. He said that he attended training at a certain hospital from 2003 to 2007, where he did attachment at the hospital's Theatre Nursing Unit. Upon completion, he returned to his hospital and resumed duties.

He said that although he received more than 5 suspension letters, he always challenged the decision to suspend him. He alleged that he was punished when he complained to the authorities of being unfairly treated.

He alleged that on 16 December 2019, he was issued with a suspension letter signed by the hospital's administrator and not a member of the board. While under suspension he received a letter dated 10 January 2020 dismissing him from the service effective 21 January 2020.

The complainant revealed that he was not invited to any disciplinary committee meeting to hear his version. All management did was act on the reports and recommendations of his supervisor. He is with the conviction that he was wrongfully dismissed.

FINDINGS

The complainant was issued with 5 suspension letters based on several unethical demeanours as stated below:

- He was issued with a warning letter for an alleged insubordination dated 5 December 2007 after he failed to resume duties following the end of his annual leave. He absented from duties without permission for 21 days contrary to the Public Service Regulation and the Code of Conduct
- He received a warning letter for refusing to sign the attendance register which contravened code: 12209 of the General Orders and item 6.1.1 of the Code of Conduct.
- He accepted his act of gross misconduct and apologized in a letter dated 22 July 2010.
- He received another suspension letter dated 4 April 2012 for unethical behaviour within the hospital's premises.
- He was again issued with a letter on 30 January 2014 for defying posting order, which is regarded as an act of gross misconduct in accordance with clause 6.1.1 item 4 of the Code of Conduct. As a result, he was suspended for one month without salary.
- He was served with a warning letter dated 23 February 2016 for being disrespectful to a senior nursing officer. This act contravened clause 6.1.1 item 9 of the Code of Conduct.
- On a letter dated 1 October 2018 recommendation for disciplinary action was made by his senior nursing officer for the complainant's refusal to report to duty. As a result, his responsibility and risk allowances were ceased.
- He was among the members of staff nominated to attend a refresher training organized by the hospital's management and participants were to undergo a pre-test before the beginning of the training. He refused to do the test and when he was asked the reason for not complying, he

wrote a letter dated 11 December 2019 stating that “I just feel like not doing the test”. As a result, he was suspended indefinitely for gross insubordination. He was further instructed to desist from entry into the hospital’s premises unless he needs to seek medical attention.

- Finally, the hospital's board decided to dismiss him from the hospital on 10 January 2020.

CONCLUSION

The complainant’s attitude at work was unbearable and he was accorded ample time to change his behaviour but he failed to comply. By virtue of the above findings the Ombudsman upheld the decision of the board to dismiss him from the hospital.

COMPLAINT NO:

64/2020

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was appointed as revenue collector on 1 September 2000 and confirmed in appointment on 1 March 2001. He alleged that on 20 March 2020, he was accused of fraud by way of under-lodgement of collection and suppression of revenue. As a result, he was instructed to pay the sum of D9, 950 as revenue shortfall. He complied and paid D9, 950 to the bank and provided the receipt to the accountant. He wrote an apology letter dated 23 March 2020 and apologized for his actions.

He further alleged that after his apology he was dismissed from the council on 20 May 2020. In the dismissal letter, he was reminded that he had been warned several times but he had failed to comply. The complainant added that two collectors were involved in financial mismanagement resulting to cash shortage but they were suspended and warned. His bone of contention is that he was selectively dismissed.

FINDINGS

The complainant was on 20 March 2020 queried for under-lodgements of collection and suppression of revenue. Management detected his action through internal audit and he was found wanting of committing fraud in a form of suppression of revenue by altering higher original details in receipts with lower amounts. As a result, he was instructed to repay the shortfall of D9,950 with immediate effect. He was further instructed to write and indicate his plea in the alleged crime.

He wrote an apology letter dated 23 March 2020 and confessed that he regretted his actions. He further mentioned that “His behaviour was completely unprofessional and unacceptable because he consciously committed the fraud to fix his personal problems and he knew it was not an excuse”.

The complainant was issued with a letter dated 15 April 2020 instructing him to hand over all properties of the council in his possession with immediate effect.

Subsequent to his confession he had eroded the confidence bestowed in him by his employer. He was dismissed from the council on 20 May 2020.

CONCLUSION

The Ombudsman upheld the decision to dismiss him from the council.

COMPLAINT NO:

67/2020

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant filed a complaint and stated that she was enlisted into the service on 3 October 2005. She said that she resumed duties from confinement leave on 7 March 2007. Her child got sick and she sought permission from the head of the institution and appealed to him to grant her the privilege to report only on morning shifts until her child recovered from the ailment. Her application was granted and she reported to work effective 4 April 2016.

She said that she was ordered to report to their head office and upon arrival she was informed that one of the inmates had collapsed and results indicated that she was 10 weeks pregnant and it happened while she was under her care.

She said that she spent six weeks at the hospital with the inmate and the pregnancy must have occurred before she resumed duty. The complainant alleged that she was charged and demoted from the rank of sergeant to corporal and forced by the head of institution to plead guilty.

She alleged that she felt insecure to be dismissed that would result to forfeiting her earned benefits. She wrote and applied for voluntary discharge and it was granted. Her dues were all paid but at the advent of the new government she endeavoured to return to the service because she is a mother of 3 and a single mother.

FINDINGS

It was found out that she was enlisted on 3 October 2005. She was on confinement leave which expired on 7 March 2007 and she reported for normal duties.

Her child got seriously ill and she sought permission and pleaded with the head of the institution to allow her to remain in the morning shift until her child recovered and permission was granted.

She reported to her posting on 4 April 2016. She was later recalled to head office and informed that one detainee collapsed at a facility. She was taken to the hospital and her results indicated that she was eight weeks pregnant. As an officer posted to the facility she was charged and ordered to write and explain how she got pregnant under her care.

She pleaded not guilty and mentioned that she had nothing to say because she spent six weeks at the facility when the detainee must have already been pregnant. She alleged that the head of the institution threatened to dismiss her from the service if she failed to plead guilty.

She pleaded guilty and was demoted from the rank of sergeant to corporal. She felt insecure as a result of losing her benefits through dismissal. As a result, she wrote and requested for voluntary discharge from the service and her benefits were paid accordingly.

CONCLUSION

The Ombudsman could not find the evidence to support the allegation of duress in soliciting plea of guilt. Since she requested for discharge voluntarily, the Ombudsman was of the view that the complainant was not unfairly treated.

COMPLAINT NO:

89/2020

NATURE OF COMPLAINT:

Unlawful Termination

COMPLAINT

The complainant stated that he was appointed as graduate teacher effective 1 September 2014. He said he served the school with diligence and commitment. He alleged that on 6 December 2020, he was served with a termination letter in which the effective date of termination was backdated to 30 November, 2020

He alleged that the reasons given, as highlighted in his termination letter, were his undisciplined attitude to the administration of the school, and his involvement in the student protest which occurred on 5 August 2020. He refuted the said allegation and maintained that the school had no evidence to prove the accusations levelled against him.

He maintained that the termination of his services was unjust and urged the Ombudsman to intervene for redress.

FINDINGS

On 1 September 2014, the board of governors of the said school approved the complainant's appointment as a graduate teacher effective 1 September 2014. The conditions of his appointment were clearly spelt out in his appointment letter.

Amongst the said conditions was the mode of termination of his appointment which was stipulated as a month's notice by either party, or upon payment of one month's salary in lieu of notice.

On 30 November 2020, his appointment with the school was terminated and he was paid two months' salary in lieu of notice. The reasons given were his involvement in the student protest and his undisciplined attitude towards work. The report also indicated that the students were used by the teachers to manifest their anger in the way the school was being run by the principal.

On the issue of his involvement in the student protest, the report of the independent inquiry set up by the board revealed that the said protest was instigated by him and some other teachers.

The principal cut down some allowances which were being paid to senior teachers. He introduced a form to monitor the attendance of teachers in their classes. He also introduced the electronic thumb printing machine meant to curb lateness and to encourage punctuality on the side of the teachers. He further stopped private classes in the school since it was given more priority than the normal classes. There was the issue of delay in the payment of the 1/6 salary which upset the complainant and some of his colleagues.

The above changes in the school did not go down well with some of the teachers, and it was natural for the teachers to show their frustration.

It was further revealed that the complainant proceeded on study leave without approval from the board while he continued to conduct his private WASSCE classes.

CONCLUSION

An employee's services can be terminated upon valid reason or for action connected with the employee's capacity or conduct towards his employment.

The reasons provided in the complainant's termination letter were grounded from the findings of the independent body set up by the board to investigate the circumstances surrounding the student protest. There is nothing in our findings that contradicts the findings of the said body.

In conclusion, the termination of the complainant's services was not unlawful.

5.3 UNFAIR TREATMENT

COMPLAINT NO:

12/2020

NATURE OF COMPLAINT

Premature Retirement

COMPLAINT

The complainant alleged that she was appointed as orderly on 1 December 1992 on Grade 1 of The Gambia Government Integrated Pay Scale, effective 1 February 2007. She was promoted from Grade 1.8 to 2.1.

She alleged that she was due for longevity allowance since February 2017. Despite she did not apply for her longevity allowance, she had informed the hospital management about it three years later but to no avail. On 21 February 2020, she was issued with a letter dated 5 January 2020 indicating that she was due for statutory retirement with effect from 20 February 2020.

The complainant further alleged that she was less than 60 years and had no health issue which should warrant her premature retirement. She adduced that to her dismay, when she asked for the reason behind her premature retirement, she was only told that it's a hard decision made.

FINDINGS

The complainant was appointed as orderly with effect from 1 December 1992 and was promoted to Grade 2.1 with effect from 1 February 2007.

She had initially submitted a national identification card with a date of birth 20 February 1960. She had also submitted a tax identification card with a date of birth of 30 December 1960 issued on 5 June 2007. These were documents kept in her employment file and imputed into the establishment register of staff of the hospital.

In February 2019, she was informed at the hospital conference hall that she would be due for retirement in 2020. This was an attempt to prepare her mentally. In January 2020, she was again informed of her retirement which was followed shortly by the issuance of her retirement letter.

In May 2020, the complainant re-submitted another biometric ECOWAS Identification card with a different date of birth of 20 July 1973. The new identification card was issued to her in October 2019 after she was informed of her retirement in February 2019.

The complainant had not applied for her longevity allowance until on 7 May 2020 when she had formally claimed via an unsigned letter dated 27 April 2020. Although the General Orders in rule 02120 states that longevity allowances should be paid automatically, it had been a long standing procedure by Personnel Management Office that officers eligible for longevity allowance should apply for it with supporting documents. The system was manual at that time.

Moreover, the Personnel Procedure Manual established in 2017 in paragraph 6.9 stated that all employees eligible for longevity increment should apply for their longevity allowance. It was further established that effective August 2020 longevity allowances were automated.

CONCLUSION

The national identification card and tax identification card initially submitted was considered binding and as such her claim of premature retirement lacked merit. As for the longevity allowance, she had failed to apply for it before her retirement as it had been the long standing procedure and as such forfeited.

COMPLAINT NO:

29/2020

NATURE OF COMPLAINT:

Stoppage of Acting Allowance

COMPLAINT

The complainant was appointed as technician on 1 May 2003 on grade 2 of the Government Integrated Pay Scale. In 2005, he attended a Senior Nurse Attendant Training Program organized by the management of the hospital. After the training, his grade points were increased from grade 2 to grade 3.4 of the same pay scale although he maintained the same position.

In 2015, he attended an Infection Prevention and Control (IPCP) Training Programme. After the training, he was appointed to act in the position of domestic supervisor on grade 7.5. After six months' probation, he approached management for confirmation of his acting appointment but was always told by the previous management to continue with the job and that they would confirm his position as soon as possible.

He alleged that he continued acting as domestic supervisor at the same time performing his duties as technician. As a result, the previous management paid him a monthly honorarium allowance of D600.00. During all this period, he was never queried regarding his job.

However, during the first quarter of 2019, a new CEO was appointed by the ministry to head the hospital. As soon as he reported to work, he stopped his honorarium allowance unlawfully. On the 14 April 2020, he received a designation letter from the position he was acting [grade 7.5] to his previous position [grade 5] after acting for more than 4 years as domestic supervisor.

FINDINGS

The complainant was appointed as attendant on grade 2.1 of the Government Integrated Pay Scale at a hospital effective May 2003. In September 2007, his grade point was upgraded to grade 3 of the pay scale.

After his appointment, he was sent on training on CSSD services. He was withdrawn, before the completion of his program.

On 25th February 2016, he was promoted as acting domestic supervisor on grade 7.5 of the integrated pay scale. On 14 April 2019, his acting appointment as domestic supervisor was rescinded. He was later re-designated as Infection Prevention and Control focal person on grade 5. The rescission of his acting appointment was as a result of his attitude towards his work and on his performance which leaves much to be desired. It was noticed in their response letter to the Ombudsman that the complainant did not have the necessary capacity to act in the said position. The complainant was an attendant, a support staff and the position he was acting upon was for registered nurses, senior technicians, midwives or those with professional certificates which he did not have.

Furthermore, on 14 November 2019, the complainant was asked to offer explanation as to the reason for his absence from work for several days. On 9 July 2020, he was issued with a warning letter for his lateness in reporting to work, and he was urged to improve on his performance regarding his punctuality at work.

CONCLUSION

The complainant's attitude towards work was not impressive in terms of what is expected of a civil servant/public servant. His hands were not clean. Accordingly, his case was dismissed.

COMPLAINT NO:

36/2020

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant was employed in 1995 as security guard on grade 4.5. He said that the normal starting grade for security guard is grade 1 or 2 but because of his experience having served a security institution for more than 10 years, he was employed on a higher grade.

In 2001, his service was transferred to another institution following the amalgamation of his department with that institution.

