THE REPUBLIC OF THE GAMBIA

OFFICE OF THE OMBUDSMAN

REF: BCA102/109/01(80) 31st December 2023

Hon. Fabakary Tombong Jatta
Speaker of the National Assembly
Independence Drive
Banjul

Honourable Speaker,

SUBMISSION OF 2023 ANNUAL REPORT

I have the esteemed honour and privilege to submit the 20th Annual Report of the Office of the Ombudsman covering the period 1st January to 31st December 2023 with pleasure.

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.

I remain

Yours sincerely,

…………………………
Mr. Bakary K. Sanyang
Ombudsman

CC: File

Contents

CHAPTER 1

1.1 VISION

Excellence in administrative justice and respect for human rights in the public sector

1.2 MISSION STATEMENT

To ensure fairness and respect for the rights of individuals in the administrative process of The Gambia. The Office of the Ombudsman will remain firm to its task of promoting fairness and the rights of ordinary individuals in the administrative process of The Gambia. This task will be diligently carried through without partiality to any Government institution and investigations will continue to be conducted with the vigour and fearlessness with which this Office was charged since its inception.

1.3 CORE VALUES

CONFIDENTIALITY

We safeguard all information gathered and carry out all investigations with strict confidentiality

EXCELLENCE

- We strive and pursue excellence in all our activities
- We continue to train and retrain our staff for quality delivery
- All investigations and reports go through vigorous supervision and monitoring processes
- All decisions are evidence based.

IMPARTIALITY

- We operate a fair, reliably and fast system to redress complaints,
- All complaints are handled without prejudice in a timely and qualitative manner regardless of the persons status
- We ensure that we find solutions to all justified complaints.
- We are independent and impartial

INDEPENDENCE

- We execute our role without deference, fear or favor to individual or authority
- We uphold the rule of law and fair treatment

RESPECT

- We recognized diversity and treat all with dignity and respect

INTEGRITY

- We strive to be an honest, trusted, reliable and competent institution
- Commitment to human rights
- We uphold human rights principles.
- We ensure that public officers respect human rights in carrying out their duties

1.4 THE REPORT

This is the 20th annual report of the Ombudsman and it covers the period 1st January to 31st December 2023. During the year under review, the Office registered cases from all regions of the country and continued to successfully settle cases registered. `

DATA ANALYSIS

At headquarters 67 complaints were registered, out of these 23 complaints were satisfactorily resolved in favour of the complainants, 12 complaints were upheld in favour of institutions complained against after full investigation, 15 complaints were discontinued due to the fact that they were frivolous and not made in good faith, 2 complaints withdrawn, and 15 pending.

At the Kerewan Regional Office 20 complaints were registered and investigations conducted on all the complaints. Out of these 12 were settled in favour of the complainants, 2 complaints were upheld in favour of institutions complained against after full investigation 4 discontinued and 2 pending.

At the Mansakonko Regional Office 8 complaints were registered. Out of these complaints 4 were settled in favour of the complainants, 2 discontinued and 2 pending.

At Janjanbureh Regional Office 13 complaints were registered. Out of these 8 complaints were settled in favour of the complainants, 1 complaint was upheld in favour of institutions complained against after full investigation and 5 pending.

At the Basse Regional Office 14 complaints were registered out of these 7 complaints were settled in favour of the complainants, 2 complaints were upheld in favour of institutions complained against after full investigation 1 discontinued and 3 pending.

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

- Senior Secondary Schools 9
- Gambia Police Force 8
- Kanifing Municipal Council 7

The report contains samples of cases investigated with summary of the cases. However, the statistics depicts a true representation of the cases in 2023.

1.4.1 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.

OBSERVATION OF THE LOCAL GOVERNMENT ELECTION

During the period under review, the office observed the Mayoral and Chairperson Election which marked the end of the 2021-2023 election cycle. The election was held on 20 May 2023. A total number of 29 candidates (2 females 27 males) contested seats in two municipalities and six area councils; namely, Banjul City Council, Kanifing Municipal

Council, Brikama Area Council, Mansakonko Area Council, Kuntaurr Area Council, Janjanbureh Area Council, Basse Area Council, and Kerewan Area Council.

The Office of the Ombudsman deployed a total of 25 observers across all regions to observe the conduct of the process. Our observers visited about 138 polling stations. Opening and close of polls were observed in 25 polling stations
Below is a summary of the findings and recommendations.

POSITIVE FINDINGS

ELECTION MATERIALS

We did not come across any shortage or inadequate supply of election materials. Polling materials such as: voter registers, ballot boxes, bottles of indelible ink, ballot tokens, red and white security seals among others were adequately found at the polling stations visited. Other voting materials such as voting demonstrative pictures, names and codes of polling stations were displayed at polling stations. However, the voting demonstrative pictures were small and printed in black and white which diminished their quality.

OPENING OF POLLS

The opening time of polls according to the IEC is 8am. Nearly all the polling stations we visited opened polls at 8am. Other preparatory activities outlined in section 56 of the Election Act were generally observed by the IEC at the 23 polling stations were we observed the opening of polls. Polling agents of the political parties and independent candidates witnessed the opening of polls. The media and other independent observers also witnessed the opening of polls at certain polling stations.

QUEUING

At most of the polling stations, polling assistants greatly assisted in directing the voters to their right queues. The queues were professionally handled. Persons with disabilities, the elderly, and the sick were given priority to vote. Due to low voter turnout, no major inconveniences were reported regarding queuing.

There were isolated instances of people joining the wrong queues, and in those instances they were mostly redirected by polling assistants to the right queues. Those who were not directed did not have issues moving to the other queues as there were hardly any queues at most polling stations after the morning polls.

COMPLIANCE WITH VOTING PROCEDURES

The voting procedures were generally followed. All polling agents and polling assistants were issued with electoral registers. Details of voters including pictures, voter cards' serial numbers were carefully checked and indelible ink applied on the voters' forefingers before they were allowed to vote. We observed instances in which voters presented their ID cards and some presented the old voter cards. The IEC officials in those situations accordingly advised them to produce valid voter cards to be allowed to vote.
Generally, voters peacefully complied with the procedures.

VOTING ENVIRONMENT

The voting environment was generally peaceful. Voters conducted themselves in a peaceful and orderly manner. Voters who visited the polling stations with invalid voters' cards and asked to produce their valid voters' cards peacefully complied. Some incidents of minor confrontations were reported in Banjul and Brufut but were addressed. The atmosphere was not intimidating but conducive for citizens to participate in the democratic process. Security was provided inside all polling stations; however, only few polling stations provided security outside the polling stations.
Party colours, logos and symbols including all other prohibited political materials were generally not seen or displayed at the polling stations visited.

ACCESSIBILITY OF POLLING STATIONS

Most of the polling stations visited were properly laid out providing easy access to voters.

CLOSE OF POLLS AND COUNTING OF VOTES

The observation team observed the close of polls and counting of ballot tokens in twenty-five polling stations.

The procedures such as the announcement of close of polls by the presiding officers, the sealing and escort of ballot drums, the confirmation of serial numbers, and counting were witnessed by poling agents and independent observers.

OBSERVATION BY INDEPENDENT OBSERVERS AND PARTY AGENTS

A number of independent observers observed the elections. The observers seen at polling stations visited

Party agents and agents of independent candidates observed the entire election process.

ADVERSE FINDINGS

INCIDENT OF VOTING MALPRACTICE / VORTER FRAUD

A voter voted twice. He was caught by the presiding officer who reported him to the security at the polling station, when the bell rang twice while the voter was inside. The voter confessed that he voted twice. He explained that he found a ballot token on a drum which he picked and put in the hole in addition to his own ballot token. After the incident, the police commanding officer for Bundung and Talinding, arrived at the polling station. She informed the voter that he was needed for questioning after which the voter was taken away.

OPENING PROCEDURAL BREACHES

We observed procedural breaches in the form of two presiding officers failing to count the ballot tokens issued to them for the confirmation of the polling agents and observers before the start of polls.

At one polling station, the presiding officer only informed the polling agents the number of ballot tokens issued to him without counting.

At one of the polling stations a presiding officer demonstrated lack of such procedures by saying counting the number of ballot tokens issued is not part of the IEC election procedures.

VOTING PROCEDURAL BREACHES

A voter was directed from one of the streams to go and cast his ballot at another stream after they had already dipped his finger in the ink. A voter should first be identified in the voter list before his finger is marked.

VOTER NON-COMPLIANCE

A voter refused to dip her forefinger in the indelible ink against the required election procedure. The voter eventually left the polling station without voting.

At one of the polling stations an old man who probably could not differentiate between the old and the current voters' card was asked to go for his valid voter's card but he insisted that there was no difference between the previous and the current voters' cards. He threatened to not come back. It is not known if he came back or not

VOTING ENVIRONMENT VIOLATIONS

An independent candidate's picture and logo were found on a vehicle allegedly belonging to his campaign team around the entrance of the station. This matter although resulted in a minor confrontation, was subsequently addressed by an IEC official and other stakeholders present at the polling station.

Also, we observed a reasonable number of vendors selling food in some of the polling stations which could also lead to the formation of groups in polling stations for non-voting purposes thereby violating the rules.

POLL CLOSING PROCEDURAL NON-COMPLIANCE

It was observed that the presiding officer of one of the polling stations failed to count the number of unused tokens.

NON-ACCREDITED PERSONS

At some of the polling stations, unaccredited groups of people were seen at the counting of votes.

VOTING ENVIRONMENT VIOLATIONS

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One of the polling stations was open (Not fenced). This attracted a lot of inconvenient noise and unwise movements of cars and motorbikes at the station.

ACCESSIBILITY

Some of the polling stations especially those located in schools where voting was conducted in classrooms had raised verandas without ramps and therefore not easily accessible to persons with disabilities

REFUSAL TO ACCEPT POLLING AGENT TO OBSERVE PROCESS

At one of the polling stations, a presiding officer denied the agent of a political party. He argued that any other agent from the party was welcome but not the agent in question because according to him in the previous councilor's election the agent was involved in a noisy quarrel with others which made it difficult for him to hear the bell.

The agent said it was true that he was involved in a quarrel. He explained that it started when he and a polling agent had a political dispute while discussing politics and IEC polling officer, joined in taking the side of the other agent. He said he told her to stop what she was doing because as an IEC official it was wrong for her to be involved in such partisan discussion, which polling officer did not accept hence the quarrel. The agent's side of the story was not disputed by the presiding officer and the polling officer.

NOT COUNTING BALLOT TOKENS BEFORE THE START OF POLLS AND NOT COUNTING UNUSED TOKENS AFTER THE COUNTING OF BALLOTS

Not counting ballot tokens before the commencement of polls and also not counting unused ballots in the presence of party agents and independent observers, lessened the transparency of the process. If this is not done, certain irregularities or fraudulent acts may go undetected.

VOTING PROCEDURAL BREACH

The issue of marking a voter's finger even before identifying him in the voter list, is a serious procedural breach.

RECOMMENDATIONS

The recommendations below are by no means exhaustive. In order for this report to help improve the electoral process, it is important for the commission to take note of the adverse findings and determine other measures in addition to our recommendation for a more holistic improvement of the process.

- It is recommended that the incident of the alleged voter fraud be fully investigated by the police with the objective of recommending to the commission ways to fortify its systems to guard it against those who may want to commit fraud in our elections.
- Following the invitation by the police of the said voter which happened on poling day, it is recommended that the police share with the relevant election stakeholders what action they have taken relating to criminal charges. If no criminal charges

have been pressed, convey reasons for that; and if the process of investigation is not concluded, give an update on the state of the investigation.

- IEC should take a strong stance on issues of voter fraud, especially in view of its strong intent to migrate from marbles to paper ballot which may be more prone to voter fraud. In light of the fact that the marble system has already earned the trust of Gambians, any commitment to adopting a new ballot system should be matched with a commitment to the fight against voter fraud in all its forms.
- Given that maintaining the trust and confidence of all stakeholders in the process is vital. The transparent and fair nature of the process must be underpinned by the professionalism of all polling staff. It is therefore recommended that the IEC develop a code of ethics for its polling staff which should aim at, among other things, entrenching the principles of impartiality and prohibiting their involvement in partisan politics in all of its manifestations and specify sanctions for any violations thereof.
- Presiding officers should not reject party agents. Any reservation they may have about an agent should be communicated to the IEC for investigation and for the IEC to look into the matter and covey its decision and reasons thereof to the relevant stakeholders
- Polling day is reserved strictly for polling. Political discussions or arguments by agents of candidates should not be allowed at polling stations. Noisy arguments can distract the attention of or make it difficult for a presiding officer to hear the bell. It is also possible for such arguments to degenerate into physical confrontations thereby disrupting the process. It is therefore recommended that the commission adopts measures to ensure that such does not happen. One such measure can be creation of a code of conduct for agents similar to what is developed for other observers and make agents or their parties to sign and agree to be bound by the code. Violation of code should result in agent's disqualification from observing process.
- The commission should make changes to the ballot drums by adopting higher-sounding bells or modernize it in order to prevent incidents of invalid ballots as it can be used by another voter to vote twice or take it out thereby affecting the tally of total ballot tokens issued and the ballots used. Such discrepancies can raise doubts which does not promote election integrity.
- Polling staff should strictly observe voting procedures in order to prevent the recurrence of marking a voter's finger with indelible ink whose name is not even in the list. The IEC should adopt measures to enforce the observance of procedures by its staff.
- IEC should make the polling booths more accessible to persons with disabilities. The schools or places where rooms were utilized still have enough space for erecting booths on the ground. It is recommended that this strategy be employed for increased accessibility for persons with disabilities.
- IEC should undertake adequate voter education especially on voter eligibility requirements, importance of local government elections and other important matters to improve voter turn-outs.
- All presiding officers should, despite having prior knowledge of the number of tokens issued to them, recount them for the confirmation of party agents. They

should also count unused ballots. It is recommended that these be enforced by the IEC as it will improve the transparency and trust in the electoral process. It may also serve as a means of uncovering electoral fraud.

- In order to improve security at polling stations, IEC should provide additional security outside polling stations.
- IEC should ensure that there are no display of party logos, symbols and other political materials outside of the polling stations. This could have prevented the Brufut incident.
- Demonstrative pictures should be large enough and clearly printed in colour to relay the intended information.
- Polling stations should not be situated in open areas. Polling should be held in fenced premises. This will make it easier to protect IEC personnel and voters during unforeseen security breach. Open areas allow intrusion by persons and the moving cars, motorbikes and people can create a noisy environment.
- Non accredited persons should not be allowed entry in the counting centers. This may attract unnecessary groups of people supporting different candidates which can lead to noisy quarrels or even confrontations which in turn can disturb election officials or even disrupt the counting process.
- Food vendors should not be allowed to sell inside polling stations. The selling of food inside polling premises can lead to the formation of crowds which has security implications. Voters are only required to queue, vote and go home.

INVESTIGATIONS

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

ASSETS DECLARATION

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.

During the year under review 81 Assets declaration forms were issued. Out of these 51 public officials submitted their declaration forms. These included the Secretary General, Chief of Staff, Secretary to Cabinet, Solicitor General,Permanent Secretaries, Deputy Permanent Secretaries and Director Generals. From 2018 to 2023 222 public official including ministers had declared their assets to the Ombudsman.The process will be trickled down to all senior government officers and those in parastatals. A cardinal principle of ombudmanship is to treat information with confidentiality, integrity, justice and fair play. The Ombudsman will ensure that the fundamental rights and freedom of all citizens are safeguarded.

1.4.2 CONSTRAINTS

I. The regional offices Mansakonko, and 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.

II. Inadequate funds for training and capacity building

III. Another constrains the office is facing is lack of vehicles.

1.4.3 WAYFORWARD

- 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 prisons and police cells and all detention centres in the whole country
- Visiting mental health homes and hospitals
- To execute Section 223 of the 1997 Constitution of Republic of The Gambia, Declaration of Assets by Public Officials
- 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".

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

Staff training continues 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, the director of investigation successfully completed his LLB program with the University of The Gambia. The principal investigator/ Legal adviser is currently pursuing BSc Psychology at the International Open University.

LOCAL TRAINING

NAME	**DESIGNATION**	**TRAINING COURSE**	**INSTITUTION**	**DURATION**	**SALARY STATUS**	**SOURCE OF SPONSORSHIP**
Pierre Simon Secka	Director of Investigation	LLB Programme	University of The Gambia	2019-2023	With salary	Ombudsman
Jainaba Camara	Principal Investigator/legal adviser	BSc Psychology	International Open University	2o24-2027	With salary	Ombudsman

CHAPTER 3

3.1 MONITORING VISITS TO PLACES OF DETENTION

In pursuance of section 11(2) of the Ombudsman Act, 1997, the Office of the Ombudsman in 2023 visited prisons, police cells and other places of detention. The objective of the visits was to examine the treatment and condition of persons deprived of their liberty and make recommendations for improvement and compliance with national, regional and international human rights standards. The members of the visiting team were Samba Bajie Deputy Ombudsman, Landing Bondi Director of Human Rights and Sanna Badjie investigator.

During the visits the team had initial talks with heads of the institutions, toured the places of detention, had interviews with the persons deprived of their liberty and the officers in charge of them, checked custody registers and other documents and had a final talk with the head of detention facilities.

Areas that the visiting team examined included cells, sanitation and hygiene, food and water, health care, contact with the outside world, treatment, access to justice, education and vocational training, sport and exercise.

VISIT TO PRISONS

The Office of the Ombudsman visited Janjanbureh Prison on 13 March 2023 and Mile 2 Prison Security Wing on 21 December 2023.

ACCOMMODATION

Janjanbureh Prison had three cells: cell number two, cell number five and the remand wing. There was a total of 93 inmates, 41 of whom were remand prisoners and 52 were convicted prisoners. There was no female inmate at the time of the visit.

Cell number two had 25 inmates at the time of the visit, 21 of whom were convicted prisoners and 4 were remand prisoners. It had 23 Gambians, 1 Senegalese and 1 Guinean. The cell was found clean. It had big windows. However, the windows had no cover and were always open, which made it easy for insects and wind to enter the cell. The cell had good ventilation, natural light and artificial light. It had two big wall fans but one of them could not rotate and the other one was not in good order. Each inmate slept on a mattress under a mosquito net. The mattresses in the cell were old and wearing out. The inmates expressed concern that the mattresses were old and smelled and needed to be changed.

The remand wing had 20 inmates, 15 of whom were Gambians, 1 Indian, 2 Senegalese, 1 Malian and 1 Guinean. The cell was found clean. However, like cell number two, the windows of remand wing had no cover and were always open, which made it easy for insects and wind to enter the cell. The cell had good ventilation, natural light and artificial light. It had two big wall fans. The inmates slept on mattresses under mosquito nets. The mattresses were old. The inmates complained of the state of the sheets of their beds and suggested that they should be changed every six months for health reasons. They also complained that the mattresses and the sheets of released inmates were usually given to newly admitted inmates.

The television set in the remand wing was very small. Inmates at the far end of the cell could not have proper viewing of the television.

Cell number five had 40 inmates, 29 of whom were convicted prisoners and 11 were remand prisoners. Seven of the inmates were Senegalese, one was a Guinean and the rest were Gambians. The cell was found clean and had artificial light and some natural light. It had large windows. It also had two big wall fans but they were not rotating. The cell had inadequate ventilation compared to cell number two and the remand wing. This was because there were structures built immediately behind the cell that blocked the flow of air into it. The mattresses of the inmates were old and needed replacement. The cell had a small television set but inmates at the far end could not view it properly.

None of the cells had chairs and tables, which inmates could use when eating food or doing other things. The cells did not also have wardrobes. Inmates put their clothes on mosquito nets**.**

Some of the cells in the security wing number 5 of Mile 2 Prison did not have artificial light. They did not also have fans for adequate ventilation. The windows of some of the cells were big. However, some inmates said that they did not get adequate fresh air through the windows. The inmates added that the place got very hot during the rainy season and that their mattresses got wet due to sweat. The doors of some of the cells had only one small opening, which was not good for ventilation. The inmates also said that their cells got very cold during harmattan. There were also inadequate mattresses, mosquito nets and blankets at security wing number 5. The cells did not also have chairs, tables and wardrobes.

SANITATION AND HYGIENE

The cells at Janjanbureh Prison had toilets and bathrooms with taps. The toilets were found clean. However, the taps in the bathroom of the remand wing had broken heads and the water kept flowing continuously into the sewage.

The inmates complained that the soap given to them for laundry was inadequate. They added that each inmate was given one bar of soap every Thursday. They also said that they did not have enough detergents to clean their toilets. The soakaways were full and flowing out. There was artificial light between the toilet and bathroom. However, the bathroom was dark as it could not get enough light.

The inmates at the security wing number 5 said that they were not allowed access to the toilets at night. The toilets were not in the cells. They added that each inmate urinated and defecated in a bucket kept in the cell. The inmates also complained that they were not given enough soap. Each of them was given one small bar of soap every Thursday, which confirmed what the inmates at Janjanbureh Prison had said. They said that the soap was not enough to wash their clothes, basins and toilet buckets and for bathing. The Director General of the Gambia Prison Service called one of his officers to find out whether each inmate was given two bars of soap but the officer informed him that only one was given to each. The inmates also said that they needed chemicals to clean their toilets. They added that they were not provided with toothpaste, toothbrush, shoes, T-shirts and underwear.

FOOD AND WATER

rotten and they had to throw it away. They added that the butter given to them was not good as it caused pimples. Some inmates said that only breakfast was good and that lunch did not have ingredients whilst the 'chereh' for dinner was always dry. The cooks confirmed that they did not have enough ingredients for the food they prepared for the inmates. Other inmates said that the food given to them was small.

The inmates at The Gambia Prisons Service provided Janjanbureh Prison with foodstuffs such as rice, oil and groundnut paste and money for the prison's diet. However, Janjanbureh Prison's authorities informed the visiting team that they experienced inconsistency and delays in receiving quarterly imprest from The Gambia Prisons Service. They added that they had not received the imprests for June, July, August, September October, November and December 2022 and for January and February 2023. They further stated that delays in getting imprests affected prisoners' diets.

The inmates in all the cells at Janjanbureh Prison stated that the sauce put in the 'cherreh' was terribly bad as it usually turned sour within three hours. They informed the visiting that on many occasions they poured the sauce as it was watery. The visiting team was shown a bucket full of sauce. The inmates also stated that the fish they were served with sometimes got Mile 2 confirmed most of what the inmates at Janjanbureh said. Whilst the inmates at security wing number 7 of Mile 2 Prison said the food given to them was enough, some of the inmates at security wing number 5 said they were given only one basin each for lunch, which they considered inadequate, compared to the inmates serving life sentence who were given two basins each. The inmates in both security wing number 5 and security wing number 7 complained that the food given to them was not nutritious. They added that the preparation of the food was poor and that the food given to them was plain one as it did not have vegetables such lettuce and potatoes. They also said that some got beriberi in the prison due to poor quality of the food they were served with. One of the inmates said, 'The condition of the food definitely needs improvement.' He said that the first time he saw 'chere' (food made from maize or millet) he thought it was 'churaigete', which is a different meal made from rice and groundnut.

The inmates at Mile 2 also said that the local bread (tapalapa) given to them was not of good quality compared to the ones in the communities. Lack of a variety of food was also complained about. The inmates said that dinner was usually only 'chere' for two or three consecutive days and sometimes pap. The inmates in both security wing number 5 and security wing number 7 said that every day they were given only bread and butter for breakfast, except for Saturday, when they were served with 'churaigerte'. They also said that the bread given to them was smaller than the ones eaten at homes. The inmates added that as convicts they were not allowed to receive food from their relatives. They added that they were also not given fruit.

The prison's kitchen was found unclean. Cooking pots and one of the big cooking spoons were not in good condition. The cooks at the kitchen informed the visiting team that they needed more bowls. They also said that the mill for grinding millet always had a breakdown. The mill was donated by Anita Smith, a philanthropist. The prison had no electrical cooker. The prison officers said that they fetched firewood for cooking. The visiting team saw firewood in the kitchen.

Mile 2 Prison had a new building that was meant to serve as a kitchen but at the time of the visit it was not being used. The food for the inmates was prepared at an open place. The place was not cemented. The prison officers who served as cooks complained that they were disturbed whenever there was rain. This was acknowledged by the Director General, who considered the place a temporary kitchen.

The prison officers at Janjanbureh said that they no longer had the water problem they encountered in the previous years as they were connected to the borehole dug by the police credit union. All the cells had taps where inmates fetched water to drink. However, the tap in cell number five was not working. Water was provided to the cell through a long pipe from a tap outside of the cell. The inmates complained that they were getting their water from a pipe which was not safe. They maintained that at night the taps outside were normally closed and when that happened, they did not have any water.

CONTACT WITH THE OUTSIDE WORLD

Janjanbureh Prison had no communication facilities for the inmates to communicate with their families and others. Justice Defenders Unit in the prison helped the inmates to communicate with their families and others. Justice Defenders provided telephone calls to the inmates and those who wished to make international calls were assisted through WhatsApp. However, some of the inmates said it was difficult for convicts to make calls compared to remand prisoners. One of them, a Senegalese, said he wanted to call his people but it was not possible.

Convicts at Mile 2 security wing number 5 were allowed visits only once a month. The inmates said they were not allowed to make calls. They added that they made calls at Justice Defenders once a month but sometimes even that was not possible because they told them that they did not have enough officers. One of the inmates said he could not make any call for almost two months. The inmates also stated that they were not allowed to send letters to families and others and that the prison officers asked them to tell them what they wanted to say to their families for them to relay it to them. One of them said he once wrote a letter but was told that it was not allowed.