He alleged that since his transfer, he had been marginalized, forgotten and dejected while stagnant on grade 4.5.

FINDINGS

The complainant was employed as security guard on grade 4.5 in December 1995 and confirmed in June 1996. He received incremental grade point from 4.5 to 4.6 on 19 November 1996. On 11 May 2000 he was upgraded to grade 5.1.

The complainant's service was transferred to another institution on 1 July 2001 on grade 2.8 when the department he was working for was hived off its parent institution and amalgamated with another institution through an executive directive.

He was promoted to grade 3 on 23 June 2008. On 22 March 2011 he was upgraded to grade 3.4.

He received annual incremental grade point from 3.4 to 3.5 on 1 January 2012.

He was again promoted to grade 4 on 18 March 2014 followed by annual incremental grade point from grade 4 to 4.1 on 9 February 2015.

He received another incremental grade point from 4.1 to 4.3 on 1 January 2017.

Finally, he was upgraded to grade 4.8 on 7 February 2018.

CONCLUSION

According to our findings, the institution fulfilled the progress of the complainant's emoluments accordingly. His claim of unfair treatment cannot be substantiated. As a result, the complaint is dismissed.

COMPLAINT NO:

44/2020

NATURE OF COMPLAINT:

Claiming Payment of Risk Allowance

COMPLAINT

The complainant stated that she was appointed as community health nurse (CHN) effective December 2013. She added that as a CHN, she was entitled to be paid risk allowance which the ministry had stopped paying in 2018. She said that she became aware of the non-payment of her risk allowance in August 2018 when she collected her pay-slip from the account's unit. She was informed by the accountants that the risk allowance was part of her salary. She approached the human resource (HR) office responsible for payroll to offer explanation why she was not being paid her allowance. She was told that it was an oversight which was to be remedied immediately. She was further informed that she would be paid draw-back for the past two years effective from the date of her claim. Notwithstanding the above promise, she was never paid after several follow-ups.

FINDINGS

It was found that the complainant was a CHN and was entitled to risk allowance of D1000 which was not paid starting from January 2018.

CONCLUSION

The complainant was paid a drawback of D17, 000 as her risk allowance.

COMPLAINT NO:

53/2020

NATURE OF COMPLAINT:

Stoppage of Salary

COMPLAINT

The complainant was appointed as qualified (PTC) teacher effective 1 November 2017. He was posted to a lower basic school. He alleged that at the beginning of the 2019/2020 academic year, he reported to work as usual but noticed that his salary was stopped. He added that before the closure of schools in July 2019, he prepared his examination questions and took permission from the former acting head teacher to seek medical treatment for his ill brother. While in search of a treatment for his brother, he was always in contact with his head teacher. He further alleged that he could not know the reasons behind the stoppage of his salary and has endeavoured to restore the payment of his salary but to no avail.

FINDINGS

On 6 July 2019, the regional director, wrote to the relevant authority and recommended for the immediate stoppage of his salary. The reason for the stoppage of the complainant's salary was that he had not been reporting to work since 28 June 2019. The ministry acted upon the director's recommendation and stopped the complainant's salary in August 2019.

Apart from the recommendation of the said director to stop the complainant's salary there was no other evidence to substantiate the complainant's absenteeism which he denied in his complaint to the Ombudsman.

CONCLUSION

The rule is that he who asserts must prove. Since there was no evidence to establish his absence from the school since 28 June 2019 as alleged by the said director in his letter. The complainant's salary was restored. He was paid a drawback of his salary from August 2019 to January 2020 in the sum of D18, 537.

The complainant in a letter dated 3 February 2021 thanked the Ombudsman for the intervention.

COMPLAINT NO:

60/2020

NATURE OF COMPLAINT:

Non-Issuance of Appointment Letter

COMPLAINT

The complainant claimed he was verbally appointed by a fish market two years after its official opening. He alleged that since then he followed management to provide him with an appointment letter but it fell on deaf ears. He further alleged that he made several follow-ups but to no avail. He requested to be provided with an appointment letter and a pay slip.

FINDINGS

The complainant was appointed as casual labourer by a fish market management committee.

It was found out that the line department was only responsible for the appointment of professional staff to empower local communities to take ownership and be part of the management and development of the fisheries resources in accordance with the Fisheries Act 2007 and Regulations 2008.

It was established that fish markets are co-management arrangements and casual workers were contracted locally to support the community and the complainant was paid by the management of the community market.

CONCLUSION

The complainant's appointment was a community arrangement and does not attract any formal appointment letter. Since he failed to provide any documentation to back up his request, his complaint lacks evidence.

COMPLAINT NO:

68/2020

NATURE OF COMPLAINT:

Stoppage of Pensions Allowances

COMPLAINT

The complainants stated that they were retired staff of a senior secondary school and since their retirement they collected their monthly pension from the school accounts office. They alleged that in August 2020 they went for their pension but the accountant informed them that management had instructed the stoppage of their monthly pension payment with effect from August 2020.

They further stated that they reported to the principal to clarify the reason for the stoppage of their pension but he told them that the school was working on something and the complainants should exercise patience until end of August 2020. The promise made to them was not fulfilled and the school owed them 3 months pension arrears. The complainants alleged that they made several follow-ups but to no avail.

FINDINGS

Some complainants were employed by the board of the school at a time when social security was not in existence. As a result, the school could not contribute for them and that was the reason why their salaries were not deducted. Following the establishment of Social Security and Housing Finance Corporation (SSHFC) pension scheme some of their colleagues were registered.

The board convened a meeting on 29 September and discussed the pensioners' issue because the board was limited by statutory and legal provisions not to pay retirement dues directly to pensioners whilst social security schemes are available.

The board followed due diligence to uphold best practice to avoid anomalies and legal implications. The school was not mandated to pay pensions and the school subvention had no allocation or provision for such payment.

Personnel Management Office advised the board to engage its line ministry to augment the school subvention to cater for pension dues and to continue to pay the complainants' monthly pensions.

CONCLUSION

The complainants were paid their pension arrears for the month of February 2021.

5.4 INJUSTICE

COMPLAINT NO:

31 /2020

NATURE OF COMPLAINT:

Selective Justice

COMPLAINT

The complainant was enlisted in 2011. In 2016, while on posting, he was deployed for the route lining during the former president Yahya Jammeh's nation-wide tour.

While on the road, the president met him standing alone. He saluted him, then the convoy stopped and former president Jammeh gave him D50, 000. As soon as the convoy moved, the complainant left for his station. When he arrived, he gave five of his comrades D2500 each and also gave D1500 to his station officer.

When the then regional commissioner came back from the tour, he wanted to give him D10, 000 but the commissioner ordered him to surrender the D50, 000 given to him by former President Jammeh. According to the then commissioner, the said money was given to be shared in the whole region but the complainant told him that he was too junior for the former president to give him such amount of money for the region. The complainant believed that if it was meant for the region, it would have been given to a more senior officer in the region. The commissioner who was the current chief of operation immediately booked in the station diary that the complainant is stopped from going to work. The complainant also went to the diary and also booked that then regional commissioner stopped him from going to work as a result of the D50, 000 he refused to surrender which was given to him by former President Jammeh.

The following day after the incident, he received a call from, the commissioner of admin that he had been transferred to Operation Bulldozer with immediate effect without any written document. He reported to bulldozer as soon as possible and after one month on posting, he got sick and the commander of Bulldozer escorted him to the complainant's institutional headquarters and requested for him to be given one month sick leave which was approved.

After the 2016 presidential election, the said commissioner was moved from one region to another as the commissioner and the complainant was also moved to a station in that region. As soon as he settled in that region, the complainant requested his transfer from one station to another within the same region. While on posting, he fell sick and reported to the former station officer, who forwarded it to the officer commanding but nothing was done. He then decided to go to the headquarters and requested for a transfer to another station to have his treatment, which was approved. He reported to the station and booked his arrival and went back home because he was in severe pain.

The next day he went to the bank to receive his salary, but was told it was not paid. He was frustrated as he had to pay for his local treatment and house rent. He added that, on one fine day, he received a call from the commissioner of operation informing him that the deputy head of institution wanted him to report to her office. Upon arrival, he was informed that the commissioner wrote against five officers requesting that their salaries be blocked since 2018. However, he was the only one whose salary was blocked by the command, for reasons best known to them.

In 2019, he was informed by the commissioner of operation that the head of the institution have requested him to join the team that would be going on the end of the year raiding tour from Barra to Basse for a period of one week. After the tour, he was paid only D200 by the commissioner of operation. One week after the operation, he was informed by the commissioner of operation that he should report to the regional operation commander, for him to warn him to go to his station. He reported in February

2020, booked his arrival and began going to work in the belief that his salary would be restored and arrears from June 2020 be paid but to no avail.

He worked for three months and was still not paid. He decided to go to the head of the institution who informed him to go home until his service was needed. He alleged that he was recently informed by deputy head of the institution and the chief of operation that he should wait to be reinstated when the department enlists seven drivers. He was surprised because he was never dismissed, discharged or suspended.

FINDINGS

On 27 April 2018, the commissioner in charge of the complainant's region wrote to the head of the institution informing the command of his absence from work since 27 November 2017 without permission. The commissioner recommended for the temporary stoppage of his salary.

On 18 May 2018, another letter was sent to the head of the institution concerning his absence from work. A reminder was further sent on 4 July 2018, urging the head of the institution to take urgent action against him and some of his colleagues who were absent without leave. This recommendation was acted upon leading to the institution of disciplinary proceedings against the complainant in which a charge sheet was drafted. At the end of the proceedings, he was found guilty and his salary was stopped.

The stoppage of his salary was not abruptly done. It followed a procedure where disciplinary proceedings were instituted. He was charged, found guilty and punished even though his trial was done in absentia. His absence from the disciplinary proceedings could not have prevented the proceedings from taking place since, by his conduct; securing his attendance was impractical at the time.

Furthermore, the complainant admitted being absent for 3 months while his salary was being paid. His salary was stopped in June 2018. His absence for 3 months without permission was enough grounds to dismiss him from the service.

It was found that there were four other officers together with the complainant who were also alleged to be absent from work without leave.

Whilst the above officers continued to enjoy immunity, the complainant, on the other hand, was being subjected to disciplinary proceedings and subsequently punished for an offence they were all alleged to have committed.

CONCLUSION

According to section 33(1) (3) of the 1997 Constitution, "All persons shall be equal before the law, and no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority".

In the absence of any evidence to excuse his absence from work, the complainant's complaint of injustice regarding the stoppage of his salary becomes unfounded. It is hereby dismissed.

RECOMMENDATION:

It was recommended to the authorities to treat officers equally before the law and to avoid acts or omissions that would lead to discrimination against an officer.

It was further recommended that the institution should take the necessary steps to ensure equality before the law.

The complainant was reinstated and posted back to his previous post.

COMPLAINT NO: 81/2020
NATURE OF COMPLAINT: Malpractice & Withholding of Salary

COMPLAINT

The complainant was a senior lecturer. In 2018/2019 academic year, he was contracted to lecture a course which he diligently performed. At the end of the said contract, he was supposed to be paid as agreed upon by the parties, but was not paid after several follow-ups.

He alleged that he pursued the matter with the administration but to no avail. To his utmost surprise, his pursuit for payment turned into mayhem between the administrative staff and him as he was being harassed and intimidated.

FINDINGS

It was found out that his salary was not withheld as alleged in his complaint. Rather, it was his honorarium that was stalled.

It was also found that payment of the said honorarium was based on the agreement he had to teach some courses offered during the first semester of 2018/2019 session. The terms of the said agreement were contained in a letter in which he was offered a part time assignment to teach the following 3 semester's hour courses:

1. EDU 104 – Sociology of Education
2. EDU 403 --- Guidance and Counselling

At the end of his service, he was to be paid honorarium of D15, 000.00 per course and D3000 for transport. It was also part of their agreement that payment of the said honorarium would be made by way issuing cheque upon application and the final balance of his payment would be made after submitting the results of the course examination, evaluation of the students' performance and grades. These courses were to run from September 2020 to December 2020 when he would be eligible to claim payment after fulfilling the terms of the said agreement.

On 18 January 2021, a Trust Bank cheque for D33, 000 was drawn in his name which proved that his honorarium was paid as per the agreement.

CONCLUSION

The above facts before the Ombudsman did not reveal any element of maladministration or unfair withholding of his honorarium. The agreement between the institution and the complainant provided the modalities in which the contract was to be executed. The evidence before the Ombudsman did not reveal any breach of the said terms. The institution had played its own part by drawing a cheque for him. It was on him to come forward and claim his money.

Therefore, his complaint of maladministration and withholding of salary has not been substantiated.

Furthermore, he also alleged harassment against the administrative staff of the university. The complainant could not provide the nature of the harassment and the identity of the perpetrators.

The Ombudsman is mandated by statute to investigate complaints from the public against public officers for actions taken in the course of their official duties. Section 163 of the 1997 Constitution also mandates the Ombudsman to investigate action taken by government departments or public bodies. In these provisions of the law, the identity of the person or institution complained against should be specified before an investigation is conducted which was not done by the complainant.

Accordingly, this part of his complaint was dismissed.

KEREWAN

CHAPTER 6

6.1 CASES REGISTERED

COMPLAINT NO:	4/2020
NATURE OF COMPLAINT:	Unfair Treatment

COMPLAINT

The complainant stated that their village Alkalo had given part of their family land to two security institutions to build their stations there without the consent of his family. He further stated that in 2018, part of the same land was allocated to one marabout to build a traditional herbal treatment centre. They made several appeals to the Alkalo to desist from such action but he never heeded it.

FINDINGS

It was found out that the complainant was summoned to the district tribunal but he failed to turn up after several summons. The Alkalo stated that since the complainant failed to attend court, the chief ruled the case in favour of the Alkalo.

It was further found out that the complainant had appealed to the High Court in Banjul.

CONCLUSION

Since the matter was appealed to the High Court, it is sub judice.