Those in security wing number 7, which included a former minister and a former permanent secretary, said they were allowed special visits compared to the other convicts.

Inmates in the two prisons did not have access to newspapers to inform them of certain things happening in the country.

TREATMENT

The officers at Janjanbureh Prison informed the visiting team that they did not receive any complaint of torture or other ill-treatment from the inmates. The inmates confirmed to the visiting team that they were not ill-treated by the prison's officers. However, an inmate in Mile 2 security wing number 5 said that he had seen some inmates being beaten by prison officers in 2023. He also said that in some instances he was informed by other inmates that a particular person was beaten and he could see marks on him. He added that he himself had not been beaten since 2020.

The Director General said they had issued a memo warning officers to desist from ill-treating inmates. He added that they had asked the officers about the alleged ill-treatment but they denied it.

Inmates in Mile 2 security wing number 7 also said that there was excessive solitary confinement of up to one month.

ACCESS TO JUSTICE

Infrequent courts sittings were a big challenge for the inmates' access to justice. The officers at Janjanbureh Prison informed the visiting team that there was only one travelling magistrate for Bansang and Basse Magistrates' courts. The visiting team was informed that one of the prisoners involved in mobile theft and remanded by Mansakonko Magistrates' Court was waiting for judgement for eight months. The inmates in the remand wing also informed the visiting team that other remand inmates were also waiting for the progress of their cases for seven months since being remanded by Jareng and Basang magistrates' courts. The authorities at Mile 2 Prison stated that court proceedings were too slow. They added that the courts kept on adjourning cases whilst the police dumped people in the prisons.

Janjanbureh Prison had an independent unit called Justice Defenders, which provided free legal services such as helping inmates know their court schedules, tracking their case files and mediating for out-of-court settlement between inmates and other parties.
The inmates in the security wing of Mile 2 said that lack of bail regulation in the country is a problem as things are left with the judges. They also expressed concern about the government not providing enough resources to National Agency for Legal Aid (NALA) to enable it to defend the inmates.

SEPARATION OF INMATES

Keeping different categories of prisoners in separate institutions or parts of institutions is an international standard which was not fully observed in either of the two prisons. Remand prisoners and convicted prisoners were found in the same cells in Janjanbureh. Whilst remand prisoners and convicted prisoners were not kept in the same cell at Mile 2 Prison, they were not separated as they were found sitting in the same place. There was no barrier between their cells. Mandela Rule 11(b) states that 'untried prisoners shall be kept separate from convicted prisoners.'

The inmates at Mile 2 security wing expressed concern that inmates were not classified. They added that it was not proper to put repeat criminals in the same place with first time offenders as they could influence them. They also said that prisoners with health problems such as TB patients and those with mental health disability were put together with other prisoners instead of separating them. They further said that whenever they spoke to the prison authorities about it, they were always told that Tanka-Tanka Psychiatric Hospital was full.

HEALTH CARE

Janjanbureh Prison had no clinic. Sick inmates were taken to the health centre opposite the prison. The prison had no ambulance that they could use to transport inmates that were referred to Basang Hospital or other hospitals. Inmates informed the visiting team that constipation was very common in the prison.

The inmates in Mile security wing complained of a shortage of drugs at the clinic. They said that even paracetamol was not available. Only diclofenac was available. The inmates added that they were usually asked to tell their families to buy the drugs that were not available at the clinic. One of the inmates in security wing number 7 produced a receipt for the paracetamol and ibuprofen bought by his wife following recommendation by the nurses at the clinic. Some of the inmates suggested that there should be qualified officers at the clinic including a medical doctor.

EDUCATION AND VOCATIONAL TRAINING

There were neither basic education nor senior secondary education in any of the two prisons. This was confirmed by the Director General of Prisons. As regards vocational training, Janjanbureh Prison had a building renovated by the United Nations Development Programme (UNDP), which was used by Insight Training Centre to train inmates in solar installation, electrical installation, tailoring and entrepreneurship. However, the prison authorities informed the visiting team that the number of inmates enrolled in the centre was extremally low because many were not interested in the training.

Mile 2 Prison provided vocational training in electrical installation, satellite fixing, tailoring, carpentry, welding, soap-making, block and tile laying, entrepreneurship and IT. Training was provided to only inmates who expressed interest. One of the inmates in security wing number 5 said he did an electrician course and satellite installation. However, officers at Mile 2 Technical Training Centre, where welding, plumbing, wiring and carpentry were done, said they did not have the required tools to do their work, such as welding machine, grind machine and machine to cut, split and turn wood to make beds.

Janjanbureh Prison had no library. The books in the prison were kept in the receptionist's office. They were old books, mostly novels. The officers at the prison informed the visiting team that inmates were more interested in reading holy books than the other books. The inmates at Mile 2 security wing said that the library in the prison did not have enough books. They also said that the books were old.

EXERCISE AND SPORT

Janjanbureh Prison had no sports facilities. The inmates were not given the opportunity to do daily exercise as required by the Mandela Rules 23(1). The prison officers informed the visiting team that the prison was very small and did not have enough space to accommodate sporting facilities. They added that the prison had no tower to monitor the movement of the inmates. The inmates in the remand wing stated that they saw sunlight only when they were taken to court. They added that they needed sunlight even for at least 30 minutes.

The inmates in Mile 2 security wing said they were allowed to play football and walk around but the place was small.

CLOTHING AND BEDDING

Many of the convicted prisoners in both prisons were provided with only one pair of uniform. The Director General said that each inmate was entitled to two pairs of uniforms but in reality some were given two whilst others only one due to budget constraints. The inmates in the security wing of Mile 2 said they did not have enough jumpers, blankets and bedding whilst the convicts at Janjanbureh said they did not have any jumpers.

SECURITY AND SAFETY

Janjanbureh Prison had no tower. The prison officers said that lack of towers was one of the reasons why inmates could not do any exercise. Both Mile 2 and Janjanbureh had no fire extinguishers and no CCV cameras. Some of the inmates at Mile 2 security wing said that security was a concern as prisoners with mental disability were put in the same place with other prisoners.

MONEY ALLOCATED TO EACH INMATE

The Director General stated that the government still allocated D6 to each prisoner every month, which he considered small. He further said that if a prisoner spent 10 months in prison, he would get only D60, which would not be enough for even his or her fare if he or she was going to travel back home to a far place such as Soma. He added that it was he the Director General and the prison officers who gave money to the released prisoners who asked for fares.

PRISON BILL

The Director General of the Gambia Prison Service and the other senior prison officers said the Prison Bill, which was drafted several years ago, was still at the Ministry of Justice. Many provisions of the current Prison Act are not in line with the international human rights standards.

STAFF MATTERS

Janjanbureh Prison had only one pick-up for transporting prisoners to and from courts. The authorities informed the visiting team that when they transported inmates for trial at Basse Magistrates' Court, the ones going to Mansakonko Magistrates' Court had to wait for the return of the pickup. The authorities expressed concern that the pick-up exposed the officers and the inmates and suggested provision of an appropriate escort van. They also said that the officers that escorted the inmates were not paid night allowances to take care of their needs and accommodation.

The authorities at Janjanbureh also suggested that the prison should have satellite cells in Basse and Mansakonko because the police cells in which they kept the inmates awaiting trial were sometimes overcrowded.

Janjanbureh prison had only one printer and one computer used by the receptionist. Even the commissioner of the prison had no computer. The prison had no photocopier, no scanner and no internet connectivity. The commissioner had no office. The space identified for the commissioner's office was given to the riot squad as it was small and not conducive to his work. The prison had inadequate furniture.

RECOMMENDATIONS

- Ministry of Interior should work with Ministry of Justice and the Judiciary to ensure that there are frequent courts sittings to avoid delay in cases.
- The Gambia Prison Service should ensure that inmates of different categories are separated, as stipulated in rule 11 of the Mandela rules.
- The Gambia Prison Service should ensure that prisoners are not beaten or ill-treated in any other form by any prison officer. Solitary confinement should be avoided as much as possible. Beating or any other form of ill-treatment is contrary to Rule 1 of the Mandela Rules, Article 7 of the International Covenant on Civil and Political Rights and Section 21 of the 1997 constitution of the Gambia.
- The Gambia Prison Service should ensure that inmates are provided with adequate nutritious food, as required by the Mandela Rules 22(1). Vegetables and fruit should be provided.
- Ministry of Interior should ensure that all the prisons have standard kitchens with adequate cooking utensils and other facilities. Prisons should do away with firewood and use electric cookers to avoid health hazards and other risks.
- The Gambia Prison Service should ensure that all prisoners are provided with sufficient good mattresses.
- The Gambia Prison Service should ensure that all the cells in the security wing of Mile 2 have adequate artificial light and fans. Cells in all the prisons should have adequate ventilation and natural light.
- Ministry of Interior should ensure that all the prisons have sports facilities and inmates are allowed to do sport or exercise for at least one hour.
- Ministry of Interior should ensure that adequate drugs are provided to all the prisons.
- Ministry of Interior should communicate with Ministry of Health for a medical doctor to be posted to Mile 2 Prison.
- Ministry of Interior should also ensure that an ambulance is provided to Janjanbureh Prison to facilitate transfer of sick inmates to Basang Hospital.
- Ministry of Interior should provide Janjanbureh Prison with Communication facilities for the inmates to call their families and others.
- Ministry of Interior should work with Ministry of Basic and Secondary education to ensure that basic and secondary education is conducted in all the prisons.

- More efforts should be made to encourage inmates to take part in vocational training. The Gambia Prison Service should ensure that adequate tools are provided to the technical training centre at Mile 2
- Ministry of Interior should build a modern library in Janjanbureh prison for the use of all inmates and new books should be provided to Mile 2 library. The libraries should also have newspapers for prisoners.
- Convicts should be allowed to have visitors at least once a week rather than only once a month, as visits contribute to rehabilitation.
- Prisoners should be allowed to send letters to families and friends and also receive them, subject to prison security rules, rather than making a blanket ban.
- The Gambia Prison Service should ensure that the cells at Janjanbureh Prison have covers to prevent wind and insects from entering.
- The Gambia Prison Service should ensure that prisoners of foreign nationalities communicate with their families and embassies as frequently as possible.
- All prison cells should have wardrobes, chairs and other furniture for the prisoners' use.
- The Gambia Prison Service should ensure that all inmates have access to toilets at all times, including at night, for prisoners not to defecate in buckets in the cells.
- The Gambia Prison Service should provide inmates with enough soap and other detergents, instead of only one small bar of soap every week.
- The Gambia Prison Service should provide inmates with toothpaste and brush on a regular basis.
- The Gambia Prison Service should ensure that soakaways at Janbureh Prison are frequently drained to avoid health hazards.
- Ministry of Interior should ensure that enough uniforms, jumpers and bedding are provided to inmates in all the prisons.
- Ministry of Interior should ensure that all the prisons are provided with fire extinguishers, CCTV and other relevant facilities for better security.
- Ministry of Interior should ensure that Janjanbureh Prison has enough computers, printers, photocopiers, internet facility, furniture and other relevant office facilities.
- Ministry of interior should ensure that enough escort vans are provided to the prisons.
- Ministry of Interior should frequently contact Ministry of Justice to ensure that the Prison Bill is passed into law.
- Ministry of Interior should communicate with Ministry of Finance to ensure that the Gambia Prison Service is allocated sufficient budget to ensure that prisons meet international standards for better protection of the human rights of all prisoners.
- New prisons should be built to replace Mile 2 and Janjanbureh Prisons, as they do not have enough space and facilities to meet international human rights standards.

VISITS TO POLICE CELLS

Many police detention facilities in different regions of the country were visited in 2023. including Banjul Police Station, Serrekunda Police Station in Kanifing Municipality (KM), Bundung Police Station in KM, Sukuta Police Station in West Coast Region, Barra Police Station in North Bank Region (NBR), Farafenni Police Station in NBR, Kaur Police Station in Central River Region (CRR), Basang Police Station in CRR, Basse Police Station in

Upper River Region (URR), Fatoto Police Station in URR, Soma Police Station in Lower River Region (LRR) and Mansakonko Police Station in LRR.

CONDITION OF CELLS AND DETENTION ROOMS

The police cells had no artificial light except for Serrekunda Police Station, which had new cells built by GIZ, and Koliyorr Police Station in LRR. Most of the police cells did not have windows. They had only holes or openings. As a result, the cells had little or no ventilation and natural light, which was far below or not in line with international standards. There were also no fans in the police cells except for the cells at Serrekunda Police Station. The cells at Kanifing, Bakoteh, Sukuta, Kerewan, Soma, Banjul Ferry Terminal Police Post, Fatoto and some other police stations were found dark. Brikamaba cell was the worst as it had neither a window nor an opening and was the darkest. Only Banjul, Anti-crime Unit, Barra and Bakadagi Police stations had big windows. Janjanbureh, koliyorr, Diabugu and Amdallai police stations had medium windows. Most police cells also had thick doors with no opening. Floors of many cells were not tiled or concreted.

None of the police detention facilities had mattresses for detainees to sleep on. Detainees slept on mats or cartons provided by police officers. Many police stations had both cells and detention rooms. Detainees were allowed to be in the detention room during the day and some even spent the night there. The police did not have separate cells or detention rooms for women and juveniles. Women were kept behind the counter and children sat in the charge officer or put under the care of a child welfare officer if the station had any. Only Serrekunda Police Station had three cells, one for male detainees, one for female detainees and one for juveniles.

SANITATION AND HYGIENE

Many of the cells were found clean but the cells in Farafenni, Kairaba, Kanifing, Sare Ngai, koliyorr and some other police stations were not clean.
Most of the police cells did not have toilets. Toilets were found in another room in the station or outside the station. Serrekunda, Bundung and Kaur police stations had toilets in the cells with taps whilst Kuntaya, Bakoteh and a few other stations had toilets beside the cells or in the detention room next to the cells. Detainees at Banjul Ferry Terminal, Njain Sanjal, Jareng, Sare Ngai, Karanta and Juffureh police stations used pit latrines. Many of the toilets were found clean. In some police detention facilities detainees were not allowed to go to the toilet at night. In Farafenni Police Station, Banjul Ferry Terminal Police Post and Anti-crime Unit detainees used 20-litre gallons in the cells to urinate at night.

Most of the police stations were not supplied with detergents to clean cells. For example, officers at Kaur, Firdawsey, kuntaur, Farafenni and many other police stations and posts said they were not provided with any detergents. The ones that were given detergents said that they were inadequate as they did not last for a month. The officers at most of the stations said they used their own money to buy detergents. Those at Kairaba Police Station said they were not supplied with any detergent unless they applied for it whilst the ones in Kanifing said they struggled to get detergents. The officers at Bundung said the detergents given to them were insufficient and irregular. Almost all the police stations in the regions were not provided with any detergents by the police headquarters.

Most police cells were not fumigated. Officers at Bundung Police Station said they used their own money to buy chemicals and asked public health officers to spray the cells. They added that cells were fumigated from time to time but not every three months.

FOOD AND WATER

In most police detention facilities government did not provide any food for the detainees**.** It was the police officers who fed detainees by sharing their lunch with them. Although some officers said they bought bread for detainees, breakfast and dinner were usually not provided. For example, the officers at anti-crime said that they provided only lunch. A detainee at Banjul ferry Terminal said he was detained a day before the visit but was not given any food since then. He added that he did not eat anything for dinner and that it was his cell mate who bought some fish pie and gave two to him for breakfast. Detainees at Kanifing, Kairaba and Old Jeshwang police stations said they were given only lunch whilst detainees at Bakoteh Police Station said they were given lunch and dinner, both meals brought to them at the same time. Banjul, Bundung, Serrekunda and few other stations received lunch for detainees from Police Intervention Unit (PIU). Some detainees complained of the food not being enough. Detainees at Serrekunda Police Station said they contributed and bought a local dish call 'mbahal' for dinner and also bought breakfast that day. Thy added that if they did not have any money the police officers at the station bought food for them.

The five police stations in URR were each given a bag of rice, oil, onions and potatoes in December 2022 to feed detainees but in January 2023 they were given only a bag of rice as the money allocated for feeding detainees was reduced from D15,000 to D10,000. The stations were Basse, Bakadagi, Diabugu, Fatoto and Sare Ngai police stations. The money was sent by police headquarters in Banjul to the treasury in the office of the governor of URR. The station officer of Basse police station received the cheque from the governor's office, bought bags of rice and called the station officers of the other four stations to come to his office and receive them. The officers at these five stations said in March 2023 that they had finished the rice sent to them and were since then using their own money to feed detainees. Four police stations in CRR were given money in August 2022 by the police commissioner in the region to feed detainees for three months, up to November 2022. The officers at Basang and Firdawsey police stations said they were each given D2900, those in Njau said they were given D3000 and the ones in Kaur said they received D2000. However, after the end of the three months no other money was given to these stations for four months. The officers at the stations said they used their own money to fed detainees up the time of the visit in March 2023. The officers at the other five detention facilities in CRR said they had not been given any money to feed detainees. They were Karantaba Police Post, Brikamaba, Janjanbureh, Jareng and Kuntaur police stations. Detainees also got food from families but the ones whose people were far from the area did not get that. Detainees were provided water from the taps at the stations and posts.

CONTACT WITH THE OUTSIDE WORLD

The government did not provide any communication facility at the police detention facilities for detainees to communicate with families, friends and others. Detainees who had phones were usually allowed to make calls, but most of the time it was the police officers who gave their phones to detainees to call families or made calls for detainees without phones. Detainees were also allowed to be visited by their families and others. For example, a detainee at Old Jewshang Police Station said he was visited by his family and given a phone by the police to make calls and a detainee of Senegalese nationality at Basse Police Station said he had spoken to his family in Senegal through whatsap using his fellow inmate's phone.

TREATMENT

The police officers at the detention facilities stated that they did not beat or ill-treat detainees in any other way. Detainees in most police detention facilities said they had not been beaten or ill-treated in any other way. However, one of the detainees, a Senegalese, said he was handcuffed for one hour and that while being handcuffed, he was told 'you will talk' in Wollof. Two detainees at Bakoteh Police Station said they were beaten by some officers at the back of the station. One of them said he was beaten with bare hands whilst the other one said he was slapped and beaten with a stick by the PIU and other police officers wearing black uniform, and not the officers at the station. A detainee at the Anti-crime Unit said he was handcuffed and beaten with pipes and sticks by plain clothes officers to confess stealing a motorbike. Others at the unit said they were not beaten but foul words were used against them. The station officer at Banjul Ferry Terminal Police Post said he had received a complaint from a detainee that he was slapped by an officer and that he warned the officer to desist from that.

LAWFULNESS OF DETENTION

Many police detention facilities kept detainees not more than 72 hours, as stipulated in section 19 of the constitution. However, there were instances in which detainees were kept for many days. Three of the detainees at Basse Police Station were kept for 10 days without being taken to court. One of them said a bail was open for him and somebody came to bail him but was told that he was not qualified. The officers at the police station said that for three weeks the magistrate was not sitting in Basse and this had led to over-detention or detention beyond 72 hours. They added that those who were unable to meet the bail conditions had to be detained beyond the stipulated time as they could not be taken to the court to determine whether to release them or continue detaining them. The magistrate was in charge of URR and CRR South. The officers at Farafenni, Barra, Janjanbureh and Soma police stations also said that meeting the stipulated time of 72 hours was a problem for them due to lack of permanent magistrates and infrequent court sittings. One magistrate was in charge of Barra and Farafenni. He had sittings in Barra on Mondays and Tuesdays and Farafenni on Wednesdays and Thursdays.

HEALTH CARE

Sick detainees in police detention facilities were taken to nearby health facilities and given drugs for free when available**.** A detainee at Basse Police Station said he was taken to Basse Health Centre when he informed the officers that he had a general body pain and was given drugs. Another detainee at the station said he had seen sick detainees being taken to the health centre. Officers at most police detention facilities said they were not asked by the health facilities to pay for a ticket when they took sick detainees to them. However, there were some that paid for the ticket whenever they took sick detainees to health facilities. Officers at Bakoteh, Kairaba and Fatoto police stations said they were asked to pay D25 for the ticket whilst those at Mansakonko said sometimes they did not pay anything. When drugs were not available it was mostly detainees or their families who bought them but sometimes it was done by the officers.

STAFF MATTERS

The most common problem faced by the police was lack of vehicles. For example, the whole of Kanifing Municipality (KM) West had only one vehicle stationed at Serrekunda Police Station and four police stations were under this area. The police also complained about being paid very small house rent, such as D250 for first class and D1156.35 for chief inspector. They also said they were not provided with law books such as Criminal Code and Children's Act. Some of the other challenges were lack of computers, photocopiers, printers, internet access, staff quarters, inadequate furniture, inadequate stationery, irregular supply of uniforms, delay in promotions, non-renovation and fencing of stations,

RECOMMENDATIONS

- Ministry of Interior should allocate funds for the feeding of detainees in all detention facilities, which is adequate for breakfast, lunch and dinner.
- All police detention facilities should have adequate ventilation and natural light
- All cells should have large windows which allows entry of natural light and fresh air.
- There should also be fans in all cells and detention rooms as places get very hot during summer.
- All police cells and detention rooms should have electric bulbs for adequate artificial light. This will facilitate reading for detainees interested in that.
- Cells should not have thick doors. The doors should have spaces or openings for more ventilation and visibility.
- The floors of the cells should be tiled or concreted for decency and respect for detainee's dignity.
- Mattresses should be provided to all police detention facilities instead of mats.
- All police detention facilities should have separate cells and detention rooms for males, females and juveniles.
- There should be toilets in all the cells or detention rooms to allow detainees to use them at all times including night, as is the case in Serekunda, Bundung Kaur and few other police stations. The toilets should be flush or squat toilets instead pit latrines found in Sare Ngai, Njain Sanjal, Jareng and other stations.
- All police detention facilities should be regularly supplied with adequate detergents for cleaning of cells. Instead of asking officers to come all the way from the provinces to police headquarters in Banjul to collect detergents monthly, the items should be sent to regional police commissioners for easy and quick distribution to detention facilities in their areas.

- The Inspector General of Police (IGP) should ensure that all police detention facilities are regularly fumigated, at least once every three months, to prevent occurrence of infectious diseases and health issues.
- Treatment of detainees in all government health facilities should be free as detainees are under care of government. Ministry of interior should communicate with ministry of health to ensure that police office are not asked to pay D25 for a ticket whenever they take detainees to government health facilities.
- Ministry of Interior should have a discussion with the Judiciary for permanent or sitting magistrates to be posted to Basse, Farafenni and other regions to prevent detention of detainees beyond 72 hours stipulated in section 19 of the 1997 constitution.
- The IGP should ensure that no detainee is beaten and unnecessarily handcuffed. This may constitute torture, inhuman or degrading treatment or punishment, contrary to section 21 of the 1997 constitution and the Prevention and Prohibition of Torture Act 2023.
- Upon arrival at the detention facilities, all detainees should be informed of their human rights, including the rights to freedom from torture, inhuman or degrading treatment, right to have access to a lawyer and the right to communicate with families and others.
- The IGP should ensure that all detention facilities have communication facilities to enable detainees to communicate with families and others easily.
- Ministry of Interior should ensure that all police detention facilities are provided with cars such as pickups to facilitate their operations, including taking detainees to court on time.

IMMIGRATION DETENTION FACILITIES

Four immigration stations and two immigration posts were visited in 2023. The immigration facilities visited were: Soma Immigration Station, Bureng Immigration Station, Basse Immigration Station, Bansang Immigration Station, Bakadagi Immigration Post and Babung Fatty Immigration Post.

The visiting team was informed that it was non-nationals who did not regularise their stay that were detained. They were detained to pay for the residence permit. Detainees did not usually spend the night there. They were usually kept for 24 hours (one day) but the officers at Babung Fatty said sometimes detainnees were held for 48 hours (two days).
Babung Fatty Immigration Post, Soma and Bureng Immigration stations had detention rooms. There were no detainees at the time of the visit. The detention rooms were tiled and clean and had large windows, adequate natural light and good ventilation. There was artificial light in the detention rooms at Soma and Bureng Immigration stations. The detention room at Babung Fatty Immigration Post had no artificial light although it had it in the previous visit.

There were slabs in the detention rooms. The officers at Babung fatty said detainees who spent the night there slept on the slabs. No mattresses were provided for detainees to sleep on.

The detention room at Soma Immigration Station had a toilet which detainees were allowed to use. The detention room at Babung Fatty immigration Post had no toilet but there was a squat toilet near the station which detainees were allowed to use. The whole of Bureng immigration Station had no toilet for the officers and detainees. Officers at the station stated that they used the toilet at the police station, which they said was inconvenient for them.

Bakadagi Immigration Post, Basse and Basang Immigration Stations did not have any detention room. The officers at Basse and Basang stations said they kept detainees in the charge office whilst those in Bakadagi said it was their office that detainees were kept in.

At the time of the visit no food items were provided to immigration detention facilities for the feeding of the detainees. The officers at Soma Immigration Station stated that at the beginning of the raiding (arresting of non-nationals who did pay for the permit) in the second quarter 2022, the station was supplied with rice, oil, onion and other food items by the Immigration Department but before December everything was consumed and it was they the officers who used their money to feed the detainees. The officers at Basse station said a similar thing. Those at Babung Fatty Immigration Post said that they could not provide food for the detainees because government had not given them any money for that. They added that detainees bought food for themselves and sometimes they received food from their families.

The officers at the different immigration detention facilities stated that detainees were given drinking water from the taps at the stations and posts. There was no tap at Bureng Immigration Station and the officers there said they fetched water from a public tap and gave it to detainees.