COMPLAINT NO: 5/2020
NATURE OF COMPLAINT: Unfair Treatment

The complainants stated that whenever there was any distribution of anything by the government, they were always asked to collect their share from a certain village.

They stated that when the government declared the distribution of the Covid 19 relief package they were asked to collect their share from the said village. They said they wanted to know why it was always the case even though they are a bigger community than that village.

They stated that if their share of the relief package was not taken to their village, they would not collect it from that village.

FINDINGS

The regional coordinator for the public authority responsible for such distributions stated that they were only assigned by their management to identify the number of households in the region.

He stated that the distribution points were determined by his institution and another public institution.

The governor of the region appealed to the complainants to exercise patience as the situation was tense at that time. He added that he would make arrangements so that their share could be taken to their village. He further stated that the relief package was for every household in The Gambia.

CONCLUSION

An arrangement was made by the said institution and the governor's office for the Covid 19 relief package to be distributed as requested by the villagers. The Alkalo and the community expressed satisfaction with the Ombudsman for its intervention.

COMPLAINT NO: 6/2020
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainants, representing the elders and VDC of their village, stated that they had a historical conflict decades ago with another village. As a result, the relationship between the two villages was strained.

They further stated that when government announced the distribution of Covid-19 relief package to every household in the Gambia, it was to their dismay that their share of the relief package was to be collected from that village.

They stated that as a result of the existing situation between the two communities they would not collect their share from that village. They asked for their share to be either brought to their village or to another nearby village.

FINDINGS

The regional coordinator from the responsible institution stated that they were only assigned by their institution to identify the number of households in the region. He further stated that the distribution points (DP) were determined by his institution and another public institution.

The governor stated that one of their mandates as governors was to ensure peace and stability within the region and they would go the extra mile to ensure that it was achieved within the region.

He appealed to the complainants to exercise patience as the situation at the moment was tense and that they would make arrangements so that their share would be taken to their village. He stated that the relief package was for every household in the Gambia.

CONCLUSION

An arrangement was made for their share of the Covid 19 relief package to be distributed as requested.

The Alkalo and the community expressed satisfaction with the Office of the Ombudsman for its intervention.

COMPLAINT NO:

7/2020

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that he was supposed to attend a funeral on 14 June 2020. Upon crossing from Banjul to Barra they were denied boarding a public bus.

They alleged that the conductor and a colleague told them that the bus was going direct to Farafenni and other villages. This made the journey very difficult for them since it coincided with the Covid 19 period as most of the private commercial vehicles charged high fares.

FINDINGS

When the regional manager of the corporation was contacted, he stated that the said period was during the time when the government issued a state of emergency due to the Covid 19. The corporation complied accordingly as all commercial vehicle owners were asked to fill only half of their capacities.

The conductor stated that he could not remember denying any passenger boarding the bus but was quick to say it was based on first come first serve bases. The passengers who came first were allowed to board until the bus was half full.

The conductor further stated that since the corporation had not increased the transport fares, most passengers preferred to travel by bus. He added that they were faced with a challenge. They could not carry all the passengers since they had only two buses.

CONCLUSION

The investigation was discontinued as the inquiry would be unnecessary improper or fruitless.

COMPLAINT NO:	9/2020
NATURE OF COMPLAINT:	Unfair Treatment

COMPLAINT

The complainant stated that they had an NGO in provincial Gambia. He stated that since 17 October 2017, they were offered a plot of land at a layout.

He further stated that they had fulfilled all the conditions required by the planning authority such as their building plan, statement of account, project document and the organization's registration certificate. However, they were still not given the permission to start the construction of the office complex on the land.

FINDINGS

It was found out that the said NGO was offered a plot of land on 17 October 2017. A senior officer of the relevant authority acknowledged the offer of a plot of land to the NGO but on a temporary basis.

He stated that the department was on the verge of giving out the final plan of the institutional layout to the various institutions that were offered a plot of land.

He stated that the said NGO had their offer already and nothing would change that.

CONCLUSION

The complaint was settled.

COMPLAINT NO:	10/2020
NATURE OF COMPLAINT:	Unfair Treatment

COMPLAINT

The complainant stated that he was appointed as telephone operator II effective 5 November 1990. He further stated that he was last promoted to the rank of supervisor and since then he had never been promoted. He had been executing his duties diligently and had never been found wanting.

He stated that most of his colleagues he started working with were promoted and manning senior positions even though they all had the same qualification and training.

FINDINGS

It was found out that the complainant was engaged on 5 November 1990, as telephone operator II. On 1 January 1992, he was promoted to the post of telephone Telex operator on category IV grade 1.

On 1 March 2006, he was promoted as a service customer care assistant. He was again promoted as supervisor customer service on 25 February 2011.

The investigation further revealed that on 7 October 1997, the complainant was suspended for two weeks without salary for an unacceptable behaviour towards a customer in violation of a provision of the institution's rules.

It was further revealed that promotion at the institution was based on merit. The complainant was asked to provide his certificates and qualifications to substantiate his allegation of unfair treatment. After several follow-ups, the complainant failed to provide the documents.

CONCLUSION

Since the complainant failed to provide his certificates to justify his claim, the Ombudsman discontinued the complaint for lack of merit.

COMPLAINT NO:

11/2020

NATURE OF COMPLAINT:

Claiming Transport Allowance

COMPLAINT

The complainant was appointed as labourer at a council effective 1 September 2018 and placed on grade 2.5 of the integrated pay scale.

He further stated that since his appointment, he commuted daily from his village to his place of work and never benefitted from transport allowance.

He further alleged that he had approached the chief executive officer of the council on several occasions for his transport allowance but was told that he was not entitled to it. He stated that other colleagues he travelled with in other departments received transport allowance whilst he did not.

FINDINGS

It was found that the complainant was appointed as labourer at a council effective 1 September 2018, on grade 2.5 of the integrated pay scale.

It was revealed that the complainant commuted daily to work and since his appointment he had not been paid transport allowance. He made several appeals to the management of the council for the payment of the said allowance but was told he was not entitled to it.

In a letter dated 26 October 2020, the chief executive officer stated that the complainant following his appointment failed to write to council accepting or rejecting his appointment. There was nothing stated in his appointment letter relating to transport allowance. He was advised to write to the council accepting or rejecting his appointment.

The complainant complied and wrote a letter dated 6 November 2020 accepting his appointment as labourer effective 1 September 2020. On 11 November 2020, the management offered the complainant a staff quarter. This came as a result of the complainant accepting his offer of appointment as labourer. It was further stated that his recommendation for confirmation would come from the director of planning as a result of his commitment, diligence and obedience, as stipulated in the terms of reference.

It was found out that the council had failed to address the payment of his transport allowance. His failure to accept or reject the appointment was irrelevant as the council had paid the complainant his salary from the date of his appointment.

The complainant was accused of negligence to duty, absenteeism, and sabotage among many other things by the management. These accusations could not be substantiated since the council failed to provide evidence to justify their claim.

Government quarters are allocated to staff in category IV and above (GO 11101). The complainant in this case is below the said category and hence he cannot be forced to accept the accommodation allocated to him.

Moreover, the staff quarters allocated to the complainant was not fit for accommodation. The roof was leaking and the toilet and the washroom were completely dilapidated and not habitable.

CONCLUSION

The Ombudsman recommended that the complainant be paid arrears of his transport allowance from the date of his appointment.

COMPLAINT NO: 12/2020

NATURE OF COMPLAINT: Wrongful Termination

COMPLAINT

The complainant was appointed in 2005, as biology and physical education (PE) teacher and head of the sports department on contract renewable every two years. He was entitled to payment of gratuity at the end of the contract. the administration stopped the payment of gratuity on the basis that the complainant was not entitled to it. He alleged that the school refused to pay social security despite the stoppage of the payment of his gratuity.

On 31 December 2019, he was given a temporary appointment which ended on 31 May 2020. He alleged that he was not paid anything after serving the school for 15 years. He stated that in July 2020, he was asked to hand over the keys to his office to the vice principal without being issued a letter terminating his services.

He stated that during his 15 years of service with the school he was never found wanting or subjected to any disciplinary action.

He stated that he had won inter-schools championship in both football and Athletic in which the school took fifth position which was the school's best performance ever. He alleged in WASSCE, the school's performance was outstanding in PE compared to other subjects and as a result he was paid honorarium.

FINDINGS

The complainant was appointed as PE and biology teacher effective 1 September 2015

Initially, his appointment was on contractual basis and attracts a benefit of 12.5% of his basic salary as gratuity. He was paid contract gratuity of D5, 976 in 2016, 2017 and 2018.

On 31 December 2019, he was offered a temporary appointment which ended on 31 May 2020 and his contract was not renewed following its expiry.

The school paid bonus to all subject teachers whose students had done well during the WASSCE. The performance of a student is not measured by contact with a single teacher but the contribution of all the subject teachers the student interacted with during his transition.

CONCLUSION

The school board has the discretion to renew or not to renew contract's given to their employees. Thus, the Ombudsman upheld the decision of the school board not to renew the complainant's contract after its expiry.

MANSAKONKO

CHAPTER 7

7.1 CASES REGISTERED

COMPLAINT NO:	1/2020
NATURE OF COMPLAINT:	Request for Maternity Service in the Village

COMPLAINT

The complainant stated that there are 118 compounds in his village which is also surrounded by four other villages. He alleged that access to health care especially for their women during labour is difficult. They lack maternal health services which exposed their women to risk during labour. He further alleged that they had sought motor cycles from the relevant authority but to no avail.

FINDINGS

It was found that, the community was provided with Regional Community Health (RCH) trekking station (a mobile health team) because they were far from the closest health centre. A community health nurse (CHN) was posted permanently in their community to offer nursing and primary health care services.

According to the relevant authority, the posting of a midwife to the community required constructing a maternity ward. Therefore, it would be wrong to allow a midwife to conduct delivery in an environment that is not conducive for delivery.

CONCLUSION

The community has been provided with a maternity ward and therefore the case is settled.

COMPLAINT NO:

2/2020

NATURE OF COMPLAINT:

Claiming the Return of Land

COMPLAINT

The complainant alleged that his land had been occupied by a road construction company. He alleged that two public institutions jointly gave his land to a company which he had been using for his livelihood. As a result, life had since not been easy.

FINDINGS

It was found that the land in question was occupied by the said company as a substation for the construction of Trans-Gambia Bridge (now Senegambia Bridge).

The said public institution acted as a facilitator in the negotiation for the said land through the local authorities in the region.

The complainant was asked to produce certificate of ownership of land and evidence of the contractual agreement but none were produced.

CONCLUSION

The complaint was discontinued as the complainant failed to produce sufficient evidence.

COMPLAINT NO:

3/2020

NATURE OF COMPLAINT:

Maladministration

COMPLAINT

The complainants alleged that a government project commissioned in their area was a failure as the borehole was not effective due to poor solar installation. Water could not flow from the well to the tank and this had seriously affected watering the small ruminants thereby affecting productivity.

FINDINGS

It was found that the project commissioned a solar powered borehole and sheep breeding projects in two communities.

It was found that the project had phased out and it became the responsibility of the beneficiaries to sustain the project.

CONCLUSION

Since the project had phased out, it became the responsibility of the beneficiaries to maintain the boreholes.

COMPLAINT NO:

5/2020

NATURE OF COMPLAINT:

Failure to Supply Number Plates

COMPLAINT

The complainants made a complaint against a police station for not providing them with number plates which they had paid for since 2019. They alleged that several attempts were made to be supplied with number plates but to no avail.

FINDINGS

It was found that the complainants paid for the number plates since 22 February 2019. The officer responsible for license confirmed that the complainants had paid for number plates.

CONCLUSION

The complainants were issued vehicle number plates.

COMPLAINT NO:

8/2020

NATURE OF COMPLAINT:

Injustice

COMPLAINT

The complainants were station officers of two police stations who complained against a health centre. They complained about police officers being asked to pay for the treatment of detainees under their custody.

FINDINGS

It was found that the charges at the said health centre were fixed by the ministry and referred to as government schedules fees. However, exemptions were provided for certain cases. The exemptions provided in the schedule fees were:

1. Patients admitted after being diagnosed with a contagious disease.
2. Mental illness, tuberculosis, leprosy, schistosomiasis and cholera patients.
3. Emergency cases that are life threatening.
4. Gambian children aged 0 – 8.
5. HIV/AIDS, cervical cancer test, sputum analysis, surgery and maternity.

Apart from the above, the government schedule fee did not exempt detainees in police custody.

CONCLUSION

Since detainees were not exempted, they were obliged to pay the fees.

COMPLAINT NO:

9/2020

NATURE OF COMPLAINT:

Malpractice

COMPLAINT

On 5 May 2020, it was observed that some public officials were selling confiscated bags of charcoal. During the sale, it was noticed that receipts were not issued to buyers. It was also observed that, the sale was not at the normal market price.

FINDINGS

1. It was found that sometime in April 2020, 220 bags of charcoal were confiscated from an individual. After the confiscation, an order of the District Tribunal was sought to dispose of the charcoal which was granted.
2. It was found that the confiscation was done in line with the law
3. It was found that the 220 bags of charcoal were sold at D140.00 per bag. The total amount of revenue generated at the end of the sale was D30, 800.00.
4. the Ombudsman was informed that expenses incurred during the confiscation are always deducted from the amount generated when the products are disposed of. The remaining balance would be the amount given to SRC for onward delivery to the government treasurer.
5. It was found that GTR receipt are only issued when the proceeds of the sale paid to government coffers

RECOMMENDATION

Transparency and accountability are the antidote against the usage of one's official power for one's personal gain.

It also destroys all the avenues of corruption and other forms of dishonesty. As such, there should be a system of control employed to ensure transparency and accountability from the start of any financial transaction a public institution is embarking on.

In light of the above and to ensure transparency and accountability, the Ombudsman recommended for the issuance of receipts on any forest product that is sold to an individual whether on wholesale or retail.

COMPLAINT NO:

10/2020

NATURE OF COMPLAINT:

**Unfair Distribution of Covid 19
Food Aid**

COMPLAINT

On 14 and 15 of May 2020 during the Covid 19 food aid distribution, the complainants alleged that the distribution was unfairly conducted in their village and that the coupons given were unfairly distributed.

FINDINGS

It was found that distribution of Covid 19 food aid was conducted in the said village. The regional coordinator of the institution responsible for distribution, mentioned that such problems always occur in any distribution of such a large scale.

The distribution had some problems as some people were not given rice, oil and sugar. The complainants did receive one or two of the food stuff supplied.

RECOMMENDATION

- The manner in which the distribution was conducted needs to be improved.
- The affected complainants should be given due attention in future distribution of food aids.
- The complainants should be supplied with the food items they were not given during the distribution.

CONCLUSION

The complainants were each supplied with bag of rice, bag of sugar and 20 litres oil.

BASSE CASES

CHAPTER 8

8.1 CASES REGISTERED

COMPLAINT NO:

1/2020

NATURE OF COMPLAINT:

Stoppage of Salary

COMPLAINT

The complainant alleged that she was appointed as daily paid cleaner effective 2 January 2014 at a daily rate of D30.96. She had been working until on 31 January 2018, when she was asked to go home. Her salary was later stopped on the ground that her head of institution said she could no longer work with her.

FINDINGS

The complainant was appointed as cleaner effective 2 February 2014 at a daily rate of D30.96.

In 2017, she was served with a warning letter dated 1 August 2017 indicating that despite verbal warnings, she had been going to work late and absenting herself from work without permission.

The complainant was also served with another warning letter dated 2 April 2018 indicating that despite being initially served with a warning letter, she was still bent on going to work late and absenting herself from work without permission from February to April 2018.

On 27 April 2018, the head of institution wrote a memo to the accountant instructing the return of the complainant's April 2018 salary to government on the grounds that she had unceremoniously abandoned her duty post.

In May 2018, the head of institution instructed the stoppage of the complainant's salary on the grounds that she had unceremoniously left her duty position for three months.

CONCLUSION

In view of the above findings, the Ombudsman upheld the decision of the complaint's institution.

COMPLAINT NO:

3/2020

NATURE OF COMPLAINT:

Claiming Late Father's Gratuity

COMPLAINT

The complainant on behalf of his family stated that their father was appointed as caretaker effective 1 November 1998. He alleged that his late father retired on 4 September 2017. While pursuing his retirement benefits, he died on 14 November 2019. He lamented that since then, they had been pursuing their late father's gratuity but to no avail.

FINDINGS

It was established that the complainant's late father was appointed as caretaker effective 1 November 1998. He retired from the civil service on 4 September 2017 and died on 14 November 2019. The human resource officer of his institution wrote to the line ministry, requesting the processing of his gratuity. After several follow-ups, the human resource officer informed the Office of the Ombudsman that the gratuity was paid to Curator of Intestate Estate.

CONCLUSION

The gratuity amounting to D10, 540.75 was paid to Curator of Intestate Estate on 8 July 2020.

COMPLAINT NO:

3/2020

NATURE OF COMPLAINT

Injustice

COMPLAINT

The complainant on behalf of his family complained against their village Alkalo for selling their family land for D10, 000 without their consent. These lands were situated at the entrance of the village on both sides of a highway measuring 470m by 210m and 306m by 67m.

He also alleged that he had for two months engaged the Alkalo to provide the required documents for the said family lands they wanted to sell but to no avail. He further alleged that since these were lands his family had inherited from their parents for decades, any attempt to unlawfully seize the said lands on the side of the Alkalo and his family would not be accepted in any form.

FINDINGS

It was established that the said family inherited a plot of land in the village. The land was situated on both sides of a highway measuring 470m by 210m and 306m by 67m.

The Alkalo of the village confirmed that the said land was inherited by the complainant and his family from their father who had also acquired the land from the Alkalo's father. He added that lands were allocated for farming and not for sale. Moreover, it was revealed that the Alkalo refused to provide any document for the portion the complainant wanted to sell on the grounds that it was a family land and any attempt to sell a portion must be unanimously agreed upon by the family members.

However, it was confirmed that the portion of land measuring 50m by 50m which the Alkalo sold was not part of the complainant's land but belonged to the Alkalo's father.

RECOMMENDATION

The complainant was advised to enter into agreement with his family members for the onward provision of document to the said land which was done.

CONCLUSION

In March 2021, the complainant informed the office that the Alkalo had consented to his request.

COMPLAINT NO:

4/2019

NATURE OF COMPLAINT:**Claiming Retirement Benefit****COMPLAINT**

The complainant alleged that he was appointed as night watchman effective 1 January 2008 on Grade 1 of The Gambia Government Integrated Pay Scale at D8,268 per annum. He added that he had worked until after the 2018 staff audit exercise when he was retired. Since then, he had been pursuing his retirement benefit but to no avail.

FINDINGS

The complainant was appointed as night watchman with effect from 1 January 2008 on Grade 1 of The Gambia Government Integrated Pay Scale. Following the 2018 staff audit exercise, his salary was stopped on retirement grounds.

The process of his retirement benefit was difficult because he was due for statutory retirement in December 2016 but he overstayed for two years. The two years' salaries he received were more than the cumulative retirement benefit as he was a junior officer who had worked for only 11 years.

To enable the complainant to receive his benefit, the institution reconsidered the two years he had overstayed in service as a month-to-month contract. Thus, his claimed benefit was processed.

CONCLUSION

The complainant was paid his retirement benefit amounting to D6, 864.35 on 5 February 2020.

COMPLAINT NO:**6/2020****NATURE OF COMPLAINT:****Unfair Treatment****COMPLAINT**

The complainant stated that he was hired as labourer and an operator on a daily wage at D250 by a road construction company. In February 2020, someone accused him of fighting a Chinese who was also an employee of the said company. On 4 February 2020, he was invited to a public institution in connection with the matter. However, he denied the allegation but was asked to stay home awaiting the outcome of an investigation on the matter.

The complainant further alleged that the company owed him 3 days' wage at D500 daily which he had worked for on 25 and 26 December 2019 and 1 January 2020 amounting to D1500. He claimed to have worked for another 3 days in February 2020 at D250 daily amounting to D750 which he alleged was not also paid. He added that the company had owed him an extra 12 days wage which he worked for as compactor operator from 16 to 26 January 2020 at D400 daily amounting to D4800.

FINDINGS

The complainant was hired by the said company in 2019 through the person that accused him of fighting. The man who hired him was a public officer who was representing a senior government officer at the project site.

On 3 February 2020, a Chinese was found fainted at the project site. However, the said public institution could not establish whether he fainted as a result of the alleged fight.

It was also established that the road construction company had owed the complainant 3 days' wage arrears at D500 daily for the 25 and 26 December 2019 and 1 January 2020. He was also owed another 12 days' wage arrears at D400 daily from 12 to 27 January 2020 as compactor operator. Besides, he had worked for another 3 days in February 2020 at D250 daily and was not also paid.

Finally, an investigation on the alleged fight could not provide any evidence that the complainant had fought the Chinese at the project site.

RECOMMENDATION

Since the complainant was not found culpable, the said public officer representing a senior government officer on the project was advised to recall the complainant to resume work with all his arrears paid.

CONCLUSION

The complainant informed the Office of the Ombudsman that he had resumed work effective 8 May 2020. He also informed the office that he was paid his wage arrears amounting to D7050.

COMPLAINT NO:
NATURE OF COMPLAINT

7/2020
Abuse of Power

COMPLAINT

The complainant lodged a complaint on behalf of his entire family in respect of a piece of land belonging to his family, which he alleged was wrongfully allocated to a private electrical company by a public authority without the consent of his family and the Alkalo . He alleged that the said plot of land was lent to a public company and was used by the said electrical company as a ground for the construction of electrical poles for The Gambia government's Rural Electrification Expansion Project.

To his dismay, the company claimed ownership of the piece of land. He further alleged that when they contacted the said public authority, they confirmed that the land was allocated to the said company but they could not explain how it was done.

FINDINGS

It was found out that the land in question was allocated to the company by the said public authority. The land was allocated for only institutional purpose to the said company. It was also established that the company was issued a leasehold dated 13 February 2014.

The Alkalo in attestation letter dated 13 March 2020 stated that he was not aware of the allocation of the said land to the company. When a senior government officer was asked, she revealed that the said land was allocated to the company during the time of one of her predecessors.

CONCLUSION

Since it is not within the jurisdiction of the Ombudsman to determine land ownership, the complainant was advised to take legal action to recover his property.

COMPLAINT NO:

8/2020

NATURE OF COMPLAINT:

Negligence of Duty

COMPLAINT

During a radio programme on the roles and functions of the Ombudsman on 12 March 2020, several listeners expressed concern over the spillage of water caused by burst water pipes in several locations within the community. Apart from the spillage of water, they lamented that numerous water pipes were exposed due to erosion which if not covered would be damaged by moving vehicles. These conditions according to the callers caused a lot of waste of water as well as make movement of people and motor vehicles difficult.

FINDINGS

It was established that most of water pipes found exposed were due to soil erosion during rainy seasons.

Most of the burst pipes were caused by vehicles whereas the main pipe at a junction was damaged during the construction of a highway. The delay in the fixing of some of the burst pipes was due to capacity constraints on the part of the national company.

Some of the burst pipes could not be fixed on time due to the fact that they were not reported by community members and were not to the company's knowledge.

The national company engaged the area council to cover the exposed pipes but to no avail.

The chief executive officer of the council asserted that the council had been ready to work with the company in fixing the burst pipes. The council confirmed the company's provision of the logistics to fix the burst pipes. However, the company had been requesting payment for labour cost for fixing the burst pipes.

RECOMMENDATION

The Ombudsman recommended that the existing burst pipes be fixed by the company in due time since it was their responsibility. The council was also advised to devise plans in collaboration with the national company to cover the exposed water pipes especially the main pipes.

CONCLUSION

As of April 2020, most of the burst pipes in the community were fixed. However, there were on-going efforts by the council to cover the remaining exposed pipes.

COMPLAINT NO:

12/2020

NATURE OF COMPLAINT

Requesting Electricity Connection

COMPLAINT

During our visit to a police station as part of our proactive mandate to look into the welfare of police officers and the condition of detention centres and detainees, officers lamented that the station, which is a distance from the village, lacked electricity. They complained that their safety and that of their families were at risk owing to the frequent sight of snakes at night.

FINDINGS

The station lacked electricity and water supply. The station had made two requests addressed to two relevant institutions dated 2 June 2020 and 10 November 2020.

On 9 December 2020, it was confirmed that the cash power meter for the station was available. However, it was not installed as two extension poles were required to connect the station to the nearest pole. It was further confirmed from a senior official of the company responsible for the supply of electricity that cash power meter could not be installed because they needed two extension poles which were to be provided by the station.

On 10 February 2021, the assistant station officer, informed the Ombudsman that the two extension poles were provided and installed. The operation engineer of the company said the cash power could not be installed because the process required 86 meters of electrical wires which were not available in the area. He added that the cash power meter would be installed when the said 86 meters cable were available.

CONCLUSION

The cash power meter No. 99051920 was installed by Nawec.

COMPLAINT NO:

13/2020

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant alleged that on 7 April 2020 at around 6:00am, he went to a public transport company to facilitate the delivery of his bag of coos to Kombo. On arrival, he met a driver and a senior officer.

He enquired from the bus driver who charged him D150 for the cost of transporting the bag of coos. The bus driver explained that he would pay D50 for the bag of coos, D50 to the driver driving the bus and D50 to the driver delivering the bag to Kombo. The senior official said the complainant should pay D100 instead of the D150 charged by the driver. The driver felt offended and refused to transport the bag of coos.

FINDINGS

The complainant went to the said company to facilitate the delivery of his bag of coos to Kombo on 7 April 2020. Upon arrival, he met the 7:00am bus driver and a senior official. He was initially charged D150 by the bus driver. However, the senior official refuted the charges because the driver was not responsible for charging baggage fee but the conductor.

Since the conductor was not available at the time, the senior official charged him D100 for the transportation of the bag of coos to Kombo. The driver initially refused to transport the coos because the complainant used abusive remarks on him as he condemned the driver for over charging.

CONCLUSION

The complainant was allowed to pay D100 and his bag of coos was transported to Kombo.

COMPLAINT NO:	14/2020
NATURE OF COMPLAINT:	Injustice

COMPLAINT

The complainant stated that in October 2019, his sister had conspired with his wife and sold a portion of their family land which they had inherited from their late father.

He alleged that when he reported the matter to a police station, his sister, the Alkalo and the Imam were invited to the police station and their statements recorded. He further alleged that while at the station, they were informed by the officer-in-charge that they were at fault and advised that in case the matter was taken to court the complainant would have won the case. He added that when he returned home, he was called by some elders who pleaded with him to give up the matter.

He further alleged that despite the past mistake, the Alkalo again allowed her sister to unilaterally sell another portion of the said land in April 2020. This act according to him was unjust.

FINDINGS

The complainant had occupied the said land through his late father. It was established that the complainant's father was not a native of the village but was invited there by someone who had hired him as a farmhand. Because the complainant's father had lived in the village for a long time, he took his family to live there when the complainant was a little boy. While living in the village for many years, the complainant's father married his sister's mother as a widow.

It was further established that the disputed land measuring 100 meters by 78 meters located was a property of this widow, the mother of the complainant's sister. The woman had allowed the complainant's father to use the land for farming for decades before they both became late.