The officers stated that detainees were not beaten or ill-treated in any way. The officers at Bureng station said the Director General of Immigration warned them not beat, chase or use force against anyone. They also said that detainees were allowed to communicate with their families using their own phones.

Some of the challenges faced by immigration officers were inadequate vehicles, manpower, computers, communication facilities, furniture, no access to the internet, no A/C for even senior officers, no TV and fan at Bakadagi Station, meagre house allowance, no tap and toilet at Bureng Station, no refreshments for commissioners in Basse and Soma, no maintenance or renovation for Soma station and Babung Fatty Post and plots of land allocated for Basse and Bakadagi stations yet be developed.

RECOMMENDATIONS

- The Director General of Immigration should ensure that funds are provided to immigration detention facilities for food to be prepared for detainees.
- Communication facilities should be provided at immigration detention facilities for detainees to easily communicate with their families and others.

- Ministry of Interior should ensure that enough operational vehicles are given to immigration stations and posts for effective service delivery.
- The Director General should ensure that all immigration stations and posts are provided with enough computers, printers, photocopiers, scanners, furniture, internet access and fans for a conducive work environment in line with modern standards.
- To address the issue of inadequate manpower, the Director General should ensure that each immigration station and post has the number of staff needed for effective operations.
- The Director General should ensure that the house allowance given to immigration officers is adequate as D150 is too small to get a house for rent.
- The Director General should ensure that the immigration facilities that are not in good condition are renovated.
- Enough offices should be created to avoid many officers sharing a small office.
- The plots of land given to immigration in Basse and Bakadagi should be developed for the officers to work in a conducive environment.
- The Director General should ensure that Bureng Immigration Station has light, a toilet and a tap for the convenience of the staff posted there.

MILITARY DETENTION FACILITIES

The detention facilities at Farafenni and Basse barracks had two cells. The cells were clean and had mattresses. The mattresses in the Farafenni cells had no sheets, in contrast to the previous year. The cells at both Farafenni and Basse Barracks had big windows and adequate natural light and ventilation. This an improvement for Farafenni as one of its cells did not have adequate ventilation and natural light in the previous year. Neither of the barracks had artificial light in their cells.

There was no detainee at Farafenni Barracks at the time of the visit but there was one at Basse who had been detained for four days. The detainee said he was not told how long he would be in detention. The officers at Farafenni said some of their detainees were released within 24 hours. They added that if a detainee was going to be held beyond 72 hours, they charged the person and forwarded to the matter to the commanding officer for the person to be kept for 21 days.

The toilets used by detainees at both barracks were found clean. The toilet at Farafenni Barracks was opposite the cells and had a tap and the one at Basse was in the guardroom. The officers at the two barracks stated that detainees were allowed to have a bath. The detainee at Basse Barracks said he was allowed to go to the toilet and to also have a bath.

Detainees at both barracks were provided breakfast, lunch and dinner and had access to water. The detainee at Basse Barracks said he had been well-catered for. He added that he had been given breakfast, lunch and dinner.as well as water to drink.

Detainees were allowed to be visited by their families and could also call them. The detainee at Basse Barracks said he was allowed to call his family and have visitors. He also said he was allowed to stay outside the cell building to take fresh air after lunch up to 1 am.

Sick detainees were given free treatment at the clinics in both barracks. The nurses said that some of their problems were delay in supply of drugs, inadequate drugs and lack of ambulance. There was no BP testing machine and asthma inhaler at Farafenni Barracks clinic. The nurses at Farafenni clinic also said that the A/C in the lab was not working and that made the place hot quickly, which could destroy their equipment. They also said there was no tap in the lab. They added that the admission ward was very small, having only three beds. The nurses at both Basse and Farafenni clinics said their waiting rooms were very small and should be expanded. The nurses at Farafenni further stated that the clinic had no separate ward for female patients and that both males and females were put in the same ward. They also said that the mattresses at the clinic were old. They added that there should be training or capacity building for nurse attendants, CHN, SRN and EN. The visiting team was informed that detainees were not beaten or ill-treated in any other form. The detainee at Basse Barracks said he was not insulted or beaten.

Some of the problems faced by the barracks were inadequate computers, inadequate furniture, inadequate communication facilities, inadequate photocopiers, lack of printers, no TV in Basse commanding officer's office and the TV in Farafenni second in command's office not working, no CCTV, no access to the internet, no standby generator and no risk allowance compared to the other security agencies.

RECOMMENDATIONS

- All the cells should have artificial light to enable detainees to read if they want to.
- Detention for 21 days, which officers at Farafenni Barracks said was allowed, is contrary to section 19 of the 1997 Constitution of the Gambia, which stipulates that detention should be for 72 hours. If detention is going to be beyond 72 hours, the matter should be decided by the court, not the commanding officer at the barracks.
- Any person who is detained should be informed of the duration of the detention.
- Ministry of Defence should ensure that all the clinics have regular and adequate supply of drugs.
- Bp testing machines, asthma inhalers and other relevant equipment should be provided to the clinics.
- The wards of the two clinics should be expanded to meet the demand, as nurses at Basse Barracks said the clinic had 3 beds but needed 10.
- The labs at the clinics should have A/Cs and taps.
- The clinics should also be supplied with new mattresses to replace the old ones
- Regular capacity building should be provided for the nurses.
- Adequate computers, printers, photocopiers, furniture, communication facilities, internet facility, TV sets and CCTV should be provided to the barracks for effective and efficient operations.
- Ministry of Defence should ensure that all military officers are paid risk allowances, as done for the other security agencies.

DRUG LAW ENFORCEMENT AGENCY, THE GAMBIA (DLEAG) DETENTION FACILITY

The DLEAG Banjul Station was visited on 9 February 2023. It had three cells and one detention room. At the time of the visit there were three detainees, all male. They were all Senegalese. All were possession cases. The officers said that all the foreign detainees were brought from the provinces where they were arrested.

One of the detainees was kept for 56 days, another one for 46 days and the third one for 7 days. Bail was opened for the one detained for 46 days after 72 hours of his detention but he could not fulfil the conditions. The officers at the station said they could not open bail for the other two because it was those who brought them to Banjul Station from the regions who should grant them bail.

The cells and the detention room were clean. The detention room was big and had artificial light. The cells had no artificial light. The light in the detention room reached only the first cell but it did not make it bright enough for anyone to read. Only the first part of the third cell was illuminated by the light in the detention room whilst the second cell could not get any light from the detention room and remained dark. The first cell had a medium window but the second and third cells had no a window. The cells had no ventilation. There was also no natural light. Detainees slept on mattresses that were found in the cells. The toilet for detainees was flanked by the cells. It had a tap and was found clean.

The officers at the station said the detergents they were given were used to clean their offices. They added that they were not given detergents to clean the cells and that it was the station officer who used his own money to buy detergents for the cells to cleaned.

Detainees were allowed to have visitors and were able to make calls. The officers said they gave their phones to detainees to make calls and that they also allowed visits up to 12 midnight. One of the detainees said he had been visited by his mother and the other one said he had called his people using his own phone. However, one of them said when they asked the officers to call Senegal for them, they replied that they did not have the credit for that.

The officers stated they had a cook who prepared lunch and dinner for the inmates. They added that detainees were given two basins, one for lunch and the other one for dinner. However, the detainees said they ate both basins instead of leaving one of them for dinner. One of the detainees said they were given only lunch.

The officers stated that they did not subject detainees to any form of ill-treatment. The detainees said they were not beaten, insulted or ill-treated in any way.

The officers said that their main challenge was inadequate manpower. They added that they had only 21 officers for the four stations instead of 40 officers. This means they needed 19 more officers. The four stations were DLEAG Banjul Station, Denton Bridge, Ferry Terminal and Gampost.

RECOMMENDATIONS

- The Director General of DLEAG should ensure that no one is detained beyond 72 hours, as stipulated under section 19 of the 1997 constitution. The fact that the detainees were brought from the provinces is not an excuse. The officers at

DLEAG Banjul Station should contact those who brought the detainees to his station for them to grant bail to those entitled to it.

- There should be artificial light in all the cells, instead of only in the detention room.
- There should also be adequate natural light and ventilation in all the cells.
- Adequate detergents should be provided to the station for the cleaning of the cells.
- Detainees should be given three square meals, not only lunch and dinner.
- Communication facilities should be provided to the station to enable foreign detainees to exercise their right to communicate with their families.
- The Director General of DLEAG should ensure that enough officers are posted to the station.

CHAPTER 4

4.1 CASES BROUGHT FORWARD

COMPLAINT NO: 221-223 /2018
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainants were appointed on a permanent basis by a public institution. In September 2018, their salaries were stopped. When they enquired, they were told that they would be paid. However, at the time of their complaint in December 2018, they had not received their salaries for four months and they had also not given them any explanation concerning their fate. They urged the Ombudsman to find out the reason for the stoppage of their salaries.

FINDINGS
Two of the complainants were appointed as labourers while one of them was appointed as mason.

A task force was set up to look into the functioning of the said institution. A staff audit was conducted and it was discovered that the complainants were not coming to work. The chairman of the task force on 25 September 2018, recommended that the complainants be removed from the payroll with effect from end of August 2018, as discussed with the institution. The complainants' salaries were stopped with effect from September 2018.

The institution informed the Ombudsman that it had decided to allow another public body, which is legally mandated to deal with all staff matters to address the complainants' issue.

After reasonable period had passed without receiving any communication pertaining to the outcome of the complainants' case, the Ombudsman summoned the chief executive officer on 17 March 2021. He informed the office that he had been given legal advice on the matter and that due procedure was not followed in the stoppage of the complainants' salary.

CONCLUSION
Since the services of the complainants were not terminated and due process was not followed in stopping their salaries, the Ombudsman recommended that their salaries be restored with immediate effect. In addition, they should be paid salary drawback with effect from September 2018 until the date their salaries are restored. The complainants were each paid as follows:

- The mason was entitled to D84,260 but was paid D28, 086.66 on 13 April 2023 leaving a balance of D56,170.66
- One of the labourers was entitled to D99,330 but was paid D33, 110 on 13 April 2023 leaving a balance of D66,220.
- The other labourer was entitled to D99,330 but was paid D33, 110 on 13 April 2023 leaving a balance of D66,220.

- The balance of D66,220 was paid to the complainant via trust Bank cheque No.22206734.

COMPLAINT NO: 60/2021
NATURE OF COMPLAINT: Claiming Injury Compensation

COMPLAINT

The complainant was appointed in 1969. He completed his recruitment training in 1970 and served until 1988 when his unit was amalgamated with another institution. He served the institution until his retirement in 2002 as director of Internal Affairs.

FINDINGS

The complainant was enlisted in 1969 and completed recruitment in 1970. He served until 1988 when his unit was amalgamated with another institution. In 2002 the complainant retired as director of Internal Affairs.

In 2000, while serving his institution, he was transferred to another security institution and sent on a peace keeping mission as an observer in Sierra Leone and posted to Makeni. On one of their operations, their vehicle hit a bridge and they fell off resulting in the complainant sustaining serious injury on his left leg. He was held for 26 days in the bush battling with pain and broken leg. He was rescued by the UN mission and taken to Choitran Hospital in Freetown for treatment. Later, he was evacuated to Clinic de Madlin in Dakar, Senegal for further treatment where he spent six months and two weeks. After his discharge from Dakar, he returned to Sierra Loene to complete and submit his report.

In 2001, the complainant returned to The Gambia and sought further treatment at the then Royal Victoria Teaching Hospital (RVTH). A Medical Board was constituted at RVTH which assessed his injury and recommended overseas treatment and a payment of 70% injury compensation.

The Department of State for Defence sent his medical report to his institution dated 6 November 2003 but it was not acted upon.

CONCLUSION

The complainant was paid D120, 000 as injury compensation.

COMPLAINT NO: 65/2021
NATURE OF COMPLAINT: Claiming Payment of Gratuity

COMPLAINT

The complainant lodged a complaint on behalf of his family claiming his late father's dead gratuity. He said that his late father had served the government in various capacities up to director general as his last position. He was arraigned before a court and eventually dismissed from the service in 2017. Thereafter, he went into exile in Senegal where he stayed until his demise on 21 April 2017.

FINDINGS
The complainant's late father served the Gambia government in various capacities including heading two different public institutions.

He was arraigned before a court and was eventually dismissed from the service. He went into exile in Senegal where he stayed until his demise on 21 April 2017.

His widow wrote a letter requesting assistance from the president and claimed that her late husband did not receive any benefit until his demise.

In a letter dated 4 March 2021, the relevant authority was requested to find out if her late husband was entitled to any benefits.

His dismissal was rescinded and he was reinstated and retired posthumously from the service with effect from 21 April 2017.

CONCLUSION
On 12 May 2022, his gratuity was paid to Curator of Intestate Estates amounting to D295,312.50.

COMPLAINT NO: 66/2021
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant was appointed as metrological assistant trainee on grade 1.5 of the integrated pay scale in 2012. He said that after the change of government in 2016, a mass promotion was done at the department and he was among those promoted as metrological assistant on grade 4.

He added that he was enrolled at the University of The Gambia to study environmental science which was sponsored by his department. He completed his degree programme in 2020 and submitted his certificate and transcript to his head of department for promotion consideration but had not heard from them.

He further said that he was doing the work of a cadet meteorologist which is on grade 7 and was not placed on acting role.

The complainant stated that he was awarded a World Meteorological Organization (WMO) fellowship to do a Postgraduate Diploma in Meteorology at the Nigerian Meteorological Regional Training Centre from November 2021 to November 2022 which he completed successfully but still was not promoted.

FINDINGS
The complainant started his employment as metrological assistant trainee in 2012.

In 2016, the Public Service Commission (PSC) upgraded the grading structure of the metrology cadre of the department as such the complainant was placed on grade 4 as metrological assistant.

He was awarded scholarship by the Climate Change Early Warning Phase II project under the department to undergo undergraduate degree course in Environmental Science at the University of the Gambia (UTG) which he completed in 2020.

Meanwhile, the complainant was also awarded another WMO fellowship to undergo a fundamental meteorological course at the Nigerian meteorological agency in 2021.

Upon completion of his studies both at UTG and Nigeria, the complainant wrote to his department requesting promotion but he was told that there was no available vacant position as at the time of the complaint.

However, it was noted that there was a vacant position for cadet meteorologist which was recommended to be filled by one staff member. She was at the time a holder of master's degree and a senior to the complainant by length of service while holding a grade 1 position.

Notwithstanding, a new vacant position for cadet meteorologist was created in their 2023 manpower budget which was approved by PMO. The department sent a promotion recommendation to the relevant authority for consideration.

The authority replied that the complainant's promotion recommendation was disapproved based on the fact that he was at that moment on study leave with salary. There was a letter dated 26 June 2023, awarding the complainant government scholarship to pursue a master's degree in Ghana.

However, the decision to disapprove the promotion was rescinded and approval granted because the complainant at the time had not travelled out of the country due to delay in the sponsorship.

CONCLUSION

Despite the fact that individuals cannot independently create promotion for themselves on the basis of attainment of higher academic or professional qualification without the approval of the appointing authority, the department had used him on the cadet meteorologist post for too long without creating any avenue for his promotion or assigning him an acting role. Therefore, the delay in seeking approval from PMO to create the post for his promotion was indeed unfair. However, with the intervention of the Ombudsman the complainant was finally promoted before his departure to Ghana for his master's degree.

COMPLAINT NO: 14/2022
NATURE OF COMPLAINANT: Claiming Payment of Medical Bill

COMPLAINT

The complainant said that his daughter who had cancer went through a surgical operation in Dakar, Senegal. His daughter, who was married to one of the company's staff members, was covered by the company's medical scheme. The company paid for all her previous medical bills and allowances except for the last two doctor's appointments which were all held in Dakar on 15 September 2021 and 22 February 2022 for 7 weeks and 30 days respectively.

He alleged that because the company did not pay, he took a loan from the bank to cover up the bills. He did everything possible for the company to refund him but his efforts proved futile.

FINDINGS

The complainant's daughter who is now deceased had cancer and went through surgical operation in Dakar, Senegal. The daughter who was married to one of the company's staff members, was covered by the company's medical scheme. The company paid for all her previous medical bills including allowances except for the last two doctor's appointments which were all held in Dakar on 15 September 2021 and 22 February 2022 for 7 weeks and 30 days respectively.

In September 2021, the doctor treating her in Dakar sent an email to the company informing them that the complainant's daughter's appointment with an oncologist for courses of radiotherapy was on 17 September 2021, at 9:30 am. The estimated amount according to the doctor was 700,000 FCFA and the duration of stay in Dakar was 7 weeks without admission.

In another email dated 22 February 2022, the doctor informed the company that the complainant's daughter was supposed to have another appointment with the same oncologist on Monday 28 February 2022 at 7.00am .The estimated amount for this appointment according to him was 450,000 FCFA and the duration of stay in Dakar was 30 days.

The company in their response provided the Ombudsman with a transaction document detailing payments made to the complainant throughout his daughter's sickness. Most importantly, they mentioned that the amount of the estimate for 7 weeks of radiotherapy 700, 000 FCFA indicated by the doctor in his 15 September 2021 email which the complainant claimed, was in fact paid to him. This payment according to the bank statement of account was withdrawn by the complainant on 29 September 2021. However, the letter also indicated that the complainant was only able to submit receipt for FCFA 285,686.00 .The remaining FCFA 414,314.00 could not be accounted for by the complainant.

In the letter, the company also indicated that they paid the complainant an amount of FCFA 499,200.00 on that same date. This payment had also been captured in the bank statement of account and was received by the complainant on that same date, 29 September 2021. According to the letter, the complainant denied receipt of this amount.

CONCLUSION

The complainant via trust Bank cheque No. 21848109 date 24 January 2024 was paid D270,958. 50.

COMPLAINT NO: 19/2022
NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT
The complainant was appointed as cook on grade 4 effective 1 January 2019. During the COVID-19 pandemic she was among the staff that were downsized. She alleged that she reported to work according to schedule until she was granted maternity leave from 5 October 2020 to 1 April 2021. She had been reporting to work until July 2021 when a senior staff member asked her to stay home with the promise that she would be called when needed.

She further alleged that she reported to work again but her supervisor ordered her to vacate the premises and accused her of being involved in dirty politics. She reminded him that she was a member of staff but the supervisor verbally said to her "You are dismissed". She requested her dismissal letter but to no avail.

Her salary was stopped from January 2022. She reported to work but the supervisor again informed her to continue to stay at home until the office was able to work out something.

The complainant was claiming salary arrears as she was not issued with any dismissal letter.

FINDINGS
The complainant was appointed as cook effective 1 January 2019 on grade 4 of the integrated pay scale.

She was granted 6 months' confinement and maternity leave from 5 October 2020 to 1 April 2021 in line with the General Orders 04112.

She resumed work during the COVID-19 pandemic but was denied entry.

After some months of absence, she reported to work again but she was dismissed verbally.

The said supervisor confessed during an interview held in the Office of the Ombudsman on 28 July 2022 that he was responsible for the complainant's absence.

The complainant's immediate supervisor wrote a memo dated 9 December 2021 and recommended termination of appointments of 3 staff members including the complainant.

The memo indicated that the complainant absented herself from work without genuine reasons since her return from leave and was involved in dirty politics.

Acting on the recommendation, a letter dated 14 December 2021 instructed the authority responsible for payments to stop the salaries of staff in question with immediate effect.

Based on the unauthorized administrative decision that resulted in the stoppage of the complainant's salary, she was owed salary arrears from January to October 2023.

CONCLUSION
The said supervisor did not have the authority to dismiss the complainant. Due process was not followed in the dismissal of the complainant. The Ombudsman therefore recommended that the complainant be reinstated and paid salary arrears. The complainant's salary was restored and she was paid D94, 038 being salary arrears from January to October 2023 and redeployed.

COMPLAINT NO: 26 /2022
NATURE OF COMPLAINT: Claiming Gratuity

COMPLAINT
The complainant was appointment on promotion to head a department effective 1 August 1995. He alleged that on 4 March 2011, he was dismissed from the services of the Gambia government. He explained that his dismissal was as a result of an executive directive which his appointing authority concurred with.

He further said that his dismissal was unlawful since it was not grounded on valid reasons. He lamented the consequences of the unlawful dismissal which deprived him of his benefits i.e. pension and gratuity.

FINDINGS
The complainant was appointed as clerical assistant with effect from 8 June 1971. Following his success in the Proficiency Bar Examination he was appointed as 3rd Grade clerk with effect from 25 January 1975. He was confirmed in appointment.

The complainant was promoted to the position of labour inspector on grade 10 of the pay scale effective 1 July 1983. He was further promoted to the position of senior labour inspector with effect from 1 March 1986. He was again promoted to the position of labour officer with effect from 1 June 1989.

He was promoted to the position of senior labour officer with effect from 1 November 1991. He was promoted to the position of principal labour officer with effect from 1 March 1994.

He was promoted to the position of commissioner of labour with effect from 1 August 1995.

The complainant was asked to proceed on leave with effect from 1 November 1996 until further notice. He was instructed to handover the administration to the principal labour officer.

The permanent secretary of the complainant's ministry informed the authorities that the complainant's indefinite leave was untenable and unsuitable and the department could not be left without a head.

The complainant was recalled from indefinite leave with immediate effect. He worked until March 2011 when he was issued with a dismissal letter and directed to handover to hand over to a senior officer.

Nothing was recorded in his personal file about his removal from office. The last minute recorded in his personal file was his recall from indefinite leave dated 8 January 1998.

No dismissal letter or reasons for his dismissal were documented in his personal file which was an administrative lapse.

According to the institution complained against, the dismissal letter submitted by the complainant to the Ombudsman was forged as the letter reference and format could not be traced in their records. Likewise, their records could not confirm any such dismissal letter being issued to the complainant.

The complainant was issued with a letter purportedly signed by a former permanent secretary, in the presence of a senior officer from the complainant's department. The complainant was requested to handover to the said senior officer and he complied.

CONCLUSION

The Ombudsman was satisfied that the way and manner in which the complainant was removed from office was not in line with good administrative principles. The complainant was clandestinely removed from office without following due administrative procedure which contravened section 169(b) of the 1997 Constitution which states "No public servant shall be removed from office or reduce in rank or otherwise punished without just cause"

The Ombudsman therefore recommended that the purported dismissal letter issued to the complainant be rescinded and that the complainant be reinstated to the service with effect from the date he was dismissed and be retired from the service of the Gambia government when he attained the statutory retirement age.

Furthermore, his retirement benefits should be computed and paid to the Curator of Intestate Estate.

COMPLAINT NO: 31/2022
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant alleged that he served his institution for two decades without being trained. He obtained admission on 10 March 2017 to pursue a degree in computer application in India. He applied for study leave with salary but his application was not granted.

He was issued with a letter dated 24 October 2018 requesting him to hand over his responsibilities as head of a unit to the director general and return all items belonging to the institute. In the same letter he was also reminded of his unceremonious departure to India, repayment of his liabilities i.e. failure to serve 3 months in lieu of notice, and an outstanding car loan, which accumulated to D115,900.20 to be shared among his guarantors.

He further stated that he successfully completed his course and returned home with Bachelor of Computer Application in August 2021. He reported to work but was requested to write a letter of resumption to duty which he complied with. Since then, he did not receive any response despite several follow-ups.

He stated that he attended the same course with a colleague who was allowed to resume work whilst he was still left in limbo. He said that the purpose of his study was to return and serve his country and as such he is seeking the same treatment accorded to his colleague.

FINDINGS

The complainant was employed as a foundry laboratory and computer technician on 1 May 1999. He was redeployed to the Computer Science and Information Technology Department on 1 July 2007.

He was granted training at his institutions IT department for part time classes in Information Processing Certificate (IPC) from September 2002 to June 2003.

On 20 February 2003 he was sponsored to pay for the City and Guilds External Exams.

The complainant had another sponsorship on 8 November 2005 to undertake six months' training at the Information Technology and Business Management School on A+ core hardware, PC repairs and maintenance.

On 8 November 2005 he applied for one year study leave to pursue Higher National Diploma (HND) in information technology in the United Kingdom. He left for the United Kingdom without permission.

He applied for one year study leave without salary on 9 February 2009 to pursue a BSc (Hons) programme in applied business computing at CECOS London College. Upon approval he applied to defer the study leave on 13 May 2009 and it was granted.

The complainant applied for another study leave with salary on 24 September 2018 to pursue a full-time Bachelor of Computer Application at Chandigarh University in India and indicated that he would like to proceed with immediate effect.

During a senior management meeting, it was indicated that the board of governors did not approve his request. On 4 October 2018 he was requested to hand over to the director general and he complied.

The complainant failed to wait for approval before his departure to India. Thereafter he was informed through letter dated 24 October 2018 that prior to his unceremonious departure to India, he was supposed to settle his outstanding liabilities thus:

- D14,874.00 for failure to observe three months in lieu of notice i.e. (D14,874.00).
- D101,026.20 on his outstanding car loan balance (principal D87,500.15 plus interest of D8750.05 plus 1 x 6 salary advance D4,776.00)
- D115,900.20 total outstanding liabilities to be shared among his guarantors.

Since the complainant's travel to India, his guarantors were being deducted for his liabilities.

Another letter dated 27 November 2018 was sent to the complainant informing him of the board's disapproval of his application for study leave with salary.

The board recommended that the complainant's position and other vacant positions be advertised.

CONCLUSION

The complainant was not unfairly treated as alleged. He travelled to India without approval from the board.