It was confirmed that in December 2019, a portion of the said land was sold by the complainant's sister to facilitate the "Backway" journey of the complainant's son who was stranded in Libya. The complainant reported the matter to a police station and he was advised to take the matter to court because it was a civil case. In April 2020, the complainant's sister sold another portion of the said land in order to renovate the complainant's house and to apply for a NAWEC cash power meter for the complainant's house. Out of the proceeds, she had also purchased a bag of sugar and three bags of rice for the complainant. The remaining land was divided into three plots of which a portion was allocated to the complainant's sister's children, another portion to the complainant and his children and the rest to the sister herself.

CONCLUSION

The fact that the disputed land was not the property of the complainant as of right, investigation on this matter was discontinued. However, the complainant was advised to take the matter to court if he wished as it is not within the mandate of the Office of the Ombudsman to determine land ownership.

COMPLAINT NO: 15 /2020
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that she was enlisted in 2008 and posted to the headquarters. In 2019, she was posted to one of the regions.

She alleged that in 2019, the officer commanding (OC) was engaged in selling cloths on credit basis to officers. According to the complainant the sale was imposed on them with the arrangement that they could pay by instalments.

She explained that when she was about to get married on 29 August 2019, she was granted permission to proceed on 10 days' casual leave from 26 August to 4 September 2019.

At the end of the 10 days, she was given an extension of 5 days to enable her to travel to Senegal. Prior to the end of her leave, she resumed duty. After one month, she took one week's permission to attend the "Magal" at Touba in Senegal. However, upon her return, the OC denied her permission.

Thereafter, she was given one week's punishment by the OC. She was assigned to sweep; prepare breakfast and dinner for officers. As a result, she had a miscarriage. She alleged that she had informed the OC of her pregnancy prior to the punishment but she denied it. Due to the miscarriage, the operation commander permitted her to travel to Senegal for treatment. Upon her return, she reported to him. After several consultations with the operation commander, she was referred to the head of the institution.

The complainant alleged that since her return from Touba, she had not received her salary effective January 2020. She added that it was the OC who misinformed the accounts department that she had been travelling to Senegal without permission leading to stoppage of her salary.

When she was travelling to Senegal, she left her suitcase containing D50, 000 and 4 “Chub Gangilla” costing D4500 each in the room she shared with three of her colleagues. She also alleged that she was refused entrance by the OC to access her belongings in her room. She said the OC threatened her that she would make her lose her job.

FINDINGS

It was established that the complainant was enlisted in 2008 and posted to her institutional headquarters. In 2019, she was posted to one of the regions. The complainant’s last day at the base was 25 October 2019.

Her absence from work was booked in the way book starting from 26 October 2019. On 17 November 2019, she was published AWOL (Absent without Leave). The duration of her absence starting from the publication of her AWOL was 23 days.

There was nothing in record to excuse the complainant’s absence from duty. Her absence without leave continued until her redeployment on 19 March 2020.

Following her unauthorised absence from work, her commander (OC) was compelled to notify the command of her absence from work so that her salary would be stopped.

The complainant left her place of work on 25 October 2019 and never resumed until when she was deployed on 19 March 2020.

CONCLUSION

Rule 57 of the Public Service Regulation provides that “where any public officer is absent from duty without leave or reasonable cause for a period exceeding fourteen days and the officers cannot be traced within a period of twenty-one days of commencement of such absence, or if traced, no reply to a charge of absence without leave is received from him or her within ten days after the dispatch of a charge to him/her, such officer may be summarily dismissed from the service”.

The duration of her absence from work was excessive and no reasonable employer was expected to continue employing her. Her institution being a disciplined force had no other choice but to dismiss her from the service.

The complainant’s complaint of unfair treatment was unfounded. The decision to stop her salary was justifiable.

COMPLAINT NO:

16/2020

NATURE OF COMPLAINT:**Claiming Judgement****COMPLAINT**

The complainant stated that he was summoned to a district tribunal in July 2019 by his cousin over a piece of land. He added that the said piece of land belonged to his late father and he had been using the land for farming for more than two decades. He expressed dissatisfaction over the manner in which the judgement was passed alleging that he was allocated a portion of the disputed land measuring 200 square meters while his cousin, whose father had no right over the land was allocated 200m by 450m.

He further alleged that in August 2019, he took the matter to a cadí court but was told that the matter was out of their jurisdiction because a district tribunal had passed judgment on the case. He therefore urged the Ombudsman to intervene so that he could lay hand on the judgement for further legal action.

FINDINGS

Investigations on this matter revealed that judgement was not passed on the matter. However, a family of which the complainant is a member had misunderstanding over the use of their residential building and lands. This matter was brought to a district tribunal in June 2020 by a family member who had summoned someone in connection with the land. In July 2020, the complainant and someone had a dispute over a farm land belonging to the family. The matter was taken to the chef, who had invited the elders of the village and the family for a resolution in August 2020. On the 18 August 2020, the members of the family and the elders of the village made a site visit to the disputed land. It was then decided that a portion of the land measuring 200m square was allocated to the complainant whereas 200m by 450m was allocated to the person he had dispute with.

It was further confirmed that the complainant had taken the matter to the Cadi Court but was advised to respect the agreement made by the district tribunal or take the matter to other courts of law.

CONCLUSION

Since it was confirmed that no judgement was passed on the case and it was not within the jurisdiction of the Office of the Ombudsman to determine land ownership, the complainant was advised to take the matter to the Magistrate's Court.

COMPLAINT NO:**17/2020****NATURE OF COMPLAINT:****Corrupt Practice****COMPLAINT**

In November 2019, the complainant applied for water connection service for his brother's compound. He was asked to pay a measurement fee of D150 which he did. An employee of the national company was assigned to do the measurement after which he was given an invoice of D17, 000. However, at the time of the said application, his brother could not pay the D17, 000 water connection service fee. He later informed the said employee that his brother was ready to pay the D17, 000 water connection fees.

Thereafter, the employee promised to fix his water connection service in few days if he paid D9, 000 to him instead of D17, 000 to the company. He appealed to him to pay him the money because his wife had given birth. Since then, he neither had his water service connection nor his money.

FINDINGS

The complainant applied for water service connection on behalf of his brother at his compound. He was asked to pay a measurement fee of D150 which he did. The said employee was assigned to do the measurement after which the complainant was given an invoice of D17, 000.

The complainant was ready to pay the D17, 000 to the national company for the water service connection in November 2019, but the employee in question requested him to pay D9, 000 to him instead. It was established that the complainant paid the said company official the D9, 000 he requested to connect the water service illegally. However, the complainant's water service was not connected.

RECOMMENDATION

The Ombudsman recommended the immediate refund of the D9, 000 the said official had taken from the complainant. He was strictly warned to desist from such corrupt practice. The complainant was also cautioned to desist from bribing officers as it was a crime.

CONCLUSION

On 5 June 2020, the official returned the D9, 000 to the complainant.

COMPLAINT NO:

18/2020

NATURE OF COMPLAINT

Unfair Treatment

COMPLAINT

The complainant alleged that he was enrolled into a training programme in 2018. At the end of the first module, students were required to take a test. He explained that on the day of the test, he was approached by a course mate who explained to him the content of the test. He then copied the topics on a piece of paper and entered with it in the exam hall. While writing the test, the academic supervisor searched him and found the piece of paper containing the areas/topics. Consequently, he was stopped from writing the said test.

He said he explained the matter to a senior official who advised him to keep fate and continue working. In 2019, he joined the next batch and passed both test 1 and 2 on module 2. He added that when he took the first test on module 3, he failed because he was sick. However, he took the re-sit test and passed. Thereafter, they went to Kombo for the midwifery practical. When they returned, they took the test and unfortunately, he was failed by an examiner on the oral exam even though he had a credit in the objective exam.

He further alleged that when they were to move to the next stage, his name was published on the notice board among those qualified. Before going, the school management convened a meeting and he was later called and informed that he was not to proceed to module 3 because he had failed module 2. He alleged that he informed the hospital's management that he failed the OSKEY test because he feared the examiner. He tried to convince the management but to no avail. Consequently, he was issued with

a course revocation letter. He urged the Ombudsman to intervene so that he could be given the opportunity to continue the course.

FINDINGS

The complainant was admitted into the said school in 2018. It was also established that students were required to take a test or exam at the end of each module and must not fail three tests. Students were given only two chances to re-sit a test or exam.

The complainant was caught with a piece of paper containing examination topics during the test on module 1. This was an act of cheating contrary to the school's examination rules and regulations. It was also found out that the complainant had failed the tests on module 1. He had only passed the tests on module 2 when he joined the next batch. The complainant failed the test on module 3 and was only able to pass when he was given the opportunity to re-sit. The complainant also failed the "OSKEY" practical examination on module 3 and as such was not allowed to proceed to the next module.

Since the complainant could not pass his tests, he wrote to the principal lecturer a letter dated 2 February 2020 requesting the revocation of his studentship or training with the school. He was served with a letter dated 7 February 2020 informing him that his training at the school had been revoked.

CONCLUSION

The complaint was dismissed.

COMPLAINT NO:

21/2020

NATURE OF COMPLAINT:

Claiming Longevity Allowance

COMPLAINT

The complainant stated that she was appointed as unqualified teacher in 2003 and posted to a lower basic school where she taught until 2007. In September 2007, she was enrolled into Gambia College to pursue the Primary Teacher's Certificate (PTC). She added that upon the completion of her program; she was appointed as qualified teacher. She said that since her appointment as qualified teacher, she had been diligently executing her duty but was never promoted. She urged the Ombudsman to intervene so that she could be paid her longevity allowance as per the General Orders.

FINDINGS

The complainant was appointed as unqualified teacher in 2003 and posted to a lower basic school. In September 2007, she was admitted into the Gambia College to pursue the Primary Teachers' Certificate (PTC).

It was established that upon the completion of her PTC programme, she was appointed by her ministry as qualified teacher effective 1 September 2010. Her longevity allowance could not be paid because she was not due. She was due for longevity in September 2020.

CONCLUSION

The complainant later informed the office in September 2020 that her longevity allowance was paid.

COMPLAINT NO: 22/2020
NATURE OF COMPLAINT: Stoppage of Salary and Claiming Longevity Allowance

COMPLAINT

The complainant stated that he was temporarily appointed as cleaner effective 1982 and posted to a health centre. In June 1988, he was transferred to another health centre where his nature of appointment was changed to a permanent appointment effective February 2007. The complainant alleged that when he went to receive his salary for March 2020, he was informed by the paymaster, that his salary was stopped.

He further alleged that he made an enquiry from a director who advised him to enquire from the relevant authority. He was told that the stoppage of his salary could be on retirement grounds. Since this was an assumption, he continued working without salary until June 2020. He added that he was not paid his longevity allowance which was due since 2017.

FINDINGS

The complainant's salary stoppage was on retirement grounds. However, the complainant and other employees who were due for retirement were not given any prior notice before the stoppage of their salaries in March 2020.

The complainant had not applied for longevity allowance which he was due for in 2017. Because the record keeping system in the institution responsible for such matters was manual, it was a long standing practice that longevity allowance should be applied for failure of which it was forfeited. Therefore, the complainant's longevity allowance was forfeited.

CONCLUSION

The complainant was paid his retirement benefit amounting to D7521.86 on 25 December 2021.

COMPLAINT NO: 23/2020
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT

The complainant stated that he was appointed Alkalo of a village since 2002 after the death of his father who was the former Alkalo of the village. In 2013, he allocated a plot of land to a man who had since been settling on this plot of land with his family and students (Talibeh).

He alleged that on 18 November 2019, a lady went to him with an attestation to be authenticated in order to process a birth certificate for her child. He added that he refused to authenticate the attestation because the national identification card which she presented and that of her husband did not bear the name of his village. He said the name of the village on the woman's ID card never existed as a village and therefore refused to authenticate the attestation. He said he only allocated the land for the man to settle in and establish a Quranic school.

The complainant added that since the family in question were not happy with his refusal to authenticate the attestation, they reported the matter to the chief. The chief sent someone to the Alkalo that he

should stamp the attestation or return the stamp to him which he disobeyed. Thereafter, the chief sent his badge messenger to collect the stamp but he refused to comply. A team of security officers and the chief's badge messenger went to his house to collect the stamp and his national identification card which he surrendered to them.

The following day the complainant and the chief were invited to a police station. The chief did not appear but was represented. At the police station, they were informed that the said village never existed legally as a village and it would have been improper to stamp the attestation bearing that name. The case was referred to another police station. He further alleged that at that station, he was told that from the review of the statements submitted, the chief had abused his power. He added that after a while, he went to the police station where they had earlier been invited to make enquiries but he was informed that the stamp was with the chief. He expressed dismay because he did not receive the stamp.

FINDINGS

The founder and first Alkalo of the said village, and his wife were born in Cassamance and Fatigue respectively in the Republic of Senegal. Being the founder of the village, he became the Alkalo of the village until his death in 2002. One of his sons was elected as Alkalo in 2002.

The complainant despite being the eldest son was not elected Alkalo because he was born in Senegal prior to his parents' migration to The Gambia. As a show of respect, his younger brother handed over the village stamp to him in 2009. In 2013, he allocated a plot of land to someone who had settled in this allocated plot with his family and students "Tallibeh" since then.

On 18 November 2019, the wife of one of the residents, a student (Talibeh) of the man who, solicited the complainant's approval of an attestation to process her child's birth certificate. The complainant refused to stamp the said attestation because the address on the identification card presented by the woman had a different name while that of her husband also had another different name. The refusal to stamp the said attestation was on the basis that the name of the village on the woman's ID card never existed as a village.

It was also found out that when the said family reported the matter to the chief, he sent his badge messenger to order him to authenticate the attestation but he refused. On 18 November 2019, police officers and the chief's badge messenger went to the complainant and asked him to surrender his Identification card and the village stamp which he did.

Few days later, the police gave the village stamp to the chief who in turn handed it over to the governor of the region. The governor surrendered the village stamp to the complainant's younger brother. This was done on the basis that by virtue of his birth he was the elected Alkalo by the former chief following the death of the previous Alkalo. The relation between the complainant and the family heads of the village was not cordial. In addition, his relation with the chief was also unfriendly.

It was further established that the name on the woman's ID card never existed as a village but a Quranic School. Therefore, the complainant's refusal to stamp the said attestation was in order.

CONCLUSION

The fact that the complainant was not born in The Gambia beside the strain in his relation with the village's compound heads and the chief of the district, the village stamp was returned to the

complainant's younger brother, the initial custodian of the village stamp and the rightful Alkalo by virtue of his birth in The Gambia.

COMPLAINT NO: 24/2020
NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT

The complainant alleged that he was appointed as watchman with effect from 1 May 2015 and posted to one of the regions. In 2017, the nature of his appointment was changed from permanent appointment to a month-to-month contract for a period of two years effective 1 September 2017. He worked until February 2020 when his salary was stopped but continued working until June 2020. The complainant added that since no explanation was given for the change in the nature of his appointment and the stoppage of his salary, he was of the view that he deserved an explanation and reconsideration for the stoppage of his salary.

FINDINGS

It was confirmed that the complainant was appointed as watchman with effect from 1 May 2015 and posted to one of the regions. In 2017, the complainant was written to in a letter dated 25 August 2017 that the nature of his appointment was changed to a month-to-month contract for a period of two years effective 1 September 2017.

It was established that the nature of his appointment was changed because he was on the pay roll of a security service receiving full salary and at the same time on the pay roll of this other department on full time. Since he could not be on two full time appointments within the same government as per the General Orders, his nature of appointment with the department was changed to a month-to-month contract for a period of two years effective 1 September 2017.

The complainant's salary was stopped in February 2020 because he failed to renew his contract in September 2019. In addition, he was not also captured during the 2019 staff audit exercise. He was advised by his regional director to make a follow-up with the department but he did not. In August 2020, the regional director wrote to the head of the department recommending that the complainant's contract be renewed.

CONCLUSION

The complainant's contract was renewed, backdated and paid salary arrears.

COMPLAINT NO: 26/2020
NATURE OF COMPLAINT: Claiming Retirement Benefit

COMPLAINT

The complainant stated that he was appointment by an association effective January 2008. Since then, the association had been effectively paying its staff's social security contributions. However, the contributions for 2016 were not paid because the association had not been operating in 2016 due to lack of funds. In 2017, the association resumed operation and the payment of its staff's social security contributions continued.

He said that in 2011 and 2015, he requested the association's statement of payment and confirmed that all contributions were effected accordingly. When he retired in February 2020, he applied for his social security benefit. He added that after several months, the institution told him that there existed some contribution gaps despite the association had effected all payments on behalf of its staff. This situation according to him caused delay in the processing of his social security benefit.

FINDINGS

The complainant was appointed by an association in January 2008. It was established that the association had not been operating in 2016 for lack of funds and as a result no social security contribution was made on behalf of its staff in 2016.

The processing of his retirement benefit was delayed due to existing contribution gaps. However, the said contribution gap was an error because the institution had failed to effectively enter the contributions made in respect of the gaps that had existed.

This error was detected when the association found in their record all the receipts given by social security in respect of the contribution gaps. The found receipts were given to social security through the Office of the Ombudsman.

CONCLUSION

The complainant was paid his retirement benefit on 4 June 2021 amounting to D127, 213.20.

COMPLAINT NO:

27/2020

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

The complainant stated that on 6 September 2020 between 9:00 A.M and 10:00 A.M while in his car, he was stopped by a police officer at a police check point. He explained that the police officer requested for his particulars which he submitted but was not in possession of the clearance for the tint on his car. He added that he admitted to the officer that his clearance was obtained since 2019. He was then asked to remove the tint which he refused. Without wasting time, the police officer removed the tint on his car and asked him to go.

He further alleged that even though the clearance for the tint on his car was not renewed, he told the police officer that his friend's car was tinted without clearance.

FINDINGS

It was confirmed that on 6 September 2020, the complainant's car was stopped at a police check point.

It was established that the clearance for the tint on his car was expired and as a result it was removed by the said officer. As for his friend's car which the complainant made reference to, the owner was a gazette officer who did not require clearance to tint his car.

CONCLUSION

Since the clearance for the tint on the complainant's car was expired, he was advised to renew it.

COMPLAINT NO:

28 /2020

NATURE OF COMPLAINT

Unfair Treatment

COMPLAINT

The complainant stated that he was appointed as security guard by an area council effective 15 July 2007. In January 2020, he was served with a letter that he was to report to his line department and to also stay at home awaiting an investigation on a financial malpractice at a market from July 2019 to December 2020.

He added that upon the receipt of the said letter, he stayed home. Since then, he was only paid salary for the months of January and February 2020. He alleged that from March to the time of making his complaint, he neither received salary nor was he communicated to. He further alleged that three revenue collectors who were equally served the same letter were recalled to resume duty except him.

FINDINGS

The complainant worked as security guard at an area council and posted to a market. Following the market mistress's trip to China, a significant increase in the daily revenue collection was realized between November and December 2019. The sudden increase in the revenue made the council to suspect that there was financial malpractice in the market.

The investigation revealed that there was financial malpractice at the market from 1 July 2019 to 12 December 2019. It was confirmed that some market vendors were not paying the actual daily market rates and were not issued with receipts. For instance, where a vendor was obliged to pay a daily rate of D10, they were made to pay D5 instead without the issuance of a receipt. It was further revealed that the complainant who was a security guard is supposed to guard the tax collectors and ensure compliance, was found collecting money from vendors without issuing receipts.

It was also established through a letter dated 17 December 2020 that the complainant was instructed to surrender all the council's documents in his possession to the chief executive officer. In another letter dated 11 January 2020, the complainant and his colleagues were asked to report to their line department for redeployment or stay at home pending the outcome of the final investigation. At the end of the final investigation, the complainant and his colleagues were recalled to work. However, the complainant did not report to work because he was not officially communicated to.

A review of the complainant's personal file revealed that two letters dated 5 and 11 February 2020 were written to him instructing him to resume duty which he refuted. Since he had not reported to work, his salary was stopped effective March 2020 and the subsequent termination of his service in July 2020.

It was revealed that despite the existence of a series of warning letters in the complainant's personal file, there was no evidence that the complainant received the letters because the council could not provide a way book to prove the issuance of the said letters. However, a revenue collector, and the market mistress, stated that they had informed the complainant that the chief executive officer said he should report to work.

RECOMMENDATION

Since there was no way book to ascertain the complainant's receipt of the letters said to have been issued to him, the Ombudsman recommended that the council should initiate a way book. The council's management was advised to strictly warn its employees to work in accordance with their terms of reference.

CONCLUSION

The complainant was reinstated with effect from 11 March 2021. However, the complainant was warned that the recurrence of such fraudulent behaviour will result in uncompromised and irreversible disciplinary measures taken against him.

COMPLAINT NO:

28/2020

NATURE OF COMPLAINT:

Requesting Change of Posting

COMPLAINT

The complainant stated that he was appointed as qualified teacher with Primary Teachers' Certificate (PTC) effective September 2012. From 2016 to 2018, he was enrolled into the Gambia College to pursue Higher Teachers' Certificate (HTC Primary). In September 2018, he was posted to a lower basic school. In the same academic year, he was transferred to another lower basic school and then to another lower basic school. He alleged that since then he had been on posting to that school until October 2020 when he was transferred to another lower basic school.

He alleged that the head teacher of the school informed him that he had recommended for his transfer. He added that he went to the authorities and lamented to them that it would be difficult for him to report to school due to his family's health condition. He lamented that his wife had three children and with twins as her last born, taking care of them was difficult. He alleged that one of the twins was a pneumonia patient, his mother an ulcer patient and he himself had stomach complication.

He further alleged that since 28 October 2020 he had not been able to report to work because his mother was sick and required medical examinations. Effective 2 November 2020, he had been struggling to get his family members treated but to no avail. Since their health condition did not improve as desired, it was difficult to report to school.

FINDINGS

The complainant was transferred to a lower basic school in October 2020 but failed to report to work due to some of his family members' health condition. However, he did not produce a medical report on himself and his family members. Instead, he produced a scan report of his mother's abdomen indicating that she was suffering from gastritis. On 2 November 2020, it was also confirmed that the complainant had failed to report to work and as a result his salary was stopped in January 2020.

Moreover, the complainant's allegation of writing to the authorities for a consideration on his posting was unfounded because there was no trace of his correspondence at the said office.

Besides, the authorities said it was a policy that teachers must report to their place of posting before negotiating for transfer which the complainant failed to do. They averred that teachers were posted to schools where their services were required. They lamented that with the prevailing shortage of teachers in that region, a compromise on teacher posting would render some schools with no teachers.

CONCLUSION

Since the complainant could not advance any reasonable justification for failing to report to his new place of posting, his complaint was dismissed.

COMPLAINT NO: 29/2020
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant alleged that in February 2020, he applied for a biometric national identification card. During the process, he submitted an Alkalo's attestation, a Gambian national identification card, and a voter's card.

He stated that upon the submission of the said documents, an officer doubted his citizenship. Therein, he invited a CID officer who called the Alkalo to confirm the submitted attestation. The complainant adduced that even though the Alkalo confirmed that he issued the said attestation, he was still denied a Gambian national identification card.

FINDINGS

It was confirmed that the complainant applied for a Gambian national identification card. He submitted an expired Gambian national identification card, a voter's card and an attestation from an Alkalo indicating that the complainant and his parents were born in his village.

An officer doubted the complainant's citizenship because he was misinformed by an insider that the complainant was not a Gambian. This resulted in the rejection of the complainant's ID card application.

CONCLUSION

The complainant's national identification card application was processed. The complainant on 16 March 2021 informed the Office of the Ombudsman that he was issued with an ID card.

CASE NO. 30/2020
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT

The complainant stated that on 19 December 2020 while he was being carried by a brother on a motorcycle, they were stopped by a traffic police officer. They were stopped because they had used a

wrong passage in a one-way traffic. They pleaded with the said officer but to no avail. They were escorted to a police station.

Upon arrival at the station, the officer explained to his senior that they had deliberately used the wrong direction because they were on a motorcycle which he denied. They asked him to go out even though he pleaded with them to be part of the discussion. The senior officer without wasting time pushed him out of the office and he fell on the ground leading to a dislocation of his left ankle. The officer asked him to leave the entire premises. He also pleaded to be allowed to stay there to wait for his brother. Three other officers grabbed him and threw him out of the police station's premises. His brother was given a mandatory fine of D1, 000 for not wearing a crash helmet.

FINDINGS

The complainant on 19 December 2020, while he was being carried by his brother on a motorcycle was stopped at a police checkpoint for using a one-way route even though there was a signboard indicating one- way traffic.

The complainant and his brother were not wearing crash helmets. His brother was not a licensed driver and the particulars in possession were not that of the said motor cycle. His brother was charged a mandatory fine of D1, 000 for not wearing a crash helmet. He was issued a receipt dated 19 October 2020.

It was also established that the mandatory fine was done in conformity with the Motor Traffic Regulations which attract a fine not exceeding D5,000.

With respect to the alleged assault, the police officers denied the allegation. The complainant could not provide substantial evidence to the alleged assault as he could not provide any medical document to the injury sustained.

CONCLUSION

Since the complainant and his brother had committed traffic offences and could not provide evidence to his assault, the complaint was dismissed.

COMPLAINT NO: 31/2020
COMPLAINT: Maladministration

NATURE OF

COMPLAINT

Foroyaa news reported on 19 October 2020 that patients at a health centre complained of poor sanitary condition at the main ward of a health centre and inadequate supply of electricity. According to the report, both patients and escorts of the main ward were using toilet facilities in nearby compounds.

It reported that there were incidents of patients urinating and defecating on themselves before reaching the far-away toilet facilities. The report added that some escorts complained that they became anxious when electricity was about to go off at 3:00 am. The report alleged that when the officer responsible for the region was contacted, he admitted that the septic tank of the main ward was not functional at the time because it was full.

He also confirmed that power supply had been a challenge as NAWEC was unable to supply them with 24 hours electricity and the standby generator had a breakdown. The health centre was the only major health centre that got referrals from all the other health facilities in the region.

FINDINGS

It was established that the toilets at the main ward were not in use. These toilets were connected to the same septic tank which got full almost every week causing the spillage of sewage in its surrounding making it difficult for the continues usage of the toilets. Consequently, patients and escorts were obliged to use the toilets almost 50 meters away from the main ward. This situation caused some of the patients at times to urinate and stool on themselves before reaching the far-away toilets. However, at the time of investigation, the said toilets at the main ward were undergoing renovation.

The toilets of the outpatient ward were dilapidated and that of the waiting shed was in a bad state. The toilets of the labour and the reproductive and child health (RCH) wards were both having plumbing problems causing water spillage. However, two toilets were improvised in the labour ward but were also having plumbing problems.

The windows of the main ward and the outpatients ward were in poor state. Besides, the roofs of some of buildings were asbestos which had the potential to cause cancer.

It was further revealed that when electricity went off at night usually at 3:00am, escorts found it difficult to take patients to the distant toilets. These conditions according to the escorts interviewed, compelled some of them to provide buckets for their patients to ease themselves at night.

The health centre's operation was mainly funded through the ministry's Resource Base Finance (RBF) which was not adequate. This amounted to D1.4 million of which 60% was allocated for the maintenance of the health centre's facilities and the remaining 40% allocated for staff welfare and the purchasing of drugs. Another source of funding to the health centre was through Bamako Initiative (BI) which amounted to D4, 499, 000. However, only D99, 000 was accessed from the Bamako Initiative due to rigorous procedures attached to its disbursement.