COMPLAINT NO: 32/2022

NATURE OF COMPLAINT: Claiming Presidential Tour Allowance

COMPLAINT

The complainant stated that he took part in the president's Meet the People Tour 2021, and upon completion of the tour, he was not paid night allowance. He alleged that he submitted his claim but was not paid. After several follow-ups, he was referred to the accounts department and was informed that they were processing his claim. He alleged that some of his colleagues had been paid but he was not paid for nearly 6 months.

FINDINGS

The ministry responded on 12 July 2022 that it had budgetary challenges and would pay when funds were augmented.

The ministry had a lot of payment arrears but the relevant budget line was exhausted.

CONCLUSION

The ministry did not have the funds to pay the complainant. However, the Ombudsman continued to follow up to ensure that the complainant was paid.

On 13 April 2023 the complainant called to inform the office that he had been paid D5000 as per his claim.

COMPLAINT NO: 62/2022
NATURE OF COMPLAINT: Underpayment of his late father's death Benefits

COMPLAINT
The complainant stated that his father was an employee of a public institution. His father had worked for the said institution for 45 years before his sudden demise on 25 April 2005.

The complainant acknowledged receipt of a cumulative sum of D156, 487.25 on behalf of the family as severance and ex-gratia payments for his father's entitlements.

He alleged that what he received as his father's total benefits did not commensurate with his father's length of service. The money was segmented into three parts that is: severance, ex-gratia and the actual benefits due to him.

FINDINGS
The complainant's father was a public officer.

His father died in 2005 as a result of sickness as confirmed in a medical certificate of death provided by the complainant.

The family made several follow-ups for their late father's benefits until in 2007 when they were paid D156,487.25 as severance payment including ex-gratia and 6 months' notice of his 45 years' service.

The total benefits due to the complainant's father was calculated as follows:

1. The basic salary of their late father multiplied by 0.75% which will be for the year benefit; then multiplied by the length of service.

   Severance 0.75% yearly benefit × length of service

   Severance= 2858×45 =D128,610

2. 6 months' notice D 22,866
3. Ex-gratia D5000
4. **Total D156,476**

Severance as at 2007 was D2858.

CONCLUSION
The Ombudsman was satisfied that the complainant was not underpaid but had a limited understanding of how the calculation was done or misinformed that his late father was entitled to receive more than he was paid because of his length of service. Therefore, the complainant was provided with comprehensive explanation of how the institution arrived at that amount.

4.2 UNLAWFUL TERMINATION & UNFAIR DISMISSAL

COMPLAINT NO: 1 /2023
NATURE OF COMPLAINT: Unlawful Termination

COMPLAINT
The complainant was employed in 1984. He rose through the ranks to the position of director. He complained that he had encountered lots of obstacles as a director. He stated that in 2022, he was asked to report to the authorities. but at that time he was out of the country. Following his return, he was re-designated and redeployed effective 3 May 2022.

He said that he needed more time to do his handing over due to the fact that his deputy travelled and the officer to whom he should hand over was a new member of staff and he needed to be properly put through. In addition, there were many official matters that he needed to attend to.

Unfortunately for him he was given a letter of termination of contract of appointment stating that he refused to comply with posting order.

FINDINGS
The complainant was appointed on contract as director for a period of two years with effect from 16 January 2012.

He was informed that the authorities had concurred with the decision to reinstate him as director with effect from 17 July 2014.

The complainant was dismissed from the service of the Gambia government with effect from 8 September 2016.

Following a review of his case, decision was made to reinstate his service with the Gambia government as director with effect from 7 March 2017. In addition, his reinstatement would not attract any financial remuneration, his service would be connected for future computation of his retirement benefits.

Following a report on the Faraba Bantang incident, his appointing authority concurred with the executive decision to suspend him without any salary for six months effective 26 November 2018. The decision was made as a result of issuing operations license to a mining company without due diligence.

He was informed that the appointing authority had concurred with the executive decision to lift his suspension without salary as director with effect from 1 February 2019.

The complainant was informed that the appointing authority had approved his re-designation as deputy permanent secretary with effect from 28 April 2022. In addition, he was redeployed with effect from 3 May 2022.

The complainant did not adhere to the posting order and as a result his service was terminated due to his refusal.

Following the receipt of the termination letter, the complainant made the handing over to a senior officer on 23 May 2022.

The complainant made an appeal for reinstatement via letter dated 10 November 2022. He stated that he was trained in his area of work and had expertise in it, and therefore the redeployment was a surprise but he did not mean to defy authority to move to where he was redeployed. He appealed for the appointing authority's kind consideration to rescind the decision to terminate his service.

CONCLUSION
Since the complainant had refused to comply with the posting order for more than a month without giving any genuine reasons, the Ombudsman upheld the decision to terminate his service as per Code of Conduct 6.1.1(4).

However, the ombudsman recommended that the complainant be paid notice and terminal benefits.

COMPLAINT NO: 8/2023
NATURE OF COMPLAINT: Unlawful Termination

COMPLAINT
The complainant was appointed in 2006 as a linesman. In 2019 he was promoted as senior linesman. In 2016 he claimed to have an accident where he sustained injury on his last finger. He claimed to have reported the incident but management instead stopped his salary accusing him of absenting himself from work without any cause. However, his salary was restored later.

In 2022 he again claimed to have got involved in another accident after work with his motor bicycle. He was arrested by the police and detained at the station. His supervisor bailed him from the station but later withdrew the bail.

His services were terminated in February 2023 with effect from December 2022.

FINDINGS
The complainant was appointed as linesman with effect from 1st August 2006.
On 4 April 2007 he was warned and suspended for two weeks without salary for defying a supervisor's instruction in execution of his assignment hence insubordination.

On 26 May 2014, he was queried for habitually being involved in tampering with the telephone lines belonging to a foreign ambassador which resulted in the client leaving the company and switching over to a different company.

On 22 August 2016, management wrote a memo informing the complainant that his claim of accident during work was false and fictitious.

On 5 March 2015, he was also queried for failing to execute the duties assigned to him by his supervisors hence poor attitude to work.

On 5 March 2018, he was again queried for failing to report to work since his transfer to Brikama region on 3 July 2017 without the required permission. His salary was stopped, but later restored with stern warning. He was later transferred to Serekunda branch under close surveillance.

The complainant admitted making audio messages threatening to attack and destroy his company's networks which was a serious threat to his employers. He also admitted making abnormal calls to the director of human resource using a different number.

On 26 January 2023, a disciplinary committee meeting was held regarding the complainant's defying attitude towards instruction and using foul language in the office.

On 22 February 2023, following a disciplinary meeting held on 1 February 2023, management agreed to terminate his services with effect from 31 December 2022 on the grounds of defying his supervisor's instruction and his general misconduct at work place.

With regards to the complainant's claim of having an accident on 5 October 2016, management had conducted an investigation with relevant stakeholders and found out that his claim was false.

The complainant had failed to provide police report to substantiate his claim. He only submitted paper from Bijilo medical Center dated 28 October 2022 diagnosed with pneumonitis and was given five days excused duty.

RECOMMENDATION
The complainant is entitled to notice and terminal benefits. Also, he was entitled to be paid January and February salaries since he had worked for those months.

CONCLUSION
The Ombudsman upheld the decision to terminate the complainant's services due to his misconduct. The complainant was paid his salary arrears amounting to D28,183 via Ecobank cheque number1351294.

COMPLAINT NO: 10/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant is a senior medical specialist and a consultant ophthalmologist. He complained of unfair treatment meant to frustrate him. He stated that from March to October 2009, he was responsible for attending to almost all eye emergency cases presented to the center after working hours. He added that despite the explicit instructional clarity, he was paid only his allowances. He maintained that he was not paid responsibility allowance and was never considered for other benefits that commensurate with his responsibility as senior medical officer.

He explained that in March 2015, he returned from Kenya upon the request of a minister. He was engaged as a consultant ophthalmologist. He continued that he never received the original engagement letter signed by the permanent secretary of the ministry but attachments af a photocopied letter, which unknown to him purportedly engaged him as a consultant on grade 12.8. He maintained that the letter delivered to him by the administrator from the then CEO in March 2015 was misleading and inappropriate. He pointed out that by the Gambia government standard, a medical consultant does not start on grade 12.8 but is placed on a fix basic salary of D45,000 per month. He added that his gross salary anomaly against him lasted for twenty months (from March 2015 to November 2016).

He also stated that the minister indicated that he should be provided accommodation paid for by his institution. This was implemented in 2016, 2017 and 2018 but the new management board chairman in 2019 refused such payments citing personal reason that no Gambian doctor was receiving such benefit despite extending it to non-Gambians when he had more experience and skill in eyecare than them.

He highlighted that as consultant ophthalmologist, he was allocated D20,000 worth of fuel monthly as incentive since May 2016, but in the year 2020 the board chairman decided to reduce it by introducing a volumetric allocation, which allocated less than D20,000 worth of fuel without considering the effect of inflation.

The complainant alleged that his institution's financial adviser withdrew his lawful administrative allowance in January 2021. He pointed out that this allowance was received by CEOs of public hospitals and was approved by the relevant authority.

The complainant continued that during the Covid-19 period in 2020, as consultant he was working over 10 hours per day for almost four months, but the ministry singled him out and paid him less than what was paid to nurse attendants and everybody else working under him.

The complainant stated that on the 21 July, 2022 he received a letter from the ministry removing him as CEO and the position was given to another doctor with no explanation despite the fact that he (the complainant) was the most senior staff in terms of qualification and experience.
He maintained that having been unjustifiably removed as CEO, he was shocked that a Nigerian consultant whom he directly supervised have been given a pay rise more than him. He pointed out that he deserved a fair basic pay with benefits than what is obtained to commensurate with his experience.

FINDINGS
The complainant, a qualified state nurse was appointed as ophthalmic assistance. In August 1990, he was sent to the Lilongwe School of Health Science where he was trained as ophthalmic assistant.

The complainant was on 15 September 1992 appointed on promotion as medical assistant with effect from 1 September 1992.

The complainant was redeployed to a health institution as senior medical officer on grade 10.5 effective 1 September 2009.

The interim management board on 10 February 2015 approved the complainant's appointment as consultant ophthalmologist with effect from 1 March 2015. The post attracted a salary of D86,645 per annum on grade 12.

In addition, the complainant was paid the following allowances:

1. Car allowance D1,300
2. Professional Allowance D2,500
3. Call due allowance D3,000
4. Responsibility allowance D4,500
5. Senior Management Team(SMT) allowance D1,000
6. His institutions Consultant Top up D45,000
7. ROTP allowance D25,000

The complainant was re=designated as the acting chief executive officer with effect from 1 November 2015.

Furthermore, the complainant was confirmed in appointment as chief executive officer with effect from 1 January 2017.

The permanent secretary gave directive to the accountant to pay the complainant as the chief executive officer and ophthalmology consultant D45,000 per month to regularize his status with other consultants from other hospitals who were benefiting from this payment. The complainant was promoted to senior consultant ophthalmologist on fixed grade with effect from 1 January 2019.

The complainant was informed by the authorities that approval had been granted for the reinstatement of his services with the Government of The Gambia with effect from 1 July 2013. To regularize his status, he was advised to apply for the following:

- Study leave with salary from 2009 to July 2013;
- Leave of absence without salary for the period August 2013 to March 2015.

The complainant's retrospective leave of absence without salary with effect from 1 August 2013 to 31 March 2015 was approved. Also, his application for study leave with salary in retrospective to enable him pursue Master of Medicine(MMED) in ophthalmology at the University of Nairobi for a period of four years from 1 October 2009 to 31 July 2013,was also approved.

The complainant was asked to retain the position of senior consultant ophthalmologist with effect from 20 July 2022 and to relinquish the position of chief executive officer. His salary was personal to holder, and he was advised to handover to the said senior officer who was reassigned the position of chief executive officer.

The board chairman of the complainant's institution on 15 September 2023 informed him that the board had appointed him as senior lecturer at the ROTP and would be paid a monthly teaching allowance of D20,000, on condition that he lectures. This would replace the ROTP allowance he was receiving previously which was recommended by his institution's interim management board in 2015.

His car allowance had been reinstated effective September 2023, following the handing over of the vehicle. Similarly, he would receive a monthly coupon of D6000 as consultant ophthalmologist as approved by the board.

According to section 5 of the Medical Service Act, the hospital management board has the following duties:

a. Monitor the affairs of the hospital for which they are established;
b. Formulate and determine policies in respect of the hospital for which it is established;
c. Consider policy issues referred to it by the minister;
d. Approve the annual budget of the hospital;
e. Prepare the annual report of the hospital's activity;
f. Help mobilize additional resources, and maximize cost recovery potential of the hospital; and
g. Help improve the efficiency of resources management and services of the hospital'

On the issue of the complainant not being paid responsibility allowance, the complainant was only paid basic salary with grade point 10.5 which was D4,227 per month because he travelled to Kenya for studies.

According to the accountant when a staff travels overseas for studies the allowances are withheld till when the person is back to the country and resume his duties. Besides, in April 2015, he was paid grade point 12.8 which was D7,220 with allowances included because he returned from his studies and resumed his duties.

On 10 February, 2015, he was engaged as consultant ophthalmologist, effective 1 March 2015. However, in April 2015, the complainant was paid grade 12. 8 including allowances such as car, responsibility, professional, senior management allowance, and his institution's TOP-UP allowance of D45,000 per month.

Furthermore, a letter dated 17 February 2019 from the management board approved his promotion as a senior consultant ophthalmologist on a fixed grade with effect from 1 January 2019.

The payment of residential/accommodation allowances is at the discretion of the board. It was a board decision to provide accommodation in 2016, 2017 and 2018 respectively. However, a new board was introduced which decided to revoke the accommodation arrangement on the premise that it is displaced staff who are usually provided with accommodation. The complainant was provided alternative accommodation within the hospital but he declined the offer.

A letter dated 15 September 2023, from the management board had made the following resolutions:

- the complainant's monthly car allowance had been reinstated effective September 2023, after handing over the vehicle which was allocated to him.
- He was given a monthly fuel coupon worth D6000 as consultant ophthalmologist.

However, the complainant rejected the amount approved by the board.

The chief executive officer of the hospital was entitled to receive administrative allowance. When the complainant was the chief executive officer, he received administrative allowance of D2500 while the said senior officer did not receive administrative allowance because he was not entitled to it. However, when the said senior officer was appointed as the chief executive officer and took over from the complainant, he too received administrative allowance of D2500 per month.

The administrative allowance was approved for all hospital chief executive officers. In addition, the financial adviser withdrew his administrative allowance through verbal instruction in January 2021.

The Ombudsman requested the pay slip of the complainant from January 2021 to December 2021, and confirmed that he was paid D2500 per month. The Covid-19 allowance was paid according to risk exposure. Those working in case management & laboratory were the most exposed and were remunerated more than all other categories despite their grade or position. A nurse attendant may be more exposed than the chief executive officer. The permanent secretary and director of health service were not paid risk allowance due to their minimal risk exposure.

The expatriates employed by the ministry were paid more than locally employed staff. This was the case before the complainant returned from Kenya and it is still the policy. There were 17 experts at a hospital who were paid an average of 4000 USD even though they have similar qualifications as their Gambian counterparts who receive less than half of that amount. This was done to facilitate the recruitment of expatriates for short periods until the hospital had the required manpower in those specialized areas locally.

CONCLUSION

There was no gross anomaly because the complainant was appointed as consultant ophthalmologist with effect from 1 March 2015 and his post attracted a salary of D86,645 per annum on grade 12.

Furthermore, it was not an anomaly to withdraw the complainant's administrative allowance. The administrative allowance was only meant for the chief executive officers in public hospitals.

The board acted within its mandate to ensure that all allowances were within the approved budget. All decisions were made by the board not an individual. The financial adviser only enforced the board's decision.

The Ombudsman was satisfied that the complainant was not unfairly treated.

COMPLAINT NO: 16/2023
NATURE OF COMPLAINT: Unfair Dismissal

COMPLAINT
The complainant alleged that he was unlawfully dismissal in 2017 because of an issue he had with a colleague. According to him, he quarreled with his colleague in a vehicle while transporting prisoners to a hospital, although the said colleague was not on duty that day. He further stated that the said colleague was insulting the prisoners in connection with their demand for the president to pardon them. According to the complainant he told his colleague that such utterances should not be made in the presence of the prisoners. He continued that his colleague then told him that he would personally report him and he would be dismissed from work. He further narrated that he was called by the discipline officer to answer to the chief officer. He was then told to narrate his side of the story and from there, he was taken to director general's office. The complainant claimed that, at the director general's office, the operation commander told the director general to dismiss him from the service. He further stated that he was dismissed verbally by the director general. The complainant alleged that the decision by the director general was based on the wrong information given by his colleague and that he insulted the president, which was not true.

FINDINGS
The complainant was an employee of a public institution until 2017. His dismissal from the service was due to an argument he had with his colleague to the extent of using disloyal words against the president.

Three officers witnessed that the complainant uttered disloyal words against the president. The witnesses' statements affirmed that the complainant uttered the words he was alleged to have uttered against the president.

The behaviour of the complainant was not in line with what he affirmed to do. This was contrary to a provision of the Act governing the complainant's institution.

As a security officer, he affirmed to perform his duties diligently, and be loyal to the president. The institution deemed it necessary to dismiss him from active service.

CONCLUSION
The mere fact that the complainant is in the disciplined service, yet used disloyal words against the president, the institution's decision to dismiss him was justified.

COMPLAINT NO: 17/2023
NATURE OF COMPLAINT: Unlawful Discharge

COMPLAINT
The complainant stated that he was enlisted in a security institution in 2008. He was promoted to the rank of corporal. He alleged that sometime in 2017 he was accused of being mentally unstable. He was medically examined and confirmed to be physically,

mentally and medically fit. He was advised to resume work at his unit as stated on a medical exemption form dated 13 June 2017. He further alleged that he was detained from 9 to 30 November 2022 and unlawfully discharged from the service on 30 November 2022.

FINDINGS

The complainant was enlisted in 2008 and rose through the ranks to corporal in 2015 at which rank he served until his discharge.

The complainant was disarmed and referred to the Poly Clinic Psychiatric Unit by his employer's medical unit for psychiatric examination on the basis that he was abusive and aggressive to his command and for also assaulting his colleagues. He was found to be mentally and medically fit and that no psychiatric abnormality was detected. He was allowed to resume work.

The complainant while on duty on 9 February 2018 at the old airport tower, refused to perform his duties and was unruly towards the guard commander and used offensive language against him to the extent of insulting his mother. As a result, he was redeployed to a guard post where he also had a confrontation with a civilian and stabbed him with a knife.

The complainant on 28 April 2020 insulted the chief regimental provost (Chief RP) calling him a bastard". He was put on three days' extra guard duty which he refused to perform. As a result, he was charged with the offence of disobedience to lawful command and sentenced to seven days' extra guard and transferred to another unit with a caution to maintain discipline for a period of three months.

The complainant on 30 November 2022, disrespected his guard commander, threatened to kill him and flee to Casamance. The complainant went to the extent of cocking his rifle against the commander. He was charged on three counts in line with relevant provisions of the Act governing his institution as follows:

1. Offering violence to superior
2. Insubordinate behaviour
3. Conduct prejudicial to good order and discipline

He was found guilty, demoted to lance corporal and then dismissed from the service.

The complainant's institution refuted the allegation that he was accused of being mentally unstable. Rather, it was his aggressive and seemingly abnormal behaviour that necessitated the medical unit under his institution to refer him for psychiatric examination to determine his mental health status. This was done based on security concern as to prevent him from posing risk to himself, the general public and particularly, his colleagues. He was medically examined and declared fit to serve and was allowed to resume duty.

The complainant was never accused of "dikkitting". He misconstrued the word de-kiting and mistook it for deformation of character. However, de-kitting simply means retrieving the kits (military equipment) that were issued to a serving member whose service was terminated whether by voluntary discharge or dismissal. The de-kitting form which was attached to his letter represented the kits that were recovered from him and not otherwise.

CONCLUSION

The complainant's behaviour during his service was unimpressive and shy of the required standard of a professional officer. The Ombudsman was satisfied that his behaviour fell short of the standards of discipline expected of a security officer. The Ombudsman upheld the decision to terminate his services in order to avoid an impending danger both to himself, his colleagues and the civilian population.

COMPLAINT NO: 24/2023
NATURE OF COMPLAINT: Unfair Dismissal

COMPLAINT

The complainant was appointed as data entry clerk in 2013 and redeployed as library clerk a position she held until her dismissal on 2 May 2023.

She alleged that her son got seriously injured on one of his fingers on 18 April 2022 and she took him to the hospital. On 19 April 2023 she obtained permission from her supervisor and went with her colleagues to the bank then she proceeded and bought medication for her son.

She further alleged that she received information that the director general asked if she was at work and the senior library assistant confirmed that she reported to work and was granted permission with some of her colleagues to go to the bank.

She added that on 20 April 2023 the director general summoned her and her colleagues to report individually to his office. The director general asked her why she left the office on Wednesday, what time and who granted her permission. She responded that she went to the bank to withdraw money to buy medication for her son. She was granted permission and she showed the prescription pad and picture of her son's injured finger.

She alleged that the director general refuted her statement and asked her to go home and she complied. She reported to work on 2 May 2023 and the director general still insisted on his decision that she should stay away. She told the director general that she cannot be punished alone because she was not the only one culpable. She pleaded with him but he insisted and asked her to stay away until she heard from him. She failed to comply and said that her appointment was through a letter therefore any action taken against her should be documented. She returned to her office and an hour later she was issued with a dismissal letter dated 2 May 2023.

FINDINGS

The complainant was employed as data entry clerk in 2013 and later redeployed as library clerk a position she held until her dismissal on 2 May 2023.

The complainant and four others were granted permission to go to the bank on 19 April 2023 but she was singled out and sent home.

The complainant reported to work on 2 May 2023 but was again ordered to stay home until she was needed but she did not comply with the verbal instruction.

She insisted that the director general should inform her in writing and as a result, she was immediately issued with a dismissal letter 2 May 2023.

Following the director general's failure to respond to our letter dated 16 May 2023, the office visited the complainant's institution and found out that the complainant was reinstated.

The office was informed that the complainant's reinstatement was as a result of the intervention of the board through verbal instruction.

CONCLUSION
Following the retrospective reinstatement of the complainant through a letter dated 26 March 2024, the Ombudsman advised the director general to treat his employees professionally and follow due administrative procedure.

COMPLAINT NO: 34 /2023
NATURE OF COMPLAINT: Unfair Dismissal

COMPLAINT
A senior lawyer copied the Ombudsman a letter he addressed to a ministry in connection with the ministry's decision to dismiss his client. He pointed out that the letter issued to his client did not provide reasons for his dismissal and this unilateral act by the ministry was a clear violation of both the principle of natural justice and the laws of the Gambia.

FINDINGS
The lawyer's client was dismissed 10 August 2022.The dismissal was grounded on the minister's exercise of his discretionary powers under the relevant section of the law governing the said ministry.

According to section 166(4) (a) of the Constitution of the Republic of The Gambia 1997 "the office in the public service does not include the offices of President, Vice-President, Speaker or Deputy Speaker of the National Assembly, Minister or a member of the National Assembly."

CONCLUSION
The Ombudsman does not have jurisdiction to question the minister exercising his discretion under the law.

COMPLAINT NO: 46 /2023
NATURE OF COMPLAINT: Wrongful Dismissal

COMPLAINT
The complainant stated that he was appointed in July 2011 as laboratory assistant and placed on grade 3 of the government integrated pay scale. He added that since his appointment, he had been diligently executing his duties.

He said that in July 2023, he reported to work and fell sick. He was advised by his supervisor to see a doctor. He further said that after he went for a medical check-up and medication was prescribed, he reported to his supervisor before going home.

He further stated that he was surprised to receive a letter dated 23 July 2023 summoning him to a disciplinary hearing in relation to the two days he absented himself from work. He claimed that he was excused by his supervisor.

He argued that he gave genuine reasons at the hearing and claimed that his reasons were corroborated by his supervisor but was dismissed in a letter dated 2 October 2023.

FINDINGS
In July 2023, the complainant went to work, reported sick and underwent a medical examination for TB. The hospital report indicated that he was negative of TB but he stayed away from work on 20 and 21 July 2023 without permission.

He was summoned to a disciplinary hearing in relation to the two days unexcused absence. Following the committee's hearing, a report dated 18 September 2023 recommended that he should be dismissed considering his habitual violation of the hospital established rules and code of conduct for the civil service.

The complainant had been found wanting on a series of unauthorized absence. He also received several queries, warning and suspension as stated below:

- On 23 September 2016 and 2 August 2016, he was warned for absence without permission.
- On 6 February 2018 and 18 May 2021, he was suspended for one month without salary.
- On16 September 2019, he was suspended for two weeks without salary for negligence and unprofessional behavior which violated the code of conduct **4.4.3** and **4.4.4** and General Orders **03116.**

CONCLUSION
The Ombudsman was convinced that the complainant's attitude towards work was not in line with the civil service code of conduct.

COMPLAINT NO: 57/2023
NATURE OF COMPLAINT: Unlawful Discharge

COMPLAINT

The complainant stated that he was enlisted into the service in 2021. He alleged that he was part of a master parade at a security headquarters in 2022 and during inspection, he wore a hat and one sergeant ordered him to remove it. He pleaded with him and explained to him that he had not been provided with a beret since his enlistment.

He further alleged that while the parade was in progress another sergeant forcefully removed his hat and when he noticed the commissioner's presence, he left the parade. After the parade he went to the sergeant who had ordered him to remove the hat. He explained the reason of his action but he gave him a deaf ear. He then requested for his hat but to his dismay the sergeant and another officer assaulted him.

He explained that he was charged and taken to the officer commanding (OC) who recommended for his punishment. He confessed that he refused to perform the punishment because the disciplinary committee members assaulted him. He was again marched before another senior officer who detained him for hours.

The following week he was escorted to their headquarters where he was reporting to duties for two months. He alleged that one officer at the orderly room confronted him and asked him whether he would perform the punishment and he answered in the negative. He was marched before the deputy head of their institution who discharged him verbally from the service with immediate effect.

The complainant was of the opinion that he was unlawfully discharged and was not issued with a discharge certificate. He also complained that during the parade he was not the only officer wearing a hat.

FINDINGS

The complainant was enlisted into a security institution in September 2021.
He appeared at a master parade improperly dressed and was ordered to fall out but he failed to comply.

On 19 January 2023 he was charged with two counts under the laws governing his institution.

- Count I: Disobedient to Orders
- Count 2: Insubordination by words and action.

He pleaded guilty to both charges and was given a punishment of two weeks extra guard but he refused to undergo the punishment.

On 30 January 2023 he was marched before a senior officer and charges were read to him.

He pleaded guilty and insubordinately refused to perform the punishment and as a result he was confined to barracks for 21 days.

He was accorded another opportunity and asked whether he would do the extra duties but he still refused.

He was dismissed from the service in line with the relevant security law.

CONCLUSION
The Ombudsman upheld the decision to dismiss the complainant from the service.

COMPLAINT NO: 65/23
NATURE OF COMPLAINT: Wrongful Termination

COMPLAINT
The complainant alleged that he was appointed as driver effective 1 March 2022. He added that the reasons provided for the termination of his service were inconsistent with the actions taken against his colleagues who were involved in similar misconduct.

He further stated that the termination of his service was as a result of two road accidents he was involved in with two vehicles of his institution.

He added that the institution described this as negligence of duty. The complainant stated that he was concerned with his unfair treatment and the subsequent termination of his service. He further added that his colleagues were involved in a similar incident, but they only received warnings and surcharge for their actions. He said that the incidents took place more than a year ago and he had complied with the standard requested by the institution.

He alleged that he was denied most of the privileges as a driver such as going for provincial treks and placed on permanent afternoon duties. He added that he was not issued with a warning letter and was not given the opportunity of a fair hearing.

The complainant further added that the termination of his service was biased, disproportionate and inconsistent with the disciplinary measures applied to his colleagues. He said that he continued working in the afternoon shift for five months while other drivers have two days morning and three days afternoon.

FINDINGS
The complainant was appointed as driver at the said institution effective 1 March 2022. The letter of appointment dated 16 February 2022 indicated that he was required to strictly adhere to institutional rules and regulations in the execution of his duties.

The complainant was involved in a car accident on 18 October 2022 at Bakoteh Bantaba and had another accident on 21 December 2022. Both accidents happened within two months.

The extract of police record indicated that the complainant had an accident on 18 October 2022. He lost control of the vehicle and accidentally knocked against a compound fence causing damage on the fence and the motor vehicle.

The following damages were caused to the vehicle :

- Front bull bar damage
- Front bumper damage
- Radiator
- Grill broken
- Engine bonnet dented
- Near side head light unit broken.

The police report dated 22 November 2023 further indicated that the complainant was responsible for the accident. The police recommended that he should be summoned for careless driving contrary to section 51 (1) of the motor traffic Act Cap 70:03 VOL: 10 Laws of The Gambia.

Sections 0602 of the institution's service rules states that "other penalties in the event of any infringement of rules and regulations by the employee or misconduct, insubordination, breach of secrecy, desertion from post while on duty, unsatisfactory work or carelessness in the performance of his /her duty. The institution has the right to terminate the employee's service.

It is also provided in the institution's service rule that "causes of termination of service shall include negligence of duty."

CONCLUSIONS

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

4.3 UNFAIR TREATMENT

COMPLAINT NO: 3/2023
NATURE OF COMPLAINT: Non-Payment of 1 Year Salary Arrears

COMPLAINT

The complainants stated that they were among other people who were engaged as cleaners by a school. When they were called to start service, headmistress asked them to provide copies of their birth certificates, TIN numbers and two passport size photos for onward transmission to the ministry which they did.

After working for six months without pay, they approached the authorities to enquire about the delay in payment of their salaries. In a meeting with the relevant authorities, they were promised that their claims would be processed and paid but that did not happen.
They explained that later some were paid but surprisingly out of the 22 people engaged by the school only the six of them were still not paid.

FINDINGS
The school engaged 22 women for cleaner jobs in response to a telephone call instruction from a staff member of their line ministry who asked them to recruit cleaners to be appointed by the ministry and stop using pupils as cleaners.

The complainants were part of the list of 22 women engaged as cleaners. They provided the school all the documents required by the ministry for the processing of their official appointments.

The school forwarded the processed list to the relevant authorities for clearance and approval.

There was delay in the complainants' official appointments because the ministry's request was not approved by the appointing authorities due to unavailability of vacant positions for ancillary staff in their manpower budget.

The ministry confirmed that the approach taken by their staff member to instruct schools to recruit ancillary staff was wrong. The ministry needed clearance from the appointing authorities before any recruitment of ancillary staff was carried out.

The complainants, together with people in similar situations, were listed for appointment once clearance was received from the institution responsible for their appointments.

They were advised to stay home until clearance was received.

RECOMMENDATION
The Ombudsman recommended that the ministry should not allow any school under its subvention to engage anybody in employment without exhausting the appointment procedures with the appointing authorities.

CONCLUSION

At the beginning of the 2023/24 academic year, the complainants were contacted and they confirmed that their one-year salary arrears were paid. They were also given appointment letters and posted to different schools within RED1.

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COMPLAINT NO: 6/2023

NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT

The complainant stated that he was employed as driver by a security institution on 1 January, 2005. He claimed that while he was on posting in Basse in 2009, he took permission for one week to visit his family. He was granted approval. He said he spent three days with his family when salary payment was due. He went to collect his salary but was told by the pay master that his supervisor in Basse told him to not pay his salary. The pay master further told him that the reason given by his supervisor for the non-payment of his salary was that whenever he goes home on weekends, he does not return to work on time. He denied the allegation made against him by his supervisor.

He made several complaints to the head of admin for him to talk to the head of the institution to no avail. This prompted him to write to the head himself. To his surprise, he was informed that a thorough search was made on his personal file and the office's database but there was no trace of his appointment letter or termination of service. He was further informed that his removal from the payroll was due to his absence during the head count conducted in 2017.

FINDINGS

The complainant was enlisted into the said institution as motor and transport officer on 1 January 2005. He was posted to Basse, URR in 2009.

The complainant did not inform his institution about the stoppage of his salary and unlawful dismissal until 15 December 2022. The institution tracked his salary slip back to March 2009.

The institution revamped its human resource database system since 2017 after the national audit report which excluded ghost officers. The complainant's name was not captured in any of their registers to serve as evidence that he had been going to work.

CONCLUSION

Since the complainant's name was not captured in any of the institution's registers, which indicated that he had not been reporting to work, his complaint lacked merit.

COMPLAINT NO: 9/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant alleged that he was unfairly treated by a school. According to him, he was employed on 1 September 2012 as classroom teacher. He rose through the ranks from head teacher to head of blocks and finally to head of Department (HoD) of Arts and Sciences in September 2022. He was receiving D1200 as HOD allowance but later in January his allowance was reduced to D1000. In addition, his grade point was reduced from 8.8 to 7.8. He felt demoted and demoralized by this action. He also added that since he assumed this position he was never confirmed and his double shift allowance for the month of August was not paid.

FINDINGS

The complainant was employed on 1 September 2012 as history teacher with (HTC) qualification. He then served probation for one year. The board of governors confirmed his appointment on 7 March 2013. He rose through the ranks as head of block and head of department for arts in 2022.

The complainant was paid D1200 as responsibility allowance as indicated in his pay slip. In January 2023, he was paid D1000 as responsibility allowance. However, in October 2023 no responsibility allowance was paid to him. This is because the nominal roll of the school from 1 January to 31 December 2023 responsibility allowance for few teachers was not approved. The ministry only approved three positions for HOD instead of the six requested by the school.

The complainant was among the three teachers whose responsibility allowances were not approved. However, management did recognize the need to pay D500 to those affected teachers.

The 30% salary increment was paid to all staff at the school including the complainant. A payment voucher dated 7 September 2022 and letter of authorization from the board chairman informed the accountant to effect the payment of D144,402.30 being payment of staff’s 30% increment for July and August 2022. The complainant received D3,585.60 for two months as drawback from central government.

The complainant was placed on grade 8.8, but this was an error by the accounts department. The school bilateral for the 2023 fiscal year with the ministry restructured his grade point to 7.8 with longevity. The complainant is better off at 7.8 with longevity with basic salary of D7,965.67 compared to 8.8 with basic salary of D7,768.80 per month. The restructuring of salary grade points affected a number of teaching staff in the school and grant-aided schools in the country. The ministry was obliged to regularize salaries of all government employees.

Employees at jamming point will remain on longevity until they are officially promoted by the board of governors to avoid such occurrences. The complainant and a few others fell in that category. The complainant was at 7.8 on longevity as of 1 January 2023.

The afternoon shift was a contract appointment and allowances were only paid when services were rendered.

The complainant was confirmed as head of block with a letter dated 5 March 2018. The complainant was not entitled to subject allowance because he was a history teacher, subject allowances were meant for teachers teaching core subjects.

The complainant was appointed as acting head of department on 15 March 2021. However, he was not confirmed in the said position by the school authorities.

CONCLUSION

The management of the school should desist from the practice of not confirming employees after the probationary period of six months have expired. Nonetheless, the Ombudsman was satisfied that the complainant was not unfairly treated.

COMPLAINT NO: 18/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that she was appointed as market collector in 2012. She alleged that in November 2021 she fell sick and underwent treatment at MRC. She was diagnosed with Dyspnea, amenhoria and general body pain. She was on medication but her health was deteriorating leading her to herbal treatment. Initially, she sought permission from the chief executive officer (CEO) but it was not granted. Again, she appealed to the CEO and was granted 2 weeks casual leave to proceed on herbal treatment.

She further alleged that the permission given to her expired when she was still admitted at the treatment centre. She was discharged after four months and she went to the bank to collect her salary but it was not paid. She reported to the Human Resource (HR) but was informed that her manager recommended the stoppage of her salary due to absence without permission for a period of four months.

She alleged that she reported the issue to the head of institution who instructed HR to restore her salary and pay her salary arrears but she was paid only two months' salary. Since then, her manager and the deputy CEO kept on harassing and maltreating her unnecessarily. She stated that she reported to the head of institution again but he asked her to write and explain what transpired and she complied. Her letter was not responded to and all attempts to reach the head of institution proved futile. She complained that her salary was still on hold and she was indefinitely left in a dilemma.

FINDINGS

The complainant was appointed as market collector in February 2012. She applied for annual leave but was granted casual leave of 10 working days effective 15 June 2021. She was instructed to provide a valid medical report but she failed to comply. Upon expiry of her casual leave, she was granted another 10 working days from 15 to 29 November 2021.

On 7 June 2022 a nurse at a community health centre issued her with a medical certificate indicating that the complainant had undergone a thorough medical examination and diagnosed of dysphea, amenhoria and general body pain.

The complainant wrote to the head of their institution on 4 August 2022 and complained of unfair treatment resulting in the stoppage of her salary for four months. The head of institution intervened and her salary was restored but she was paid only two months' salary.

The institution in response to our letter stated that the complainant's salary would be restored provided that she reported for duty as indicated in their letter to her dated 21 August 2023. The complainant was directed to report to the CEO for her to resume duty.

CONCLUSION

The Ombudsman advised the complainant that she should follow the procedure under article: 04114 of the General Orders which states "Sick leave on full pay may be granted for an initial period of one month, if at the end of that period, the medical practitioner attending the officer considers that he/she is still unfit to resume duty, a further period of sick leave, not exceeding one month may be authorized. If, at the end of this second period of sick leave, the officer is still unable to resume duty, the matter will be referred to the director of health services for his/her advice and recommendations, in particular as to whether a medical board should be convened under the provisions of Chapter 8 of the General Orders". The complainant was not unfairly treated.

COMPLAINT NO: 20 /2023
NATURE OF COMPLAINT: Claiming Pensions

COMPLAINT

The complainant was enlisted into the service in 1985. He added that in early 2002, he travelled to the United Kingdom on official mission but failed to return at the end of the training. In 2005 he refunded the total expenses of his trip. His wops and gratuity were paid.

He alleged that he claimed for his monthly pension but was asked by treasury to provide his personal file. He further alleged that he contacted his employers to provide his personal file but he was informed that his file was nowhere to be found.

FINDINGS

The complainant and two of his colleagues were nominated in 2002 to undergo training in Bristol, England.

Upon arrival at Gatwick Airport, the complainant absconded causing distress to his colleagues and partners. After three months of search without knowing his whereabouts, it was called off, and it eventually resulted to an end to the partnership project between his institution and its counterpart in the United Kingdom.

The head of his institution instructed for him to be charged in absentia with absence without leave (AWOL) and for discreditable conduct. He was dismissed from the service with immediate effect.

Furthermore, his complaint of unpaid pension lack merit due to his unceremonious act of absconding from official mission leading to his dismissal.

CONCLUSION
The Ombudsman was satisfied with the decision to dismiss him from the service in line with article 7.0 (1) (a) of the code of conduct of the Civil Service of The Gambia, September 2013.

COMPLAINT NO: 22/2023
NATURE OF COMPLAINT: Claiming Pension

COMPLAINT
The complainant stated that he retired in July 1998 and opted for half yearly pension allowance.

He alleged that he was paid D1, 228.95 as half yearly accumulated pension up to December 2016. He added that in June 2017 his half yearly pension increased to D3686.86 contrary to what he was paid from 1998 to 2016.

He further alleged that he reported the new payment to the relevant department but he was informed that there was no increment. It was the amount he should have been receiving since his retirement. He was claiming underpaid half yearly pension from 1998 to 2016.

FINDINGS
The complainant was overpaid by D36,868.48 between 2018 and 2023.

The verification exercise of pensioners conducted between January and March 2017 indicated that the complainant was not present for the verification and as a result his pension allowance was temporarily stopped.

The complainant failed to report for the verification again and his pension allowance for June 2017 remained unpaid. Subsequently, he reported for the verification and his pension was reinstated in December and he was paid his entitlements for June and December making it a total of D3,686.86.

The complainant was receiving double the amount every six months as opted from 2018 to date. It is a requirement that the overpaid amount be recovered accordingly

CONCLUSION
The complainant was advised to comply with the recovery period and enjoy his full pension allowance thereafter.

COMPLAINT NO: 23/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that her daughter died on 1 December 2021. The daughter was survived by two children and her mother. She claimed the savings of her late daughter which was deposited at a bank.

According to the records, her savings was D112,010.69 at the time of her demise. The complainant stated that in December 2022 she went to the bank to claim the money but was informed that it would be transferred to the relevant authority. She filled the required forms and waited for the process.

She alleged that she made follow-up for five months and was informed late that the file was missing. She stated that the deceased's children were encountering financial difficulties affecting their education.

FINDINGS
The complainant's allegation that her late daughter's file got missing at the said authority was refuted.

A file was opened for the estate of her daughter on 4 January 2023. A gazette was prepared and the deceased's bank was written to on 6 February 2023 and they responded in May 2023.

A letter of administration was filed at the high court and an order was granted as a consequence the letter of administration was forwarded to the deceased bank for the release of the funds.

CONCLUSION
The complainant was paid D111,000 being her late daughter's savings with the said bank.

COMPLAINT NO: 27/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant joined his institution in 1983 as an aerodrome electrical cadet and climbed through the ladder to the position of director of engineering and maintenance in 2010. He maintained the same position until his premature retirement in October 2022.

The complainant in January 2021 received a letter dated 21 January 2012 informing him to proceed on leave and retirement as he had leave arrears. The content of the letter prompted him to call the attention of the human resources director to rectify the issue of his date of birth which was the determinant of his retirement from service.

He put it to the human resources director that the date of birth quoted in the letter as 30 October 1962 was not accurate as the actual date was 30 October 1963. During a meeting he was told that his date of birth was quoted from a document he himself signed while being recruited.

The complainant added that the senior officer he had the said meeting with also mentioned that the Social Security and Housing Finance Corporation (SSHFC) had his national document bearing 30 October 1962 as his date of birth. However, the complainant told them that 30 October 1962 on the document was an error which was corrected and he further told them to verify with SSHFC. The complainant also stated that during the meeting, he was told that the matter would be resolved before the end of his leave and his statutory retirement notice would not be forwarded to SSHFC.

The complainant contacted the human resources department on the matter and was told to check with SSHFC, which he did. He was told by SSHFC that there was no notice of retirement received from his employer on his behalf.

The complainant was asked to go and explain to his employer that the only document available in his file at SSHFC was a single form that was filled on his behalf at the time of registration with the corporation. The complainant claimed that the information received at SSHFC was relayed to his employer. After a while he checked but no action was taken on the matter.

The complainant added that on 24 October 2022, he wrote a reminder to the director general on the pending issue of his retirement and the reply he got was that the authority maintained that his retirement date should be 30 October 2022. He claimed that the authority's decision was communicated to SSHFC in a letter dated 30 October 2022 but the said letter was dispatched on 14 December 2022. He was requested in the letter to provide his national identity document which he did.

According to the complainant, SSHFC wrote to his institution on 9 January 2023 stating that his retirement date was 30 October 2023 as indicated in the national document available at the corporation. He claimed that despite this revelation by SSHFC to his employer, his salary was stopped including all other benefits by 30 October 2022.

The complainant stated that he had a meeting with his director general and deputy director of human resources to resolve the issue. The complainant stated that he met the director general in early April and was told that the matter would be taken to the board. He alleged that he was informed that the board met on 9 April, 2023 and the matter was discussed but he was not communicated to regarding the decision taken on the issue.

FINDINGS

The complainant joined the institution as an aerodrome electrical cadet on 15 February 1983. He then climbed through the ladder to the position of director of engineering and maintenance on 7 January 2011 in which position he remained until October 2022 when he was retired.

In the course of his work, he accumulated leave arrears of 433 working days. Because he had to take his leave entitlements within his statutory retirement period, his employer informed him on 19 January 2021, that he was supposed to proceed on leave and retirement. His leave was supposed to start from 3 March 2021 to 30 October 2022. He was also asked to provide two passport-sized photos, a copy of his national identity card, and a B-Ban number if he chose to receive his pension from his bank.

In an internal memorandum dated 25 February 2021, the complainant wrote to the director general wishing to forgo his leave period from 3 March to 30 April 2021 because of installation work that was going on at their new passenger terminal building. In a letter dated 4 March 2021, his employer informed him that he could continue work during the period requested but should prepare handing over notes to the officer next in line to commence acting as director of engineering and maintenance.

However, a few days before the expiry of his leave, the complainant in a letter dated 24 October 2022, informed his employer that his date of birth written 30 October 1962 was not accurate as his actual date of birth was on 30 October 1963. This meant that he had an extra year left to his retirement.

His employer on 21 November 2022 responded by telling him among other things that they had exchanges with both Personnel Management Office (PMO) and SSHFC on the payment of his retirement benefits and none of them came back to dispute his stipulated date of birth (30 October 1962). They also informed him that this date of birth was in fact taken from a document he himself filled and signed. In addition, they also informed him that his registration form at social security also bore 1962 as his date of birth.

However, on 9 January 2023 SSHFC informed his employer that the registration form (SS1) filled on the complainant's behalf had no supporting national document attached. The institution must have ensured that they submitted a complete registration form for the complainant at SSHFC as per section 50 (1) of the SSHFC ACT.

In the same letter, SSHFC also informed the complainant's institution that the complainant had in the process of completing his form, submitted a valid national document in the form of a passport to support the already incomplete registration. Since they had not provided them with the supporting document to complete the complainant's form, they (SSHFC) after reviewing the newly submitted document found it admissible and were obliged to amend their records accordingly. Therefore, the complainant's date of birth was changed from 30 October 1962 to 30 October 1963.

On 13 September 2023, SSHFC members of staff also admitted that the change of date of birth of the complainant from 30 October 1962 to 1963 in their form was because of the reasons mentioned above.

In the complainant's personal file from his employer, there was no authentic document showing that the complainant's date of birth was 30 October 1962. However, PMO when consulted for the verification of the date of birth responded on 20 November 2023 that the complainant's personal file could not be found in their records office.

RECOMMENDATION

The Office of the Ombudsman therefore recommended that the complainant's date of birth be maintained as 30 October 1963. In addition, his employer should pay him all his salaries from the time he was prematurely retired to October 2023 being the time he was supposed to retire.

CONCLUSION
Since there was no supporting document from the complainant's personal file with his employer, and PMO was unable to provide the office with the complainant's personal file, the date of birth on his passport was accepted.

The complainant was paid D187 175.04 being payment of 12 months basic salary. In addition, he was paid via Voucher No:PV2024-00181 the sum of GMD334,000 being payment of allowances IFO from November to December 2022, to January to December to December 2023.

COMPLAINT NO: 28/2023
NATURE OF COOMPLAINT: Unfair Treatment

COMPLAINT
The complainant was enlisted in the service as driver in 2016. He stated that on 4 October 2021 he was driving the patrol team escorting officers . Upon arrival at the airport junction, a commercial vehicle (gelle-gelle) collided with his vehicle and damaged the door of his driver's side.

He said that the police mobile officers visited the scene and measured the accident area. Both drivers were instructed to report to the station and write their statements. He was also asked to drive the vehicle to the police garage. The following day he was ordered to report to his institution's headquarters with the officers who were onboard during the accident.

He stated that the commercial driver called him to enquire how much he should pay for the damage. He consulted his commissioner but was told that he would communicate to the driver. He was not reprimanded until in January 2023 when he was deducted D500 from his salary as a fine. He reported the issue to the finance department but he was informed that the deduction was as a result of the payment of D50, 000 levied against him for the accident, causing damage to the vehicle engine. He complained that the engine was not affected at the time of the accident and the charge of D50,000 was not reasonable for repair of the damaged door.

The complainant believed that he was not at fault and the punishment should be on the commercial vehicle driver whose vehicle lost brake and hit his vehicle. He claimed the 4 months deduction and sought a review of the charge meted against him.

FINDINGS
The complainant was involved in an accident in 2021 at the airport Junction while on duty. A commercial vehicle collided with his vehicle causing damage to two doors of the vehicle.

The report from Mobile Traffic indicated that the commercial vehicle was coming by the fast lane and the complainant suddenly joined the lane initiating the accident. He was charged with careless driving.

However, the complainant was not prosecuted. Instead, his salary was deducted without proper notification on the pretext that he was surcharged for the damage to his institution's vehicle.

His institution again failed to follow proper procedure before imposing a surcharge. The complainant was not charged to Orderly room or given the opportunity to a fair hearing before imposing the surcharge.

In a letter dated 20 August 2025, the institution stated that the complainant had already suffered enough while proper procedures were not followed. As such, the head of institution recommended that the fine imposed should be lifted and his full salary be restored as soon as possible.

CONCLUSION

The Ombudsman therefore concurred with the complainant's head of institution and advised the complainant to be more vigilant in the execution of his duties. His salary was restored and the complaint settled.

COMPLAINT NO: 29/2023
NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT

The complainant alleged that in April 2023 his two children were sick and he sought permission from his supervisor but was advised to apply for annual leave.

He approached senior officials in his institution but they could not grant him permission due to exigency of the service. He then took it upon himself and stayed away without permission until the end of April 2023. He reported to work on 2 May 2023 but he was not paid May salary.

He made enquiry at the finance department but was asked to report to his supervisor to grant him approval to restore his salary. All his attempts to reach him proved futile.

FINDINGS

The complainant was enlisted with effect from 1 May 2021.

He absented himself from work without permission on 7, 9 and 11 July 2022 as a result he was issued with a warning letter dated 13 July 2022.

Again, he absented himself from work without permission on 14, 16, and 18 May 2022 and 9 to 11 June 2022. He failed to improve on his attitude and absented himself without permission on 18, 20 and 22 August 2022.

Consequently, he was suspended without salary for one month on 23 August 2022.

The complainant last reported to work in February 2023. The institution made all efforts to contact him to no avail. As a result, his acting head of department recommended the stoppage of his salary on 6 April 2023.

The director of administration wrote to a letter dated 21 August 2023 and conveyed to the Ombudsman that the complainant's salary would be restored provided that he reported for duty.

CONCLUSION

The complainant resumed duty on 23 August 2023. He was warned to take his work seriously and to desist from absenting without permission.

COMPLAINT NO: 30/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he was a surgeon at a hospital. According to him, the hospital management falsely accused him of performing abortion in December 2012. He added that the patient he operated on the said date was a male hence, this proved that he did not do it. The complainant stated that he was falsely charged and wrongfully detained for three days without being taken to court. He was granted bail and when he returned to work, he was told that he could not come to work because the matter was still under investigation. He further stated that he was handed an interdiction letter on 3 March 2023.

According to the complainant, he had not been to work for a year and no action had been taken. He added that on 9 May 2023, he received a call from the police that he should report which he did. The police told him that his file was with them and he would be contacted by the end of the week. However, the complainant stated that he left in the hope that the police would call him but he never heard from them. He alleged that his time had been wasted which was a gross violation of his human rights. He added that his reputation as a medical doctor had been tarnished.