There was no constant supply of electricity to the health centre because NAWEC generators are put off every day by 3:00am. Two stand-by generators were in place which did not still have the capacity to serve the entire health centre. In addition, the fuel allocation to these generators was only 80 litres per month. This was insufficient as one of the generators consumed 10 litres per hour. However, it was revealed that despite the fact that a philanthropist had been helping to fuel one of the generators, constant electricity supply still remained a challenge.

It was further found out that the health centre which was referred to as a hospital did not have a board to decide on the handling of finance and other activities of a hospital. To access fund, the chief of the district and the hospital's officer in-charge who were both members of a CAC committee were signatories to the accounts of the Resource Base Fund and the Bamako Initiative. This was the committee set to decide on the disbursement of finance so as to avert financial misappropriation.

It was revealed that World Bank had agreed to renovate the health centre and that a consultant was sent to make an assessment of the health centre's facilities.

RECOMMENDATION

In view of the above findings, the following recommendations were made:

1. That the ministry through the engagement of its relevant stakeholders or development partners work on the sanitary conditions of the health centre.
2. That the dilapidated windows, toilets, and the waiting shed for the outpatient be renovated to the standard of a major health centre.
3. That solar lighting system be installed in the health centre to provide electricity in the event Nawec generators are put off at 3:00am.
4. The asbestos on the roofs of some of the health centre's buildings be replaced with suitable roofs which do not cause cancer.
5. Adequate fund be allocated to the health centre so as to address the financial challenges confronting the health centre in order to ensure effective service delivery.

CONCLUSION

Following a site visit to the said health centre on 20 October 2021, the toilet facilities and septic tank of the main ward were renovated. The dilapidated windows, toilets and the waiting shed for the outpatient's ward were renovated and the sanitary condition of the labour ward was improved. There was steady and constant electricity supply following the bilateral cooperation between Nawec and Senelec. However, the asbestos roofs were yet to be changed.

COMPLAINT NO:

32/2020

NATURE OF COMPLAINT:

Abuse of Power

COMPLAINT

On 31 October 2020 at around 10: 30am, the complainant called the Ombudsman alleging that while riding an unnumbered motorcycle, he was stopped by a police officer at a check point. When the said officer requested the motorcycle's number plate and documents, he told the police officer that the motorcycle belonged to an orderly of a senior government officer who had the documents. For this reason, the officer seized the motorcycle's key. The complainant appealed for him to give him back the key so that he could return the motorcycle to the owner but to no avail.

FINDINGS

It was established that the complainant on 31 October 2020 was stopped by a police officer at a police checkpoint. The motorcycle was stopped because there was no number plate on it. Besides, the complainant was neither in possession of a driver's licence nor the motorcycle's documents. It was also confirmed that the police officer had seized the motor cycle's key and detained the complainant.

RECOMMENDATION

The Ombudsman advised the police officer to return the motorcycle's key to the complainant. The officer was also reminded that motorcycle and vehicle keys are not to be seized by police officers on account of traffic offences. However, the officer was advised that appropriate proceedings for traffic offences be followed in accordance with the Motor Traffic Act Cap.70:03 Volume 10, Laws of The Gambia.

CONCLUSION

The complainant was given back the motorcycle's key. As a first-time offender, he was strictly warned and allowed to go.

COMPLAINT NO:

33/2020

NATURE OF COMPLAINT

Shortage of Teachers

COMPLAINT

The complainant on 4 November 2020 alleged that the students of a senior secondary school had demonstrated on 03 November, 2020 over the shortage of teachers. He added that the shortage of teachers in the said school had been persistent over the years but the students had demonstrated due to the transfer of their English language, history, and government teacher to another senior secondary school. He further lamented that the shortage of teachers in the said school had been the major reason for the poor performance of students in the West African Senior Secondary School Certificate Examination (WASSCE) over the years. This situation according to him if not resolved could result in a bigger problem drawing lessons from the previous student demonstrations.

FINDINGS

It was confirmed that the students of the said school on 4 November 2020 had demonstrated over the transfer of their English language, history and government teacher on 3 November 2020. The teacher had transferred his service to another school.

It was further revealed that despite the transfer of the English language, history and government teacher, other subject areas such as mathematics, literature-in-English language and home science lacked teachers too. It was also established that the shortage of teachers in the said school resulted in teachers being overloaded with over 40 periods per week.

It was also found out that the shortage of teachers caused many parents to lose faith in the school and as such resulted in many students in Grade 9 opting for other senior secondary schools. However, most of the students who opted for other schools were usually denied by the principal of the school. This is done via the delay in the issuance of the Grade 9 results which compelled Grade 9 students from the upper basic school to transit to the village's own senior secondary school.

Moreover, it was further established that the shortage of teachers in the said school was caused by the long school break due to Covid 19 because Gambia College had not sent in student teachers to schools immediately after the long break. Besides, teacher stabilization was yet to be done to enable the authorities in the region to fix the existing teacher gaps in schools.

CONCLUSION

After several follow-ups with the relevant authority, we were finally informed on 2 February 2021 that the teacher gap in the senior secondary school was resolved.

COMPLAINT NO:

34/2020

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

In November 2020, the complainant applied for the new Gambian biometric identification card. In the process, she submitted her mother's voter's card and an attestation from their village Alkalo. Since the attestation was stamped by only the Alkalo, she was urged by the immigration officers to get it stamped by their district chief which she did.

To her dismay, when she submitted the said attestation, she was again asked to submit an attestation on her mother's birth or citizenship status. She and the Alkalo explicitly informed them of the village in which her mother was born and told them that she is Gambian. She tried to make them understand but to no avail.

FINDINGS

The complainant in November 2020 applied for the new Gambian biometric identification card. She had submitted her mother's voter's card and an attestation from the Alkalo of the village in which she was born.

It was revealed during our investigation that the complainant's identification card could not be processed because she had a photocopy of her birth certificate instead of the original.

CONCLUSION

When the complainant submitted her original birth certificate on 22 March 2021, her identification card was processed. On 16 November 2021, the complainant informed the Office that her ID card application was processed.

COMPLAINT NO:

35/2020

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant stated that he was appointed as qualified teacher in 2004 and posted to a lower basic school. He served as teacher at the said school while also pursuing his Primary Teachers' Certificate (PTC) through Gambia College Teacher Training Extension Programme.

He said that in 2009, he became qualified and was posted to a lower basic school as deputy head teacher until 2012. From 2012 to 2014, he was re-enrolled into Gambia College to obtain HTC primary. He was posted to different schools.

He alleged that on 10 February 2020, while mounting some teaching aids on the walls of his classrooms, he fell down and dislocated his right arm. Since he was feeling pain on his arm, he was advised by his head teacher to seek medical attention. On 17 February 2020, he went to a hospital for a laboratory test. Because the drugs given were not improving his condition, on 5 March 2020, he went to a health centre for an X-ray and was told that his right arm was dislocated. Since then, he has not been going to school and before he could resume, schools were closed due to Covid 19 pandemic.

He lamented that to his dismay, his salary for March and April 2020 were stopped and later restored after he had complained of being unfairly treated. In October 2020 he was served with a memo indicating that he was transferred to another school. He considered his transfer year in year out as frustrating and alleged that his transfer could be due to a misunderstanding, he had with his head teacher earlier in 2020.

FINDINGS

The complainant was appointed as unqualified teacher in 2004 and posted to a lower basic school. He taught in the said school until 2009, when he was transferred to another lower basic school as deputy head teacher until 2012. He was enrolled into Gambia College to pursue HTC primary in 2012. The complainant was posted to 5 different schools between 2015 and 2019.

He presented medical documents on his injury sustained while mounting teaching aids on the walls of his classroom. The complainant's salary was stopped in March and April 2020 because he had been absent from school from 2 March to 6 March 2020. The staff attendance register indicated that the complainant, from October 2019 to March 2020 reported to work late for 25 days and absented himself without permission for 8 days.

In a memo dated 23 November 2020, the complainant was transferred to another school with immediate effect. The complainant went to the authorities for a reconsideration of his posting. In the process, he openly insulted the director for not agreeing to his plea.

A senior officer averred that the complainant's transfer to that school was to closely monitor his attitude to work.

CONCLUSION

Considering the unethical behaviour manifested by the complainant towards authorities at work, the complaint was dismissed.

CASE NO.

39/2020

NATURE OF COMPLAINT:

Claiming Cash Power Meter Connection

COMPLAINT

The complainant said that in 2018, he applied for a cash power meter and paid D5,000 on the same day he applied for the meter. He was then informed that his meter would be installed in 6 months' time. He alleged that since then he had been making regular follow-ups but whenever he appeared, copies of his invoice and receipts were requested but to no avail.

FINDINGS

It was confirmed that the complainant had applied for a cash power meter in 2018. He paid the actual D5000 charged on provincial meters. During our investigation, a senior officer of the company

confirmed that the complainant's meter application had taken too long and promised that it would be fixed in few days' time.

CONCLUSION

The complainant on 10 February 2020 informed the Office of the Ombudsman that his cash power meter was installed in January 2021.

COMPLAINT NO:

40/2020

NATURE OF COMPLAINT

Corrupt Practice

COMPLAINT

The complainant alleged that on 19 August 2020, he had applied for water service connection for his brother's compound. During the process, he was asked to pay a connection fee of D17, 000 which he paid immediately. After effecting the payment, he was informed by a staff member that receipts were not available with a promise that he would issue him with a receipt later. He also alleged that while he was making the payment for the water service connection, the same staff member told him to give him money so that he could fast track the water service connection within two months. He gave him D5, 000 in order to fast track the process but to no avail.

FINDINGS

The complainant applied for water service connection on 19 August 2020. He was charged D17, 000 which he paid. It was also confirmed that he had bribed the said member of staff D5, 000 on request to get the water service connection fast tracked.

The delay in the fixing of the water service was due to an embargo on the connection of water service and electricity meters effective from August 2020 to December 2020.

RECOMMENDATION

The said member of staff was ordered to return the D5, 000 he received as bribe as it was morally and administratively inappropriate. The complainant was cautioned to desist from bribing officers.

CONCLUSION

On 28 December 2020, the complainant informed the office that the staff member in question had returned his D5, 000 given as bribe. He also informed the office that his water service connection was fixed on 1 February 2021.

STATISTICAL APPENDICE

CASE SUMMARY OF THE YEAR 2020

TABLE 1: NO. OF CASES REGISTERED BY OMBUDSMAN'S HEAD OFFICE AND REGIONS

CASES REGISTERED BY LOCATION		
LOCATION	NO. OF CASES	PERCENTAGE
HEAD OFFICE	93	58.13
KEREWAN	12	7.50
MANSAKONKO	15	9.38
JANJANGBUREH & BASSE	40	25
TOTAL	160	100

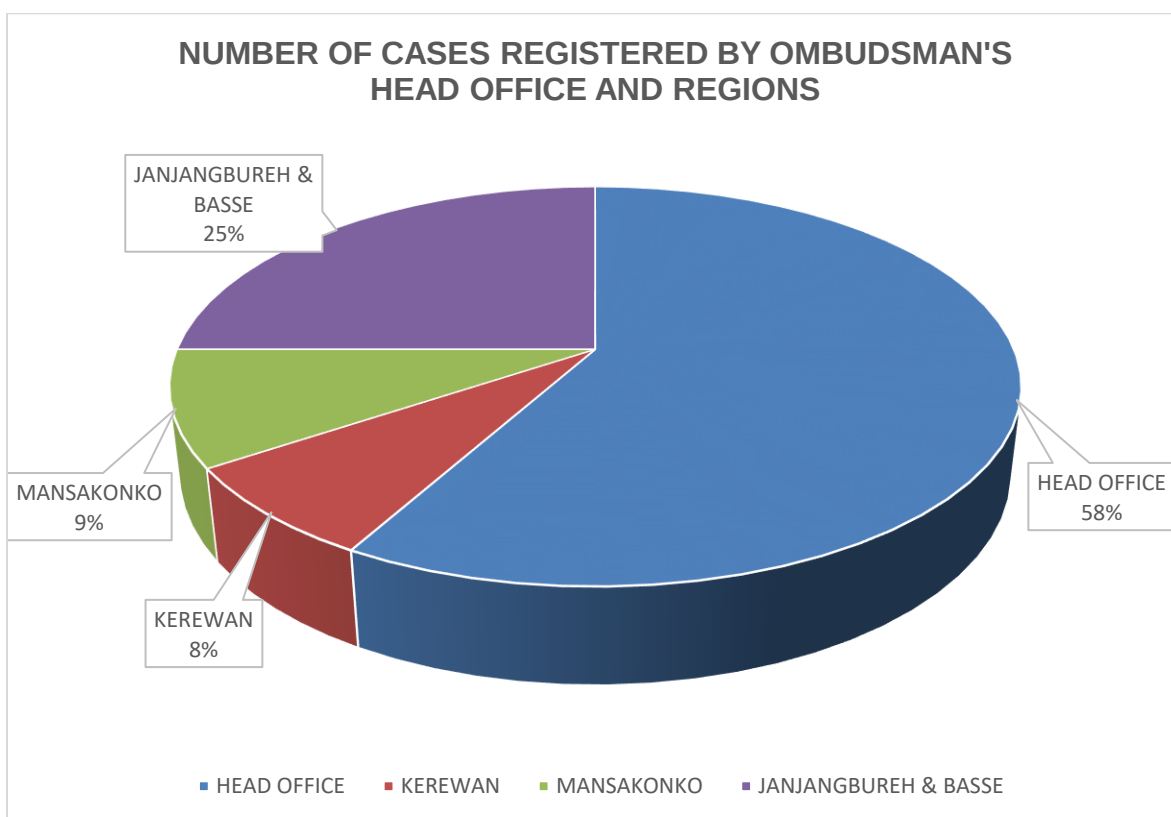


TABLE 2: PUBLIC SECTOR CASES REGISTERED AT THE HEAD OFFICE IN 2020

AUTHORITY COMPLAINED AGAINST	ABBREVIATION	NUMBER OF COMPLAINT	PERCENTAGE
Gambia Police Force	GPF	12	12.9
Gambia Armed Forces	GAF	7	7.53
Personnel Management Office	PMO	5	5.38
Social Security & Housing Finance Corporation	SSHFC	5	5.38
Gambia Prisons Service	GPS	4	4.30
Gambia Immigration Department	GID	4	4.30
Gambia Tourism Board	GTB	4	4.30
University of the Gambia	UTG	3	3.23
Ministry of Health	M o H	3	3.23
Banjul City Council	BCC	3	3.23
Judiciary	Judiciary	3	3.23
Senior Secondary Schools	SSS	3	3.23
Bwiam General Hospital	B GH	2	2.15
Ministry of Justice	M o J	2	2.15
National Water & Electricity Company	Nawec	2	2.15
Gambia Ports Authority	GPA	2	2.15
Gambia Radio and Television Services	GRTS	2	2.15
State Intelligence Service	SIS	2	2.15
Kanifing Municipal Council	KMC	2	2.15
Alkalo	Alkalo	1	1.08
Bansang Hospital	BH	1	1.08
Brikama Area Council	BAC	1	1.08
Brikama Fish Market	BFM	1	1.08
Drug Law Enforcement Agency	DLEA	1	1.08
Edward Francis Small Teaching Hospital	EFSTH	1	1.08
Food Safety & Quality Assurance	FSQA	1	1.08
Gambia National Petroleum Company	GNPC	1	1.08
Gambia National Sports Council	GNSC	1	1.08
Gambia Technical Training Institute	GTTI	1	1.08
Gambia Home Economics Teachers Association	GHETA	1	1.08
GIEPA	GIEPA	1	1.08
Gambia Fire & Rescue Service	GFRS	1	1.08
Internal Audit	IA	1	1.08