FINDINGS

The complainant was appointed as medical officer and not a surgeon by the hospital with effect from 1 October 2017. The complainant's performance and attitude towards work had been extremely poor, unethical and inconsistent which was against the code of conduct guiding the practice of doctors.

The complainant was issued with a warning letter dated 18 October 2018 for extorting D3000 from a patient who was diagnosed with right inguinal hernia and booked for surgery. According to the official tariff the cost for such an operation was only D900. The complainant took the money from the lady and failed to perform the surgery.

In November 2019, the complainant was the subject of investigation into the premature death of a patient. He was found to be grossly negligent, demonstrated poor clinical judgement and failed to take the right actions at the right time potentially contributing to the untimely death of the patient. He had failed in his role and functions as medical officer to save life.

On 3 March 2020 the hospital management received another complaint from the duty room officer. On 12 March 2020, the complainant was on call to the A&E department to review patients who needed immediate attention but he refused. This was a serious misconduct and total lack of empathy and respect for patients.

On 12 April 2021, the complainant was suspended for one week without salary for failure to report to work. He was again suspended for two months without salary from 4 January to 4 March 2022 for leaving the hospital for several hours and being unreachable on phone when critically injured patients were waiting for treatment on 4 September 2021.

The complainant was subjected to police investigation into an illegal and botched surgical procedure which he performed while on call-duty from 29 to 30 December 2021. He clandestinely operated a patient inside the surgical on-call room which was unsafe, unethical and irresponsible. For the safety of patients, such a procedure was supposed to be conducted in the operating theater to avoid infection.

The complainant was in the habit of extorting money from patients. He extorted D5000 from a patient for a procedure he never performed.

CONCLUSION

The complainant's demeanour and attitude towards work was improper. The Ombudsman was satisfied that the complainant was not unfairly treated. The Ombudsman upheld the decision of the board to dismiss the complainant.

COMPLAINT NO: 32/2023
NATURE OF COMPLAINT: Unlawful Suspension Without Salary

COMPLAINT

The complainant stated that he had been working with a school since 2019 as a teacher. In February 2023, he was issued with a suspension letter without salary by the school. He made several follow-ups for his suspension to be lifted but to no avail.

He further stated that the decision for his suspension was due to allegations that he used offensive language against his headmistress and attempted to assault her, which was false. Since then, he had not been recalled to work.

FINDINGS

The complainant was appointed as a teacher at the said school in 2018.
He was warned for lateness and absenteeism for 25 days in April 2021. He was also suspended by the regional education directorate for assaulting the headmistress which he admitted in a meeting held on 7 February 2023,

The complainant could not provide the medical certificate of her sister and father to justify his absenteeism and persistent lateness while he had no excuse from the school authority.

The complainant had a private teaching job in another school as a result of which he frequently left the school without permission. This he failed to disclose to the school authority.

CONCLUSION

The complainant had conducted himself in a manner that warranted the school and the regional education directorate to institute disciplinary measures on him. In this regard, the decision to suspend him from the school was upheld.

COMPLAINT NO: 35/2023

NATURE OF COMPLAINT: Claiming Salary Difference and Arrears

COMPLAINT

The complainant was appointed as vice principal and financial accounting teacher on 6 September 2022 on grade 9.7. He stated that when he received his salary, he discovered that he was paid salary on grade 9.6 instead of 9.7 as stated in his appointment letter.

He wrote a letter dated 25 April 2023 requesting payment arrears of the salary difference to no avail.

He applied for a car allowance on 12 May 2023 and enclosed particulars of ownership as required in section I: Code: 05101 of the General Orders "Basic car allowance, which is payable to Officers in Grade 9 and above, shall be paid while an officer owns and maintains a private car which is road worthy and available for his/her use".

He alleged that the principal refused to pay him car allowance instead he was paid transport allowance.

FINDINGS

The complainant was appointed as vice principal and financial accounting teacher on grade 9.7 of the integrated pay scale effective 6 September 2022.
He was paid salary on grade 9.6 one grade point below his appointment grade.

He was paid transport allowance and not car allowance.

He did not apply for basic car allowance following his appointment as required under section 1: Code:05101 of the General Orders.

He applied for a car allowance on 12 May 2023 and enclosed particulars of ownership but approval was not granted.

CONCLUSION
The complainant was paid D2, 521.80 on 14 August 2023 as settlement of salary difference and car allowance**.**

COMPLAINT NO: 36/2023
NATURE OF COMPLAINT: Request for Copies of High School Transcript

COMPLAINT
The complainant said that he attended a high school from 1995 to June 1997, after which he obtained a GCE O 'level Certificate. In September 1997 he proceeded for his A' level which he also obtained in June 1999. He alleged that for eight months he had requested his O' level and A' level transcripts and even sent family members and friends who were also school mates but to no avail.

He alleged that he was asked to pay D200 for each copy at a bank and he paid D400 for both copies. He even sent a picture of the transcripts to the school but could not get the official transcripts which should bear the school stamp and letterhead. He said he needed the said documents before September 2023.

FINDINGS
The principal informed the Ombudsman that the allegation made by the complainant that he applied for the documents for eight months without getting them was false. The reason was that the school had procedures that must be followed before school documents are issued which the complainant failed to follow.

Students were required to pay at the bank before their documents were processed and the complainant paid D400 for both transcripts on 20 July 2023 instead of eight months earlier.

The complainant had requested his transcripts and submitted photocopies of the documents given to him by the school. However, due to the many incidents of forgery, the school first verifies the authenticity of documents sent in by applicants.

In addition, it was difficult to track his file considering the years involved and there were also a lot of students who applied before him which the school needed to handle first. The failure to issue the complainant his transcripts on time was triggered by the above factors.

The principal also informed the Ombudsman that the complainant's status was established and his transcripts had been processed even before they received our letter.

CONCLUSION
On 25 September 2023 the complainant confirmed the receipt of his transcripts.

COMPLAINT NO: 40 /2023
NATURE OF COMPLAINT: Claiming Retirement Benefits

COMPLAINT
The complainants stated that they were employees of a public institution. They explained that upon receipt of their retirement notification letters, they submitted all the required documents to Social Security and Housing Finance Corporation (SSHFC) for their benefits to be processed but were told that their institution had not been sending their contributions. They said that they made several follow-ups at the human resource office to expedite the payment of their benefits to no avail.

FINDINGS
The complainants were retired and asked to fill claim forms with all necessary documents attached and submit to SSHFC for the processing of their benefits.

SSHFC delayed the payment of the complainants' benefits requiring their institution to pay the contribution gaps owed to the complainants and accrued interest on the late payment of contributions.

The complainant's institution acknowledged causing the contribution gaps due to financial constraints affecting the company's operation.

CONCLUSION
The complainant's institution entered into an agreement with SSHFC to settle the amount involved in two installments in order to expedite payment of the complainants' benefits.
Their institution fulfilled the agreement made and SSHFC paid the complainants as follows:

- NJ D220,256;
- AC D193,000;
- M J D174,149.97;
- MT S D146,000

COMPLAINT NO: 41 /2023
NATURE OF COMPLAINT: Non-Payment of Gratuity

COMPLAINT
The complainant stated that he was enlisted into a security institution in 2010 and signed for 12 years. Upon completion of his 12 years' service, he opted to continue his service but changed his mind and applied for discharge in January 2023. He added that in February 2023, he was discharged, paid his widow and orphan pension scheme (wops) and leave allowance.

He alleged that he had not been paid despite making several follow-ups at the level of his institution. He further alleged that he went to another public institution for a follow-up but was advised to go to the finance office of his institution where the gratuity process should start. At the finance office of institution, he was told that his file was missing.

FINDINGS

The complainant completed his12 years' service with the said institution and opted to continue but changed his mind and was voluntarily discharged.

The processing of his gratuity was delayed because his file was misplaced by officers of their finance unit.

The file was later traced, processed and sent to the relevant authority for payment.

CONCLUSION

The complainant was paid D19,700.

COMPLAINT NO: 44 /2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he was appointed on probation for 6 months in September 2019 and placed on grade 9.3 of the government integrated pay scale. He said that his appointment was to be extended to two academic years upon satisfactory performance. After the probationary period, he was offered two academic years teaching appointment in May 2020 on the same grade effective 1 April 2020 to 31 March 2022.

He added that in May 2022, he was offered 3 months local contract effective 1 April 2022 to 30 June 2022 on grade 8.8 towards the end the 2022 academic year.

Again, in November 2022, he was issued with another offer of local contract effective July 2022 to June 2024 on grade 8.8.

He further said that he had written a letter dated 14 September 2023 to the principal to terminate his contract with the school effective 15 October 2023 due to the following: the change in his grade from 9.3 to 8.8 and the non-payment of contact gratuity.

However, the principal had refused to accept his resignation arguing that it was to take effect in the middle of the month. He had also alleged that the principal had furiously sent him out of the school, and had told him that his September salary was not going to be paid.

FINDINGS

The complainant was offered an appointment on probation in September 2019 and placed on grade 9.3 of the Gambia government integrated pay scale. Upon completion of the probationary period, he was given two years appointment on the same scale effective 1 April 2020 to 31 March 2022.

In May 2022, he was given an extension of two months' contract effective 1 April to 30 June 2022 to complete the academic year on a downgraded scale of 8.8

In November 2022, he had received another two-year contract effective July 2022 to June 2024 on the same downgraded scale.

The complainant submitted a resignation letter to the principal dated 14 September 2023 to take effect15 October 2023. His reasons were that he had been downgraded from grade 9.3 to 8.8 and the non-payment of his contract gratuity.

The principal had not written any official letter indicating acceptance of the resignation or otherwise. He explained to the investigator that he had opted not to respond because the effective date for the resignation fell in the mid of the month. He noted that the complainant was informed not to serve a month's notice because he had already known that the complainant had taken up another appointment elsewhere and wanted to bait for September salary with the school. The complainant had indeed taken up appointment with another school, which was to be effective 16 October as per a letter reference W6/257/23(3) dated 25 September 2023 contrary to the principal's view that he was baiting for September salary.

On the grading issue, the principal's attention was drawn to it at the annual bilateral by the ministry that the grade 9 category was accorded to senior masters/HoDS for which he was not entitled. The principal had drawn the complainant's attention to the anomaly and had informed him that the new contract would be paid on grade 8.8, and added that he would not lose the income difference of grade 9.3.

The complainant was then appointed on grade 8.8 and the difference was paid in his inconvenience allowance which would make it D1596 instead of D1000. Despite the change in the complainant's grade point, the difference was adjusted to his inconvenience allowance to match his usual monthly take home.

The principal's failure to acknowledge the resignation of the complainant contravenes the terms and conditions of the appointment which explicitly indicated that either party can terminate the appointment by giving a month's notice or payment of a month's salary in lieu of notice.

The contract gratuity he claimed was changed by the ministry that all contracts should be substituted to a contribution to the National Provident Fund with the social security, and this was clearly stated in the terms and conditions of the appointment. From the statement of account received from social security, the school has no contribution gap in respect to the complainant except for the month September 2023.

RECOMMENDATION

It was recommended that the complainant be paid his September 2023 salary as he had notified the school of his resignation as per the terms and conditions of the appointment.

CONCLUSION
The principal's failure to acknowledge receipt of the complainant's letter and subsequently asking the complainant not to bother coming to the school to serve the notice, had not reneged the principal's obligation to pay the September salary to the complainant.
Also, the school had positively responded to the newly adopted system and it was not obliged to pay the complainant contract gratuity.

The complainant was paid his September 2023 salary.

COMPLAINT NO: 45 /2023
NATURE OF COMPLAINT: Failure to follow-up on His NPF contribution

COMPLAINT
The complainant stated that he had worked for a particular institution from 2010 until his retirement in 2018. Upon retirement, he submitted all required documents to the relevant authorities for processing of his retirement benefits. On 6 September 2023, the complainant said that he was issued with a cheque for his retirement benefits but claimed underpayment.

When he challenged the amount, he was informed that his former employer had a contribution gap of 3 years and they would make a follow-up with them to pay in order to process the remaining.

He stated that the authorities had known about the contribution gap but failed to do the necessary follow-up so he could receive his full retirement package.

FINDINGS
The complainant was retired in 2018. He submitted the required documents for processing of his benefits.

The relevant authority could not continue processing his benefits when its in-house verification unit revealed that there were unremitted contributions for a period of three years. However, it failed to do the necessary follow-up until our intervention.

The complainant's institution was informed of the sum owed in respect of the complainant and the penalty charges levied for late remittance of contributions pursuant to section 43(1) of SSHFC act, 2015.

In March 2024, the pension authority informed this office that a deposit payment amounting to D26, 646.92 out of the total sum of D29, 335.24 was paid and that the remaining balance was due for settlement the following month, as promised by the complainant's institution.

CONCLUSION
The complainant was eventually paid the full package of his benefits amounting to D64, 016.74 on 29 July 2024.

The pension was advised to strengthen its compliance mechanism so as to avoid unnecessary complaints from beneficiaries who are due to receive payments.

COMPLAINT NO: 48 /2023
NATURE OF COMPLAINT: Non-adherence to Termination Procedures

COMPLAINT

The complainant stated that she was appointed as instructor in a skills training centre 2013. She added that the institution had not enrolled students throughout the 2022/23 academic year. When schools resumed for the 2023/24 academic year, the institution could not as well have students for the programs offered, resulting in her and others sitting for long without doing any work.

She said that in October 2023, she was issued with a letter terminating her services effective end of November due to redundancy.
She expressed concern that the institution's decision to terminate her services without consideration to established procedures for service termination due to redundancy were unlawful.

FINDINGS

The complainant was appointed as instructor in 2013.

The unit under which the complainant used to work had gone for three academic years (2021- 2024) without having students enrolled to undertake any of the programs offered in that unit, which prompted the skill training center coordinator to advise for its closure.

The complainant through a letter dated 2 October 2023 was informed of the management's decision to termination her service due to redundancy effective end of November as per their service rules.
As per PIA's service rules, termination due to redundancy required a month's notice without any other entitlement.

CONCLUSION

The notice of termination due to redundancy employed by complainant's institution contravenes section 93 of the Labour Act as amended in 2023, and the established procedures set out in section 141 of the same act. If rules specific to an institution contravene a national law or regulation, the latter supersedes. Therefore, it was recommended that the complainant be paid 6 months' notice, which was adhered to.

RECOMMENDATION

The complainant's institution was advised to have its service rules reviewed to be in line with the existing national laws.

COMPLAINT NO: 56/2023
NATURE OF COMPLAINT: Unfair Expulsion from School

COMPLAINT
The complainants stated that in preparation of their mathematics paper for the 3rd term examination, one of their mates sent them a purported leaked maths paper that would be the paper they would write to.

One of the complainants said that the paper was sent to her via WhatsApp by one teacher who was part of the exam council of the school. She further said that upon receiving the paper, she sent it to their student WhatsApp forum where they solved the questions together.

After the paper, the mathematics teacher learned that the paper was leaked and was furious about it. The school then cancelled that paper and set a new one for students to write.

The school also set up an investigation panel in order to know how and why the paper was leaked to students.

The complainants cried that out of the number of students identified to have had access to the paper, only four of them were expelled which in their view was unfair.

FINDINGS
The complainants were school counselors and among them were the deputy head boy and deputy head girl.

The said teacher sent the mathematics paper to one student who shared it in the student WhatsApp forum where they solved the questions together.

The leaked paper was cancelled and another one was set for the students to write. All the complainants passed except the student to whom the teacher sent the paper. She was to repeat grade 11.

After the investigation, the complainants were expelled from the school for examination malpractice and the teacher was dismissed.

CONCLUSION
Considering the fact that the affected students were in their final grade of secondary school, negotiation was done on their behalf with the condition of stripping them off their counsellorship which was accepted by the school management. The office mediated on behalf of the affected students and they were accepted back in the school.

COMPLAINT NO: 63/2023
NATURE OF COMPLAINT: Injustice in Tender process

COMPLAINT
A Gambian-registered construction company, lodged a complaint alleging injustice in the tender process for a public project. The complainant stated that the tender was expressly

reserved for Gambian companies, and it was among the shortlisted firms. However, the project was ultimately awarded to a company, which the complainant contended was not a local company, contrary to the eligibility requirement.

According to the complainant, the company awarded the contract was registered in The Gambia merely as a front company, while its parent is based in Senegal. The complainant argued that this arrangement rendered the tender process unfair and noncompliant with the local participation requirement.

FINDINGS
The investigation established that the public body, invited bids exclusively from local Gambian construction companies for the said project.

However, the contract was awarded to a company not registered in The Gambia, and therefore ineligible under the tender requirements for local firms.

Evidence revealed that the company registered in The Gambia, has a parent body registered in Senegal under a different name. Although both companies share the same founders, they are two distinct legal entities.

Further scrutiny of the registration documents of revealed significant deficiencies and inconsistencies, including discrepancies concerning the nationality of one of its directors. These irregularities suggested deliberate attempts to misrepresent the company's local status to gain an unfair advantage in the tender process.

The Ombudsman therefore concluded that the contract award process was irregular and unjust, violating the tender condition restricting participation to locally registered Gambian companies. Consequently, the complainant suffered financial loss as a result of participating in a flawed procurement process.

FINDINGS
Acting under Section 13(1)(c) of the Ombudsman Act, the Ombudsman recommended that the public body:

1) Compensate the complainant for its tender preparation costs, amounting to US$54,876.81; and
2) Take appropriate measures to strengthen transparency, accountability, and due diligence in future tender evaluations.

CONCLUSION
The Board of Directors of the public body failed to adhere to the Ombudsman's recommendation, citing jurisdictional limitations of the Ombudsman's authority and disputing the recommendation for compensation.

The complainant requested to withdraw the case. In consideration of this request, the Ombudsman granted the withdrawal of the case as requested.

COMPLAINT NO: 66 /2023
NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT
The complainant, a staff member of a hospital, alleged that on 19 August 2022 he received a letter redeploying him to another hospital effective 29th August 2022. He stated that since it was the hospital management board that employed him with effect from 1 September 2019 as a senior staff nurse, he wrote to the hospital management board requesting for clarification from the chief medical director but he received no response. He further alleged that his salary was stopped in November 2022 due to his refusal to report to where he had been redeployed. He was of the view that his redeployment was unlawful.

FINDINGS
The complainant was appointed by a hospital on a month-to-month basis as senior staff nurse effective 1 September 2010. In February 2012 he was given a permanent appointment.

The ministry informed the complainant that he was re-deployed to another hospital effective 29 August 2022.

The complainant failed to report to the hospital and as a result his salary was stopped.

The ministry had never consulted the management board of the complainant's institution on the redeployment of the complainant to another hospital. Nonetheless, they only informed the complainant of the ministry's decision to redeploy him.

The ministry is governed by the Medical Service Act which specified the powers and functions of the ministry in establishing hospital management boards and other supervisory functions over government hospitals. None of the powers of the ministry includes the administrative power to employ, dismiss, terminate the services or transfer an employee of any public hospital.

By virtue of the complainant's appointment, the contract was between the complainant and the hospital and not the ministry. The Act governing the said hospital restricted the application of the Medical Service Act on the hospital, the board and the persons employed by the hospital.

Thus, it was unlawful for the ministry to meddle in the employment and management of the hospital with the exception of making regulations, in which case the consent of the minister was required.

CONCLUSION
The ministry acted ***beyond its powers*** when they transferred the complainant without authority. The act of transferring the complainant and any other staff after the coming into force of the Act 2006 was null and void, and not done according to law.

The Ombudsman recommended that the complainant was entitled to be paid his salary arrears.

COMPLAINT NO: 67/2023

NATURE OF COMPLAINT: Death Gratuity

COMPLAINT

The complainant reported that his late son was appointed by a security institution in September 2017. He died while in active service on 13 April 2022. Following his son's death, the complainant received the sum of D25, 000 from the Curator of Intestate Estates. However, he alleged that the institution failed to pay his son's death gratuity.

FINDINGS

The deceased did not serve the required minimum period of five (5) years. Consequently, he did not qualify for death gratuity or other service-related benefits under the relevant regulations.

CONCLUSION

The Ombudsman concluded that since the deceased's service did not reach the required five-year threshold, his family was not entitled to receive death gratuity or other benefits.

CHAPTER 5

5.1 CASES REGISTERED AT KEREWAN REGIONAL OFFICE

COMPLAINT NO: 3/2023
NATURE OF COMPLAINT: Claiming Gratuity

COMPLAINT
The complainant complained on behalf of his late brother who was appointed as night watchman by a ministry effective 1 May 2015. He stated that his brother was due for statutory retirement and was asked to proceed on retirement with effect from 30 August 2017. He added that his late brother pursued his retirement benefit until his death to no avail.

FINDINGS
The complainant's brother was appointed as night watchman by a ministry with effect from 1 May 2015, He was due for statutory retirement on 30 August 2017 and was eventually retired. Following his retirement, he had pursued his retirement benefit but could not be processed until his death on 13 April 2023.

The complainant's late brother worked for only two years three months and as a result, he was not entitled to retirement benefit or gratuity. This was in pursuance of the General Orders which indicates that an employee on the pensionable scheme shall only be entitled to retirement benefit and gratuity if he/she served for at least 10 years and 5 years respectively.

CONCLUSION
Since the complainant's late brother was not eligible for gratuity, his heirs were not entitled to claim gratuity.

COMPLAINT NO: 4/2023
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT
The complainant stated that his late brother was appointed as night watchman by a ministry with effect from 1 May 2015. He served as night watchman until his retirement on 30 August 2017. He added that his late brother had pursued his retirement benefits but was not paid until he died on 13 April 2023.

He alleged that on 7 May 2023, he went to their village alkalo and requested an attestation on the death of his brother to enable him to process his brother's gratuity. However, the alkalo refused to give an attestation stating that his late brother had not been regularly paying his compound rates. He further alleged that he tried to make the alkalo understand that the request for an attestation had no connection to the payment of compound rates but he still refused.

FINDINGS

The complainant's late brother was appointed as night watchman by a ministry with effect from 1 May 2015. During a nationwide staff audit exercise in 2017, it was noticed that the complainant's brother was due for statutory retirement. Therefore, he was asked to proceed on retirement with effect from 30 August 2017. Following his retirement, he pursued his retirement benefits until his death on 13 April 2023.

On 7 May 2023, the complainant requested an attestation from their village alkalo on the death of his brother to enable him to process his gratuity. However, the alkalo refused on the grounds that the complainant's late brother had not been regularly paying his compound rates.

RECOMMENDATION

It was recommended to the alkalo that the complainant be given an attestation on his brother's death since it had no connection with the payment of a compound rate.

CONCLUSION

On 10 May 2023, the complainant informed the office that he was given the attestation.

COMPLAINT NO: 5/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

During a meeting with a new market committee on 3 May 2023, the Ombudsman was informed that since the completion of the construction of a new market, the provision of electricity and water service connection was a challenge. They added that even though the stalls/canteens were allocated, business could not be operationalized due to the lack of water and electricity.

They expressed gratitude for the erection or installations of low voltage (LV) extension poles to the said market but expressed worries over the delay in the provision of a transformer to complete the electrification process. They emphasized that since water and electricity are indispensable, they had been engaging the relevant company to provide them with water and electricity to no avail.

FINDINGS

The construction of the said market was part of the Senegambia bridge project. The market required a transformer and LV extension for it to be provided with electricity. The installation of the transformer and LV extension was contracted to a private company.

However, for the water connection, the national company was not having the required network to be able to do the pressure test. The reason for this was that there was a leakage in the elevated tank that should serve the market and the tank was unable to be filled to the top level.

RECOMMENDATION
Since the water service connection was the responsibility of the national company, it was recommended that their maintenance team be assigned to fix the problem.

CONCLUSION
On 9 December 2023, the chairman of the area council informed the office that both the electrification and the water service connection processes had been successfully completed.

COMPLAINT NO: 6/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that on 11 May 2023, she went to process her biometric identification card. On arrival, she presented her birth certificate, voter identification card, an attestation and her mother's national identification card. She further stated that the officer who was attending to her said her biometric identification card was not going to be processed because her name was spelt differently on her documents. She said she appealed to the officer to consider the spellings on her birth certificate but he refused. She further explained to the officer that the spellings on the voter identification card was a typographical error and would be difficult for her to change but he still refused.

FINDINGS
On 11 May 2023, the complainant went to process her biometric identification card. She presented her birth certificate, voter identification card, attestation and her mother's national identification card. However, her name was misspelt on her birth certificate while it was written differently on her voter identification card and attestation. For this reason, she was told that her biometric identification card could not be processed.

She was also advised to find out how her name was written on her children's documents. This was made to avoid further inconsistencies in the spellings of her name which could cause difficulties for her children.

RECOMMENDATION
Having established that her name was spelt correctly on her children's documents, the officer responsible was advised to consider her birth certificate and her mother's national identification card.

CONCLUSION
On 16 May 2023, the complainant's biometric identification card was processed. On 12 June 2023, she informed the Ombudsman that she was issued her biometric identification card.

COMPLAINT NO: 7/2023
NATURE OF COMPLAINT: Corrupt Practice

COMPLAINT
The complainant alleged that on 14 May 2023 while he was riding his motorbike towards Kerr Juma Sarr carrying ice blocks for sale, he passed two officers at Kerr Wally and gave them a horn. He added that he could not stop because the place was sandy. He also said that he was familiar with them and had been passing without stopping. On his return he was stopped at Kerr Jaine, escorted to a police post, and made to pay D700. He said that he pleaded with the officer that he did not deliberately refuse to stop rather he was used to passing them in that manner.

FINDINGS
On 14 May 2023, while the complainant was riding his motorbike to Kerr Juma Sarr, he passed two security officers. There was no signboard to indicate that there was a checkpoint. The road was also sandy making it difficult for the complainant to stop because his motorbike was heavily loaded with ice blocks.

When the complainant was returning, he was stopped by one of the officers. He was later taken to the police post and made to pay D700 without the issuance of a receipt.

RECOMMENDATION
Since the D700 was taken from the complainant without being charged, the officer was ordered to give back the D700 to the complainant.

CONCLUSION
On 17 July 2023, the complainant informed the Ombudsman that the officer gave him back the D700. Besides, the officer was cautioned for taking money from people without charge and issuance of an official receipt.

COMPLAINT NO: 9/2023
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT
The complainant alleged that on 19 July 2023, she was summoned by their village alkalo informing her that two of her goats were found on a nearby farm causing damage. She was fined D300 per goat amounting to D600 which she refused to pay because she could not be shown the damage on the said farm. She further alleged that the alkalo insisted that she would not take her goats unless she paid the fine or else she would be summoned to a district tribunal.

FINDINGS
The complainant's goats caused damage on the said farm and as a result she was fined D600. This fine was in line with the agreement between the village development

committees of two neiboughring villages. This was made to compel villagers to control their animals from causing damage on farms during the rainy season.

Moreover, the district chief was informed by the alkalos of the two villages of the said agreement. However, he advised them to consider reducing the fine per goat from D300 to D50 because it would be difficult for the villagers. He promised to pay the fine on behalf of the complainant after which the alkalo would be advised to reduce the fine to D50.

CONCLUSION
On 21 July 2023, the complainant informed the Ombudsman that the chief paid the D600 fine on her behalf and her goats were released. Besides, the D300 fine per goat was reduced to D50.

COMPLAINT NO: 10/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainants stated that the authorities of a health post were obliging them to buy fuel for the community ambulance whenever they had referrals to either Essau Health Centre or Farafenni General Hospital. They added that in March 2023, the health post's catchment villages were compelled to contribute money for the fueling of the ambulance. They further alleged that when their alkalo was informed of the contribution, he initially rejected it. They expressed that they were of the belief that an ambulance provided by the government should be fueled by the government.

FINDINGS
The said health post was allocated a community ambulance in November 2023. The ambulance was allocated to the health post's catchment villages:

Following the allocation of the ambulance, it was fueled from the Covid 19 fuel allocation until March 2022 when the Covid 19 fuel got exhausted. From April 2022 to September 2023, the ambulance was fueled by escorts of patients on referral and sometimes the officer in charge of the health post.

- The fueling of the ambulance was causing lots of difficulties to escort of patients. A committee was formed at the end of September 2023 from the 7 catchment villages to come up with a convenient way of fueling the ambulance. Consequently, it was agreed by the committee that each married man residing in the 7 catchment villages should contribute D50. At the end of September, D20,100 was collected which was used to fuel the ambulance starting from October. Further contributions were to be made pending the exhaustion of the purchased fuel.

A senior regional officer of the ministry said that the ministry was engaging Riders for Health to undertake the fueling and maintenance of the community ambulances.

CONCLUSION
The complainants were made to understand the circumstances surrounding the fueling of their community ambulance. They were advised to cooperate with the catchment committee formed to facilitate the fueling of the ambulance.

COMPLAINT NO: 11/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that he was a commercial driver. While he was driving from Barra to Farafenni on 21 July 2023, a lady boarded his car at Dassilami. When his apprentice requested her fare, she gave him D100 and asked for a change of D25. His apprentice told her the fare from Dassilami to Farafenni was D100 which she bitterly argued. The complainant told the lady that the fare was D100.

He alleged that when they reached a police station, the lady reported the matter to a police officer. After hearing from them, the officer said he was wrong. His car was parked and he was obliged to refund the passengers on board. He was later asked to pay a fine of D500. He said that he tried to make the officer understand that D100 was the fare charged from Dassilami to Farafenni but he could not understand. He added that he appealed to the officer to pardon him because that was his first trip and he did not also have D500 but to no avail.

FINDINGS
The complainant was a commercial driver. On 21 July 2023, he picked a lady at Dassilami going to Farafenni. When the lady was asked to pay, she gave the apprentice D100 and expected a refund of D25. Notwithstanding, the apprentice and his driver argued with her that the fare was D100. On reaching a police station, the lady reported the matter to a police officer. The driver was found faulty because Dassilami was not captured on the last tariff increment. Therefore, the tariff for the closest settlement to Dassilami from Farafenni should be applied. Therefore, the tariff for Kerewan which was D75 was to be applied.

Aside overcharging the lady, the car's clutch was faulty. His car was parked for four hours and he was also instructed to refund the passengers their fares. He was eventually asked to pay a fine of D500.

CONCLUSION
The driver was instructed to refund the fares to all the passengers on board, which he complied with.

COMPLAINT NO: 12/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant, a landlord, stated that his tenants had been enjoying both water and electricity services. He further stated the water and electricity company had been for decades serving the tenants with regular monthly water bills not exceeding D300. However, in April 2023 they were served with a water bill amounting to D14,534.83. In July 2023 they were also served with another bill of D21,976.22. To his utter dismay, his tenants in August and September 2023 were further served with bills amounting to D25,955.27 and D29,975 respectively. On 24 September 2023 his tenant's water service was disconnected.

He argued that water was not always available in the said house due to low pressure. The tenants were public officers who spent less time in the house and were at most times not available at the weekend. Therefore, the consumption of water in the said house did not tally with the bill that was issued.

FINDINGS

The tenants had been receiving a regular monthly water bill not exceeding D300 for years. However, in April 2023, they were served with a bill of D14,534.83. In July 2023 they were served with a bill of D21,976.22. In August and September 2023, they were further served with bills of D25,595 and D29,975 respectively. On 24 October 2023 their water service was disconnected. They had not been paying their water bill from July 2022 to September 2023.

The cause of the high bills was also as a result of a leakage in a newly constructed house within the same compound. The bill that the company had served had also increased to more than three times of the normal bill that was served prior to the arrears. It is the company's policy that when a bill increased to more than three times of the normal bills due to a leakage, 50 percent of the bill would be waved. In this case, the bills that were served were far more than three times of the normal bills that were served for decades before the leakage.

CONCLUSION

The tenants on 22 October 2023, paid 14,984.50 as 50 % of the bill and their water service connection was restored.

COMPLAINT NO. 14/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that thieves had on several occasions intruded into her house stealing her belongings. She alleged that she had several times reported the incidents to the closest police station but the police took no action.

She alleged that any time she reported a theft case to the police, they asked her the name of the suspect and address. She further said that she had engaged the police to carry on a regular patrol where she lived but it never happened.

FINDINGS

The complainant, a European citizen, lives in a community not far from where the police station is located. On 4 January 2023, her house was intruded by thieves. She reported the matter to the said police station but could neither identify the suspect nor provide intelligence information to the police.

On 5 January 2023, officers from the criminal investigations department visited her house to gather information regarding the theft incidents. They confirmed that the thieves entered the room through the roof but the complainant could not tell them what was stolen.

The police had also advised her to employ a watchman but she said she did not have the money to pay a watchman.

During an engagement with the police, several officers including the officer commanding and the station officer stated that they suspected that the complainant had psychological problems.

They cited several instances when she was found insulting and reporting drivers for horning at her on the road and also insulting and reporting children calling her “toubab” in the streets. She had also been reporting that her neighbour’s stray animals were always entering her house causing disturbance.

CONCLUSION

In view of the above, the police were urged to be responsive to her complaints by virtue of her suspected psychological condition and predicament. She was also advised to employ the services of a watchman to protect her and her property.

COMPLAINT NO: 16/2023
NATURE OF COMPLAINT: Abuse of Power

COMPLAINT
The complainants said that they had been selling vegetables at a market for decades. They explained that the market was the place where they had been striving to make ends meet. They alleged that a police officer was in the habit of beating them and destroying their commodities on the allegation that they wrongly position themselves in the market. They said that despite telling him that they had been paying daily dues to the area council, he still continued to maltreat them.

They argued that they had only that market where they sell their commodities and as such, should be allowed since they had been regularly paying their daily dues to the council. They further argued that they were never queried by the council that they were not occupying the right place in the market.

FINDINGS
The complainants were vegetable farmers who sell their vegetables at the said market on a daily basis. They were also regularly paying their daily dues to the area council. However, the complainants were wrongly positioned in the market because they were usually seated on the road side from early morning to midday. This situation was causing difficulties for vehicle users during this hour of the day. For this reason, traffic officers including the alleged officer were always there to clear the road for vehicles and passersby. During this process, vegetable sellers who remained recalcitrant were forced to move and, in the process, some of their commodities got destroyed due to stampeding.

The alleged officer denied the allegation that he had been beating the complainants and destroying their goods. Besides, the complainants could not provide evidence to back their allegation.

CONCLUSION
Since the complainant’s occupation of the road side was causing difficulties for road users, they were advised to relocate to a suitable side within the market.

COMPLAINT NO: 20/2023
NATURE OOF COMPLAINT: Abuse of Power

COMPLAINT
The complainant stated that on 30 November 2023, he travelled to Senegal through Kerr Pateh Koreh village in North Bank Region. When he was entering Senegal, he removed his motor cycle’s number plate because he had not obtained a permit from Senegalese authorities. On his return to The Gambia on the same day, he was stopped at a security checkpoint. He added that after the presentation of all the required documents of his motorcycle, two of the officers observed that there was no number plate on his motorcycle and ordered him to park.

He stated that he took out the number plates from his bag and explained to the police that he had removed them because he travelled to Senegal and planned to fix them back when he reached home. He said the officers told him to pay D400 for riding a motorcycle without number plates. He pleaded with the officers to allow him to fix the number plates but they refused.

FINDINGS

The complainant was stopped at the said checkpoint on 30 November 2023 while he was travelling from Senegal.

He did not also obtain a permit from the Senegalese authorities to enter the Senegalese territory.

He was in possession of a valid driving licence and the documents to the motorcycle but his number plates were not fixed. For this reason, he was instructed by the two officers to park his motorcycle.

He was then told to pay a fine of D400 for riding a motorcycle without number plates. He explained to the officers that he was waiting to reach his house so that he could re-fix the number plates. He also pleaded with the said officers to allow him fix back the number plates and leave because he did not have D400.

RECOMMENDATION

It was recommended that the complainant be allowed to fix his number plates since they were in his possession.

CONCLUSION

The recommendation was adhered to. Besides, the complainant was advised to desist from riding a motorcycle without number plates as it was a traffic offence.

CHAPTER 6

6.1 CASES REGISTERED AT MANSA KONKO REGIONAL OFFICE

COMPLAINT NO: 1/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that he was the one responsible for calling prayers at the village mosque. He further stated that the alkalo locked up the mosque, changed the keys and never allowed him to carry out his duties. He reported the matter to the Supreme Islamic Council to intervene but his removal from calling prayers at the mosque was upheld by the council.

He alleged that he was arrested and detained at a police station and accused of stealing the mosque's solar panel.

FINDINGS
The complainant was in the habit of insulting people during the early morning call to prayers. He usually tells people to leave their wives, take bath and go to prayers. He was warned to desist from such attitude but he persisted. His removal was a decision taken by the mosque committee and not the alkalo as alleged.

His removal was endorsed by the Supreme Islamic Council as his behavior was found to be unethical according to Islamic teaching.

CONCLUSION
The complaint was discontinued for lack of merit.

COMPLAINT NO: 2/2023
NATURE OF COMPLAINT: Claiming Terminal Benefits

COMPLAINT
The complainants stated that they were employed by a public institution on contract as toll collectors, security officers and drivers. They served in their various capacities for some years. They added that on 27 May 2022, they received a letter from their institution transferring their services to another department with effect from 1 June 2022.

They further stated that, all this while, they were paid their salaries. The complainants pointed out that in October 2022, the section of office under which they were working was closed but that did not affect their salaries which gave them hope that they would be appointed permanently but to their disappointment the institution terminated their services effective 11 January 2023 without payment of their contract benefits and notice.

FINDINGS
The institution was managing the administration of the Senegambia Bridge and employed staff such as toll collectors, supervisors, drivers and security officers .

The toll bridge administration was transferred to another department through instructions from their line ministry dated 27 May 2022 effective 1 June 2022.

After efforts to transfer the complainants' services to the other department proved futile, their institution terminated their services effective 11 January 2023 after a one-week notice as a result of "***budgetary constraints***".

The termination of the complainants' services was in line with the terms and conditions of their appointments. They were appointed on fixed contracts which were renewed or allowed to roll over to 11 January 2023 until their services were terminated. However, some of the complainants were appointed on a temporary basis.

RECOMMENDATIONS
The Ombudsman recommended for the complainants' institution to pay all the affected staff appointed on fixed contract 25 % contract gratuity in accordance with General Orders 02123 (e) in addition to the payment of one-week wages in lieu of notice. Those on temporary appointment should be only paid one week's wages in lieu of notice.

CONCLUSION
The complainants on fixed contract were paid 25% contract gratuity as per General Orders 02123 (e).

COMPLAINT NO: **4/2023**
NATURE OF COMPLAINT: Claiming Retirement Benefits

COMPLAINT
The complainant stated that he was appointed by a public office as driver on 1 June 1996. He stated that he served in the said position for 24 years of unwavering service.

He added that on 10 June 2020, he received a notice of statutory retirement with effect from 6 January 2020. The complainant added that he was informed that he had overstayed in the service which was an oversight by his employer. Therefore, the period he overstayed would be treated as temporary appointment on a month-to month basis.

He added that he did not receive any salary on month-to month basis from his bank as alluded to by his employer. He also added that he reported the matter to the line ministry but to no avail.

The complainant also added that since his notice of statutory retirement, he did not receive his pension benefits and gratuity.

FINDINGS
The complainant was an employee at the said office on 1 June 1996.

The pension authority was contacted by the ministry and it was found out that the complainant's benefits and gratuity were being processed for payment.

CONCLUSION
The complainant was paid D27,106.38 on 12 December 2023. The complainant confirmed receiving the money

CHAPTER 7

7.1 CASES RIGISTERED JANJANBUREH REGIONAL OFFICE

COMPLAINT NO: **1/2023**
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant, travelled to Nigeria from 16 to 30 May 2022, upon receiving a clearance from the ministry, in order to secure a VISA to travel to Finland for a conference on Sustainable Development Goals (SDGs).

The council should have paid both his air ticket and per diem. However, the council opted to pay his air ticket which was D 72, 280 and excluded the per diem for reasons best known to them. Nonetheless, he informed the chief executive officer (CEO) about the unpaid per diem but the CEO said funds were insufficient at that moment to settle the per diem issue. Notwithstanding, he reached a consensus with the CEO that whenever government pays the car park due, his entitlement would be paid accordingly.

Moreover, he made numerous follow-ups and the CEO promised to look into his issue shortly before "koriteh" but that never happened because he was only handed a cheque for his night allowance.

In addition to the above-mentioned points, he wrote a reminder on 12 April still nothing was being done by council to ensure that he received his per diem.

FINDINGS
The complainant's claim of D200,000 was not accurate

According to Chapter 6 Section 111 subsection 06303 of the General Orders states that "Officer required to attend a conference outside The Gambia whose boarding and lodging are not provided by the host shall be entitled to rates of allowances periodically prescribed by the Personal Management Office."

However, this was not the case with the complainant as everything pertaining to his travel expenses, the provision of an economy class air ticket, daily subsistence allowance (per diem) and terminal expenses were taken care of by The United Nations Department of Economic and Social Affairs (UN-DESA) in accordance with United Nations rules and regulations. This was obtained in a missive Ref: DESA-2022-01491 dated the 16 August 2022 addressed to the complainant. For this reason, the decision taken by the council not to pay the entire per diem claimed by the complainant was right because for them to pay what had already been paid could be queried by auditors for financial mismanagement. Notwithstanding, it is the complainant's right to have been paid the per diem due to him within the shortest period.

CONCLUSION
The council wrote a memo to the complainant requesting for the following documents: the air ticket, boarding pass from The Gambia to Nigeria and boarding pass from Nigeria to Finland in order to determine the complainant's period of stay in Nigeria and settle him accordingly. On that note, the Ombudsman received vital documents especially the boarding pass that indicated that he left The Gambia for Nigeria on the 26 September 2022 and departed Nigeria on the 1 October 2022.

The Ombudsman recommended that the complainant be paid six days per diem as enshrined in Chapter 6 Section 111 subsection 06305 of The General Orders. The complainant was paid six days per diem.

COMPLAINT NO: **2/2023**
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant was employed as orderly at a hospital on 30 July 2011. However, she was involved in a quarrel with one of her colleagues with regard to the untidiness of his mopping. During the exchange of words, she alluded to the fact that her colleague asked her to mind her business and she apologized to him immediately

When this incident happened, one of the escorts was fed up with their quarrel which she claimed had worsened the condition of her patient. The complainant responded by telling the escort that she was not the only person with a patient in the hospital and besides, their quarrel was none of her concern.

Notwithstanding, the same colleague that the complainant quarrelled with while coming from the tap overheard the complainant's statement to the escort and he insulted the complainant who in turn told the escort that she was responsible for the whole problem. The escort was annoyed by the remarks made by the orderly and as a result, she pounced on her while she was sitting on a table. The complainant retaliated the beatings she received from the escort.

For this reason, they were reported to the hospital police who interrogated them and forwarded the issue to the management board for onward redress.

The complainant was asked to respond to the allegations levelled against her. She stated that she had nothing to say with regard to the issue because she was acting on the advice given to her by colleagues at work in the belief that her pleading guilty to the accusations levelled against her would solve the problem amicably. After that, she never heard anything about the issue until the day she was called to pick up a letter from the hospital management. She signed and collected the letter without knowing its content. She took the letter to her boss who read it and told her that she had been dismissed from work. She felt wrongly advised by colleagues who told her not to say a word when called by the hospital board to defend herself. She added that the hospital failed to conduct a thorough investigation on the matter and they went ahead dismissing her.

FINDINGS
The acting chief executive officer (CEO) was engaged on the matter and the Ombudsman was informed that the orderly was involved in a fight with an escort on a day that she was not on duty. The complainant also violated the protocols of the hospital by escorting a visitor into the hospital's premises when it was not the designated hour for visitors to enter the hospital.

Furthermore, the complainant was shouting on top of her voice, thereby becoming a nuisance to the patients who were bedridden in critical conditions. For this reason, she fought with one of the escorts who expressed her displeasure with her misdemeanor by telling her to shut up. What aggravated the issue was that she assaulted a colleague, who received a slap in the process.

The case of the complainant claiming wrongful dismissal was therefore dismissed.

RECOMMENDATIONS
The hospital should continue to observe due process in the execution of its functions and make sure that decisions taken are always fair.

CONCLUSION
The complainant committed an act of professional misconduct and was subject to disciplinary action with due procedure followed in line with Public Service Commissions Regulations.

COMPLAINT NO: **10/2023**
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that on 14 October 2023, he went to sell ice at a football final. He explained that while behind the spectators with his fully loaded cooler of ice, a security officer kicked his cooler which fell causing the ground being littered with his ice. He said he did not do any wrong against the officer for him to be treated this way.

FINDINGS
The commander was contacted on the said incident and he promised to cooperate by coming with the accused officer to the Office of the Ombudsman in Janjanbureh in order to resolve the matter amicably.

However, the commander failed to honour the agreement on the premise that he could not parade his men for interrogation for the Ombudsman's office without permission from his head of institution.

The security institution's regional command was contacted on the matter. The regional command held a meeting on 24 October 2023 with the accused, the complainant and his witness.

At the meeting, the complainant narrated the incident. His narration was confirmed by his witness as true.

Notwithstanding, the accused officer initially denied the claims made by the complainant. He explained that he created a VIP Gate for emergency purposes having studied the security situation on the ground and instructed the spectators to move from that end.

After a while, he saw the complainant in that same territory. He touched his back but the complainant told him to leave him alone. He added that the complainant insisted on not leaving that forbidden zone thereby flouting his orders. So, he pushed him, he stumbled and his leg touched his cooler.

Upon the testimony of the accused's own witness, he accepted committing the act and took responsibility for his actions.

He went further to say that, a member of parliament who witnessed the scene, gave the complainant D500 just to settle the matter. Even though this was done by the parliamentarian, the complainant was adamant on bringing the matter to the Ombudsman so as to exonerate himself and to avoid the reprisal he feared from the officer.

CONCLUSION

It was unanimously agreed by all parties and officers mediating this matter that the complainant be compensated a sum of D1500 as cost value of all his loss on sale for that particular day in which the incident occurred. The sum of D1500 was given to the complainant.

CHAPTER 8

8.1 CASES BROUGHT FORWARD FROM PREVIOUS YEARS

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

COMPLAINT
The complainants were appointed as drivers by a public institution. In 2012 they were assigned to drive some officials to Guinea Conakry from the 23 to 30 December 2012. Upon their return, the two most senior members of their institution, who were also part of the trip, were paid their night allowances but the complainants were not paid despite the fact that they were also entitled.

FINDINGS
The complainants were employed as drivers by the said institution.

In December 2012, they drove some senior members of their institution to Boke in the Republic of Guinea Conakry.

Upon their return to The Gambia, their institution decided to pay two officials with whom they travelled from the same institution because of their seniority and exempted the drivers because they belong to a lower cadre.

CONCLUSION
The institution's action towards the complainants was discriminatory, unfair and a violation of their rights and government regulations which explicitly outlines their entitlements.
The complaint of the drivers was corroborated with a sworn affidavit by then head of institution who affirmed that the drivers had indeed travelled to Boke, Guinea Conakry.

RECOMMENDATION
The Ombudsman recommended that the complainants be expeditiously paid their entitlements in accordance with the relevant government regulations on travel per diem. The Ombudsman also recommended that the seven days travel per diem of £130 (pounds) be paid using the Central Bank rate at the time of payment.

8.2 CASES RIGISTERED AT BASSE REGIONAL OFFICE

COMPLAINT NO: 1 /2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant, a teacher, stated that in January 2023, a week after the teachers' nationwide sit-down strike, she fell sick and was absent for five days.

She added that the head teacher of the school and the cluster monitor were informed and copies of her medical receipts were provided to them so as to explain the reason for her absence.

She further stated that when salaries were paid in February 2023, an amount of D1,384.20 was deducted from her salary claiming to be double shift overpayment. Another D1,907.59 was also deducted from her salary being a fine for misconduct.

She alleged that the deductions in her salary were unjustifiable since she was neither queried nor notified of any wrong doing.

FINDINGS
The complainant provided a medical paper dated 9 January 2023 which indicated that she was diagnosed with malaria. However, she did not inform the head teacher and the cluster monitor until she reported to school on 16 January 2023.

There was a directive for cluster monitors and head teachers of the region to send in lists of teachers who failed to report to school on time after the end of the strike.

The complainant was part of those who reported late and an amount of D1,907.59 was deducted from her salary as a fine for the five days unauthorized absence.

The complainant was also benefitting from double shift allowance until January 2023 when a stabilization team from ministry queried that she was not entitled to receive such allowance. This prompted the ministry to deduct 1,384.20 from her salary for double shift overpayment.

CONCLUSION
The D1,384.20 deducted from the complainant's February salary for double shift overpayment was refunded in her May salary due to the fact that she worked for that month.

COMPLAINT NO: 3/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainants stated that they had been serving as cleaners on voluntary basis at a school with the promise that they would be given permanent appointment. They added that the head teacher requested copies of their Identification cards and TIN certificates. A letter was written to the ministry through the regional authorities. Since then, they had been making regular follow-ups with the regional authorities to consider their appointment to no avail. They had been working with the school and had not been paid for the service they rendered. They stated that the situation was discouraging and as such required attention because they had families to take care of.

FINDINGS

The complainants were engaged to work as cleaners and watchman on voluntary basis with the promise of permanent appointments. However, the process took so long as the two of them spent one year nine months working voluntarily whilst the other one spent one year three months.

The regional authorities submitted to the ministry on 30 September 2022 a list of all persons recommended for appointment by various schools as night watchmen, caretakers and cleaners.

The ministry in its response, highlighted that the vote for appointment of ancillary staff was exhausted. They promised to catalogue their request for processing anytime vacancies were available.

CONCLUSION

The complaints were all appointed by the ministry in their respective capacities.

COMPLAINT NO: 6/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT

The complainant stated that he started working for a public institution in April 2013 as field and marketing agent in North Bank Region. He was aiming for higher heights and that was why he attended the University of The Gambia (UTG). Upon completion of his three years of study at the UTG, he was appointed as the regional coordinator in URR with effect from May 2019.

There was a vacancy which he applied for at the same department attaching all the required documents. After six months, one of his colleagues was appointed to the post without due process.

FINDINGS
The said institution had advertised all the vacant positions available at the institution namely director of finance and administration, and monitoring and evaluation officer. The above-mentioned positions were advertised twice in two print media houses; that is, Standard and Foroyaa newspapers.

The institution's statement that the complainant's application was submitted electronically without the required documents attached was not substantiated. The complaint's application letter was signed by himself as opposed to the assertion made by the director general that his letter was not signed at the time of submission.

CONCLUSION
The institution had followed due procedure in the appointment of the complainant's colleague as M & E officer. This was justified by the minutes of the board meeting convened. In addition, all the payment vouchers and receipts made to Standard Newspaper and Foroyaa Newspaper were attached which rendered false the complainant's statement that the position was not advertised.

RECOMMENDATIONS

- The institution should ensure that merit is always put into account whenever it comes to appointments and promotions in order to avoid issues of unfair treatment.
- The institution should always endeavour to provide the Ombudsman with authentic information whenever the need arises as this helps to ease the work of the Investigators in establishing the facts of any matter.