Labour Department	LD	1	1.08
Ministry of Agriculture	M o A	1	1.08
Ministry of Basic and Secondary Education	MoBSE	1	1.08
Ministry of Fisheries	M o F	1	1.08
			1.08
National Assembly	NA	1	1.08
National Council for Arts & Culture	NCAC	1	1.08
Department of Physical Planning	PP	1	1.08
Riders for Health	RFH	1	1.08
Serrekunda General Hospital	SGH	1	1.08
Total		93	100

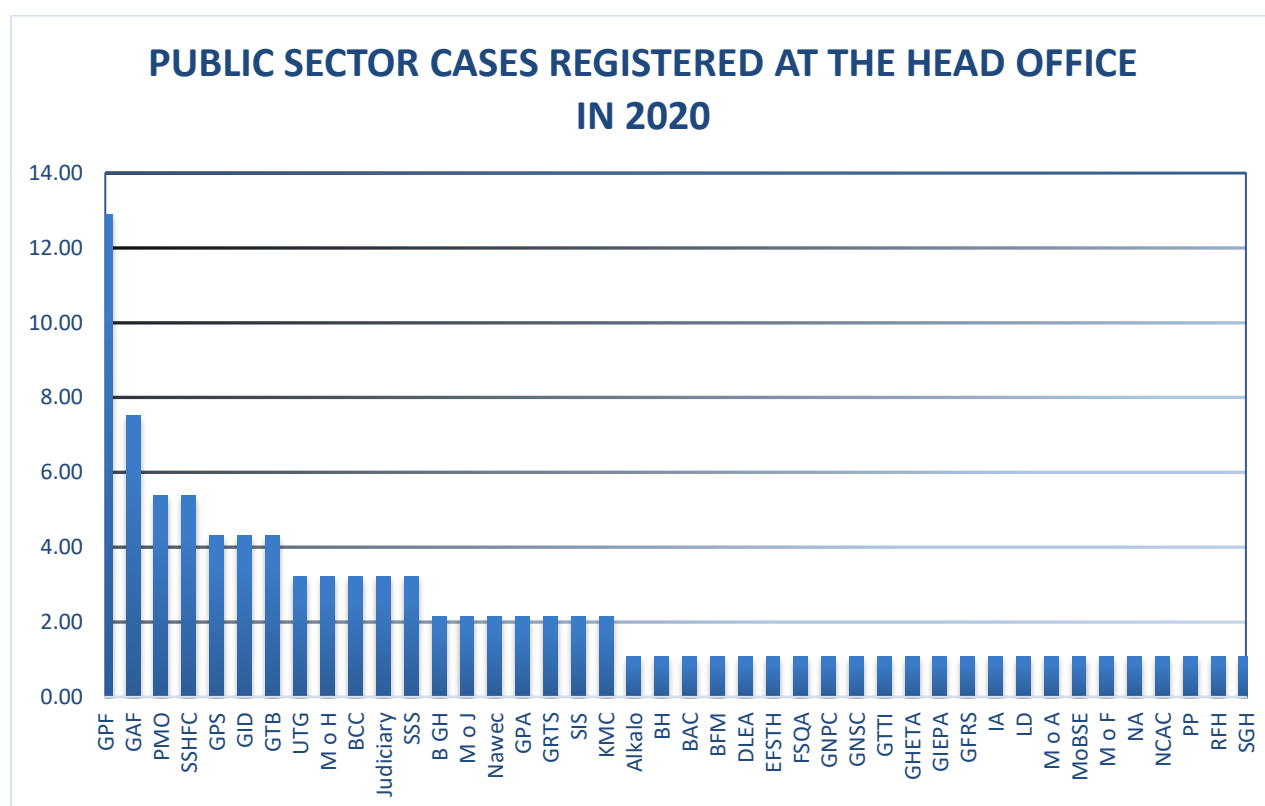


TABLE 3: NATURE OF COMPLAINTS REGISTERED IN 2020

NATURE OF COMPLAINT	NUMBER OF CASES	PERCENTAGE
Unfair treatment	35	37.63
Injustice	18	19.35
Salary/Wages	10	10.75
wrongful Dismissal	9	9.68
Wrongful Termination	9	9.68
Gratuity and Pensions	5	5.38

Suspension	2	2.15
allowances	2	2.15
Wrongful Discharge	1	1.08
Bribery/corruption	1	1.08
Discrimination	1	1.08
TOTAL	93	100

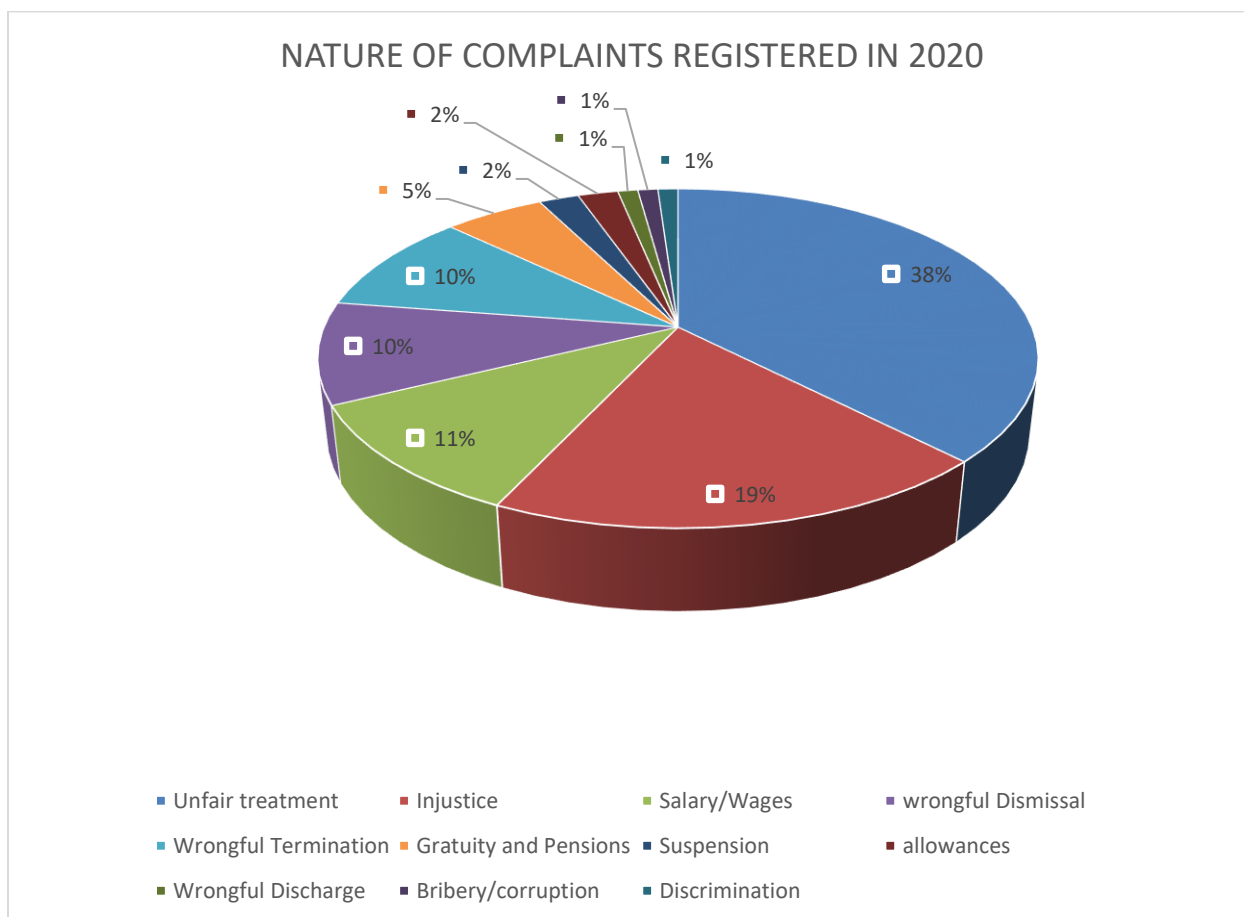


TABLE 4: NATURE OF CLOSURE OF COMPLETED CASES 2020 AT HEADQUARTER

NATURE OF CLOSE	NUMBER OF CASES	PERCENTAGE
Settled	22	23.66
Dismissed	21	22.58
Discontinued	21	22.58
withdrawn	4	4.30
Pending	24	25.81
Sub-judice	1	1.08
Total	93	100

NATURE OF CLOSURE OF COMPLETED CASES 2020 AT HEADQUARTER

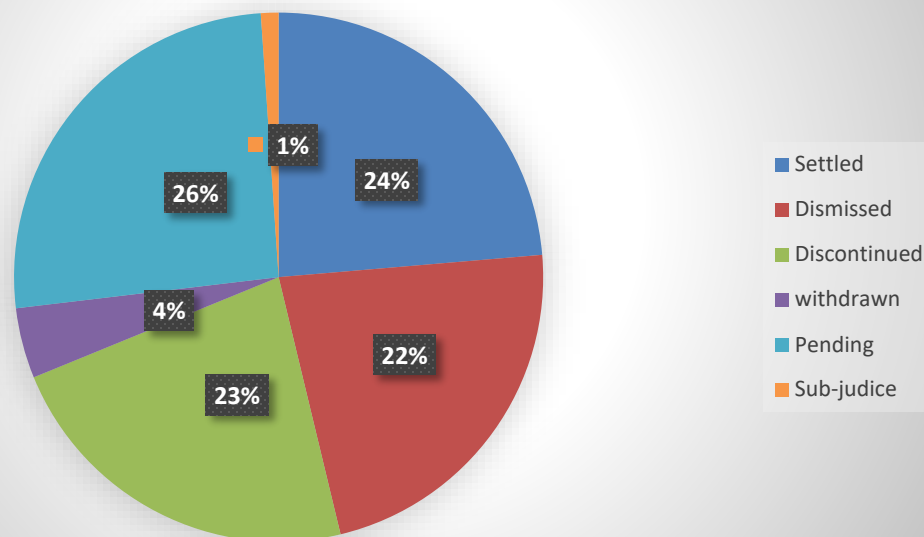


TABLE 5: SUMMARY OF CASES INVESTIGATED IN 2020

CASE SUMMARY	NUMBER
Brought forward cases investigated (2019)	47
Cases Registered in 2020 at Head Office and the Regions	160
Total cases investigated	207
Total cases completed	152
Total number of cases pending	55

CHAPTER TEN OF THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA 1997

CHAPTER X THE OMBUDSMAN

- 163. National Assembly to establish Office of**
- (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

**Ombudsm
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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 | <p>2. (1) There is hereby established the Office of the Ombudsman which shall consist of the Ombudsman and two Deputy Ombudsmen.</p> <p>(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.</p> <p>(3) The Ombudsman and Deputy Ombudsmen shall be appointed for a period of five years and shall be eligible for re-appointment.</p> <p>(4) The Ombudsman and Deputy Ombudsmen shall, before entering upon the duties of office, take an oath of office.</p> <p>(5) The Ombudsman and Deputy Ombudsmen shall not hold any other public office.</p> <p>(6) The Ombudsman and any Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision.</p> |
| Functions of the Ombudsman | <p>3. (1) In addition to the functions of the Ombudsman under the Constitution, the Ombudsman shall have the following functions -</p> <p>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;</p> |

- 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.

6. (1) The Ombudsman shall have the power to summon witnesses and

**Power
summon
witnesses**

to 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.

7. Orders, writs and directions issued by the Ombudsman shall have the

**Orders
Ombudsman**

by 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.

10. (1) Every investigation under this Act shall be in camera.

Investigations to 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.

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.

Provisions relating to complaints and allegations

- (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.

12. (1) The procedure for conducting an investigation shall be such as the Ombudsman consider appropriate in the circumstances.

Evidence and procedure

- (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 National Assembly

to

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 Ombudsman	of	16. The Ombudsman shall employ such staff as he or she shall determine, who shall become public officers.
Finality Ombudsman's acts	of	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 Ombudsman and members of staff of office of Ombudsman	of	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.

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:

Power to make rules

(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