COMPLAINT NO: 9/2023
NATURE OF COMPLAINT: Stoppage of Salary

COMPLAINT
The complainant alleged that he was appointed on 21 September 2022 as day- watchman and posted to a main market and was confirmed in appointment. He further alleged that due to the misunderstanding and problem he encountered with council, he was redeployed to serve as night-watchman at a garage. He added that he was accused of absenteeism and non-compliance and his salary was stopped.

He stated that it was reported that he was not reporting to work, which warranted the stoppage of his salary for April and May 2023. He denied the allegations. He went to the account's department to make enquires, but to his astonishment he was informed that he was suspended without salary until further notice.

FINDINGS
The complainant was redeployed to the "dry season market" as security guard on 19 October 2022. He was issued with a warning letter dated 6 March 2023 for failure to report to work on several occasions. He was warned to strictly desist from such acts and if there were any recurrence strict measures would be taken against him.

Furthermore, the complainant via a letter dated 23 March 2023 was suspended without salary. The suspension was as a result of his failure to comply with duties assigned to him as a security guard.

The complainant wrote a letter dated 14 April 2023 apologizing for misconduct while at duty at the dry market.

On 5 May 2023 the complainant was informed that since he was reinstated two years ago, he had not been cooperating. His case has been reported several times that he was not reporting to his duty station as expected. He was given several advice and warnings but he still failed to comply. Therefore, he would be contacted whenever it was necessary for him to resume work.

The complainant wrote another letter dated 27 July 2023 again tendering his apology and promised to abide by the service rules and regulations of his institution.

CONCLUSION
The complainant's apology was accepted and was reinstated after a stern warning.

COMPLAINT NO: 10/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that in February 2023, he applied for one day permission from their headmaster which was granted. In May 2023, he realised that five days' salary was deducted for absenteeism amounting to D2,006 which he felt was unfair. He further stated that when he enquired from the headmaster, he was told that the decision was from the ministry through the regional office. He was also told that if he needed more information he could go to the regional office for clarification.

FINDINGS
The complainant requested one day permission from his employer which was granted but he stayed for five days.

In January 2023, he absented himself from work for three days without permission and also in March for five days.

The deduction of teachers' salaries was one of the ways to minimize truancy and to maintain discipline in the field of education.

CONCLUSION
The decision to deduct the complainant's salary for the number of days he absented was upheld.

COMPLAINT NO: 11/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that he was employed as cleaner in 2017. He stated that sometime in 2022, he had a serious stomachache and was admitted at Bansang Hospital. He underwent a surgical operation and upon being discharged from hospital, he was given excused duty to regain his health.

When he resumed work a director verbally redeployed him to the security unit as night watchman. He was of the view that his redeployment was unfair because he was appointed as cleaner and not a watchman.

FINDINGS
The complainant was employed in 2017 as cleaner and posted to the cleansing service.

The complainant was admitted at the Edward Francis Small Teaching Hospital on 5 February 2022 after which he had regular appointments until 15 December 2022 when he was finally discharged.
Upon resumption of duty, he was redeployed to the security unit as night watchman as a result of his ill health and was assigned lighter duty as advised by a medical doctor.

CONCLUSION
Since the complainant was dissatisfied and disgruntled with his redeployment to the security unit. He was redeployed to his initial position as cleaner with effect from14 October 2023.

COMPLAINT NO: 13/2023
NATURE OF COMPLAINT: Unfair Treatment

COMPLAINT
The complainant stated that on 21 August 2023 he applied for a national identification card (ID card). He made payment and was asked to provide a copy of his birth certificate or alkalo's attestation and one of his parents' identification cards which he did.

The complainant further stated that after providing all the required documents, he was asked to call his father in person and he informed them that his father was sick and admitted at Edward Francis Small Teaching Hospital (EFSTH). To his surprise, he was denied ID card.

FINDINGS
The officer commanding could not endorse the complainant's application by relying only on his birth certificate or alkalo's attestation. He requested him to provide one of his parents' national documents before he could be issued an identity card.

The complainant was unable to provide his father's identity card because his father was sick and admitted at EFSTH. Nonetheless, he later provided his father's biometric ID card and his application was approved by the officer commanding.

CONCLUSION
The complainant was issued with a biometric ID card.

COMPLAINT NO: 14/2023
NATURE OF COMPLAINT: Retirement Benefit

COMPLAINT
The complainant stated that he was appointed on 1 July 2008 as health labourer. He alleged that he was working until 2 March 2020 when he received his salary amounting to D2,704. He was issued with a letter to proceed on statutory retirement with effect from 16 December 2020.

To his surprise, on 29 December 2021, he was paid a salary of D5, 181.70. He thought it to be house rent allowance which was approved but was not paid. Since then, he had been pursuing the payment of his retirement benefits to no avail.

FINDINGS
The complainant was appointed as health labourer with effect from 1 July 2008 on grade one. He was confirmed in appointment in the pensionable establishment with effect from 1 January 2017.

He was issued a letter dated 16 December 2020 informing him that approval had been granted for him to proceed on retirement with effect from 30 December 2014. He was also reminded that any overstay beyond this date would be considered as work on a month-to-month basis.

The complainant had overstayed in the system for six years. He was supposed to proceed on retirement with effect from 1 July 2014 and not 2 March 2020. The period he overstayed was treated as month-to-month basis.

CONCLUSION
The Ombudsman was satisfied that the complainant was not unfairly treated. He was paid his entitlements, which amounted to D5, 181.70 through on 15 December 2021.

STATISTICAL APPENDICE

TABLE 1: NO. OF CASES REGISTERED AT HEAD OFFICE AND REGIONS IN 2023

CASES REGISTERED BY LOCATION		
LOCATION	**NO. OF CASES**	**PERCENTAGE**
HEAD OFFICE	67	56
KEREWAN	20	17
MANSAKONKO	5	4
JANJANGBUREH	13	11
BASSE	14	12
TOTAL	**119**	**100**

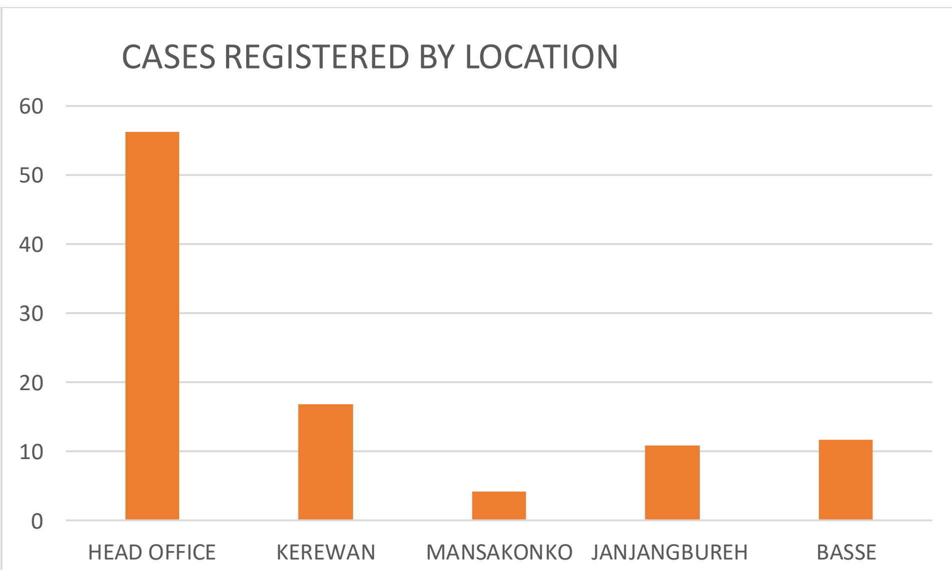

TABLE 2 : PUBLIC SECTOR CASES REGISTERED AT THE HEAD OFFICE IN 2023

AUTHORITY COMPLAINED AGAINST	ABBREVIATION	NUMBER OF COMPLAINT	PERCENTAGE
Senior Secondary Schools	SSS	9	13
Kanifing Municipal Council	KMC	7	10
Gambia Police Force	GPF	6	9
Gambia Armed Forces	GAF	4	6
NAWEC	NAWEC	3	4
Personnel Management Office	PMO	3	4
Edward Francis Small Teaching Hospital	EFSTH	2	3
Gambia Civil Aviation Authority	GCAA	2	3
Judiciary	Judiciary	2	3
Ministry of Lands Regional Government & Religious Affairs	MoLRGRA	2	3
Kanifing General Hospital	KGH	2	3
Alkalo	Alkalo	1	1
Banjul City Council	BCC	1	1
Brikama Area Council	BAC	1	1
Curator of Intestate Estate	CIE	1	1
Department of Physical Planning	DoPP	1	1
Directorate of Treasury	DoT	1	1
Gambia Fire & Rescue Service	GFRS	1	1
Gambia Immigration Department	GID	1	1
Gambia National Library	GNL	1	1
Gambia Prison Service	GPS	1	1

Gambia Radio Television Service	GRTS	1	1
Gamcel	Gamcel	1	1
Gamtel	Gamtel	1	1
Gambia Transport Service Company	GTSC	1	1
Independent Electoral Commission	IEC	1	1
Ministry of Basic & Secondary Education	MoBSE	1	1
Ministry of Health	MoH	1	1
National Aid Secretariat	NAS	1	1
National Audit Office	NAO	1	1
National Council for Arts & Culture	NCAC	1	1
National youth Service scheme	NYSS	1	1
Office of the Vice President	OVP	1	1
President International \award	PIA	1	1
Social Security & Housing Finance Corporation	SSHFC	1	1
Riders for Health	RFH	1	1
Total		**67**	**100**

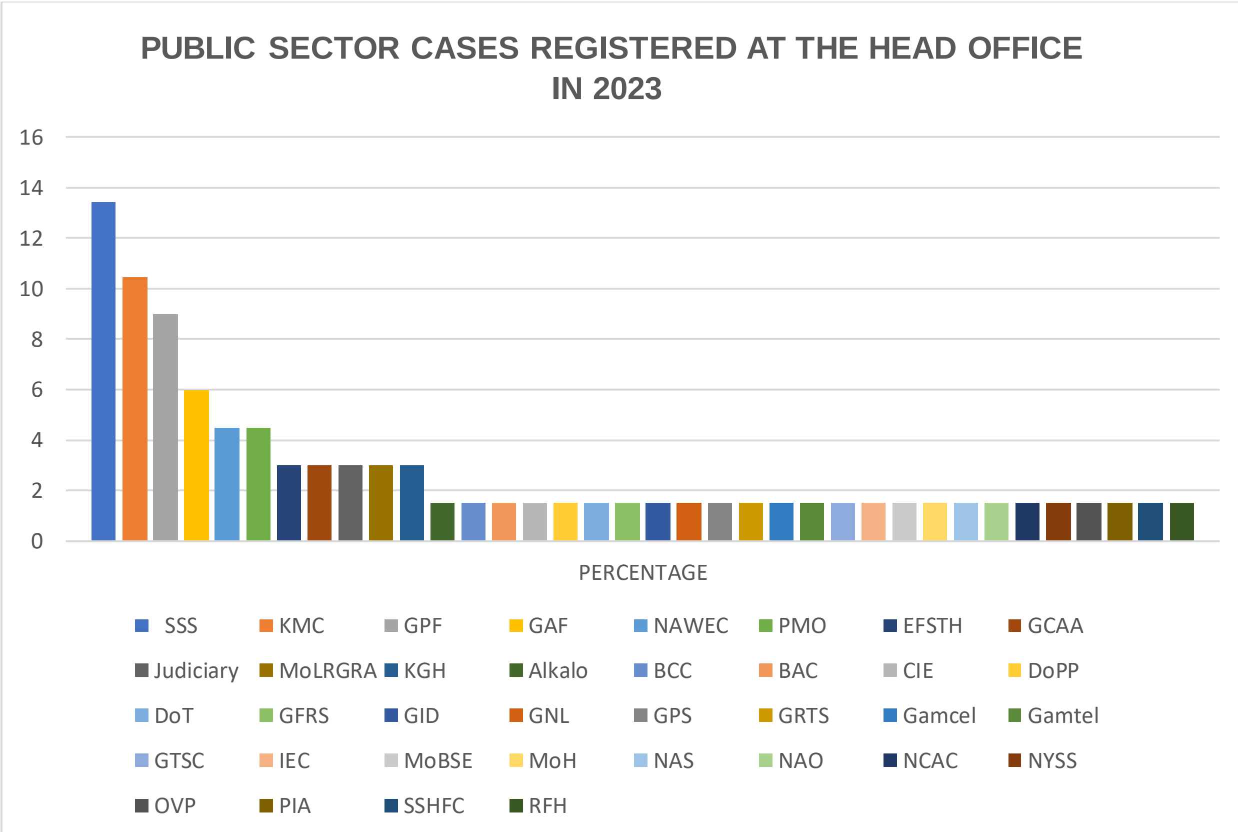
PUBLIC SECTOR CASES REGISTERED AT THE HEAD OFFICE IN 2023
16
14
12
10
8
6
4
2
0
PERCENTAGE
SSS
KMC
GPF
GAF
NAWEC
PMO
EFSTH
GCAA
Judiciary
MoLRGRA
KGH
Alkalo
BCC
BAC
CIE
DoPP
DoT
GFRS
GID
GNL
GPS
GRTS
Gamcel
Gamtel
GTSC
IEC
MoBSE
MoH
NAS
NAO
NCAC
NYSS
OVP
PIA
SSHFC
RFH

TABLE 3: NATURE OF COMPLAINTS

NATURE OF COMPLAINTS REGISTERED IN 2023

NATURE OF COMPLAINT	NUMBER OF CASES	PERCENTAGE
+Unfair treatment	24	36
Unfair Dismissal	10	15
Wrongful Termination	9	13
Claiming Salary	5	7
Retirement Benefits	4	6
Unlawful Discharge	3	4
Injustice	3	4
Claiming gratuity	3	4
Pension	2	3
Unlawful suspension	1	2
Claiming Allowance	1	2
Discrimination	1	2
Redundancy	1	2
TOTAL	**67**	**100**

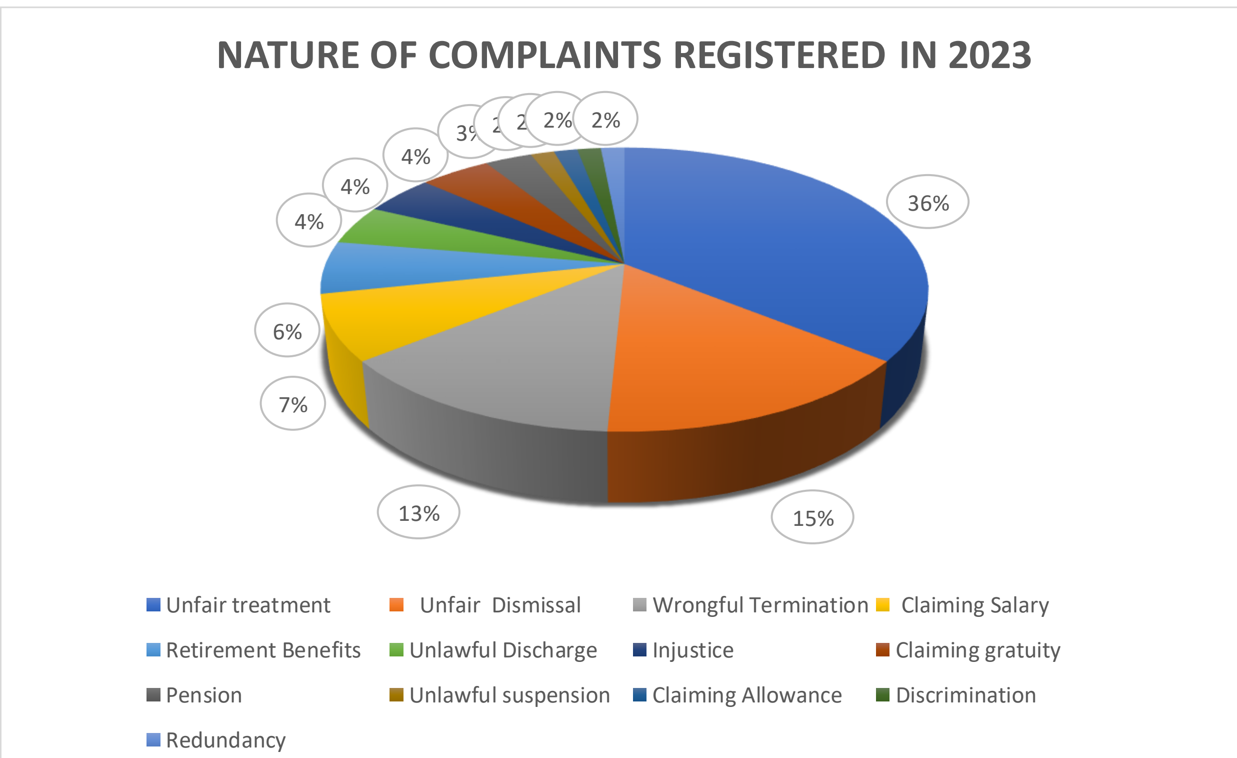

TABLE 4: **NATURE OF CLOSURE**

NATURE OF CLOSURE	NUMBER OF CASES	PERCENTAGE
Settled	23	34
Decision upheld	12	18
Discontinued for lack of merit	15	23
withdrawn	2	3
Pending	15	22
Total	**67**	**100**

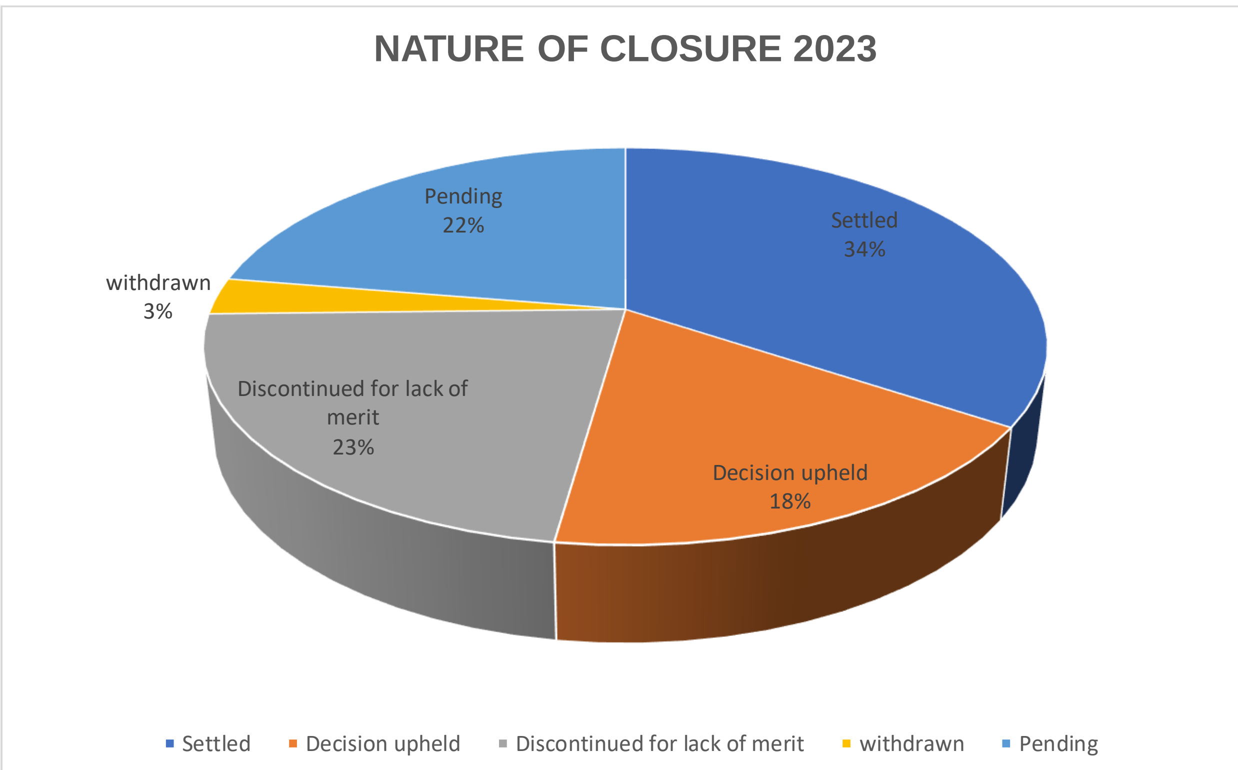

TABLE 6: SUMMARY OF CASES INVESTIGATED IN 2023

CASE SUMMARY	NUMBER
Brought forward cases in 2022	73
Cases Registered in 2023 at Headquarters & the Regions	119
Total cases investigated in 2023 Total cases completed **Total cases pending**	**192** **145** **47**

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

CHAPTER X THE OMBUDSMAN

163. National Assembly to establish Office of Ombudsman

(1) Subject to the provisions of this Constitution, an Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision for his or her functions and duties-

(a) in the investigation of any action taken by a government department or other authority, or public body, to which the Act applies, being action taken in the exercise of the administrative functions of that department or authority, on a complaint by a member of the public who claims he or she has suffered injustice in consequence of maladministration or mismanagement, or discrimination on any ground set out in Chapter IV, in connection with such action;

(b) in the investigation, on his or her own initiative, of allegations of maladministration, mismanagement or discriminatory practices in any government department, authority, or other public body, to which the Act applies; and

(c) in the investigation of complaints of any failure to observe the code prescribed in Chapter (XXI) for the conduct of public officers.

(2) Without prejudice to the generality of subsection (1), an Act of the National Assembly may;

(a) determine the departments, authorities and other public bodies to which the Act shall apply;

(b) determine the actions or classes of action which may be subject to such investigations;

(c) determine the departments, authorities, public bodies and actions which shall be excluded from such investigations;

(d) determine the procedure to be adopted in any investigation and the powers which may be exercised in the course of such investigation, including the power of the Ombudsman to require persons to furnish documents and other information and to provide evidence, and provide for the right of any department, authority, other public body or person to be heard when its, or his or her, actions are the subject of an investigation;

(e) provide for sanctions for the obstruction of the Ombudsman in the exercise of his or her functions or a failure to comply with his or her lawful requirements;

(f) provide for the making of reports by the Ombudsman, including an annual report to the National Assembly, and reports to the Inspector General of Police in the event of his or her investigations disclosing the commission of a criminal offence or to the Attorney-General in the event of their disclosing any other failure to comply with a provision of law;

(g) provide for the appointment of one or more Deputy Ombudsman to exercise, under the directions of the Ombudsman, the functions of that office.

(h) Make such administrative and financial provisions as may be necessary or desirable for the efficient functioning of the Office of Ombudsman.

164. Appointme-nt 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.Indepe-ndence of Ombudsman

(1) Subject to the provisions of this chapter, in the exercise of his or her functions, the Ombudsman and a Deputy Ombudsman shall not be subject to the direction or control of any person or authority but subject only to the Constitution and the law.

(2) All departments, authorities and other public bodies which are subject to investigation by the Ombudsman shall accord such assistance as he or she may require for the protection of the independence, dignity and effectiveness of the Ombudsman in the performance of his or her functions.

THE OMBUDSMAN ACT 1997

AN ACT to establish the Office of the Ombudsman and to define and prescribe the powers, duties and functions of the Ombudsman was assented to by the President on 29th September 1997.

ENACTED by the President and the National Assembly of The Gambia.

Short Title

1. This Act may be cited as the Ombudsman Act 1997 and shall come into force on such date as the Secretary of State may by order published in the Gazette appoint.

Establishment

2. (1) There is hereby established the Office of the Ombudsman which shall consist of the Ombudsman and two Deputy Ombudsmen.

(2) The Ombudsman and Deputy Ombudsmen shall be appointed by the President in consultation with the Public Service Commission and subject to confirmation by the National Assembly.

(3) The Ombudsman and Deputy Ombudsmen shall be appointed for a period of five years and shall be eligible for re-appointment.

(4) The Ombudsman and Deputy Ombudsmen shall, before entering upon the duties of office, take an oath of office.

(5) The Ombudsman and Deputy Ombudsmen shall not hold any other public office.

(6) The Ombudsman and any Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision.

Functions of the Ombudsman

3. (1) In addition to the functions of the Ombudsman under the Constitution, the Ombudsman shall have the following functions -

a. to investigate complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of official duties;

b. to investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment to those services or fair administration in relation to those services.

(2) The Ombudsman may, where it is considered desirable, investigate into any matter referred to in paragraphs (a) and (b) of subsection (1)

Action or steps to be taken in connection with outcome of inquiry or investigation

4. (1) The Ombudsman shall after holding any enquiry or investigation

a) recommend appropriate action or steps to call for or require the remedying correction and reversal of matters or instances specified in section 3 through such means as are fair, proper and effective;

b) notify the person who laid the matter before the Ombudsman of the outcome of such inquiry or investigation in such manner and form as the Ombudsman may determine and to such extent as the Ombudsman may deem necessary in the public interest or that the matter shall not be further enquired into or investigated in terms of section 8.

General powers of the Ombudsman

5. (1) For the purposes of performing his or her functions, the Ombudsman shall have the following powers –

(a) to determine the nature and extent of any inquiry or investigation referred to him or her;

(b) upon the issue of a warrant under the hand of the Ombudsman to enter at any time any building or premises or any part of any building or premises to make enquiries and put such questions to any person in connection with the matter in question;

(c) access to all books, vouchers, stamps, securities, equipment, stores and other movable goods in the possession or under the control of any person;

(d) to request particulars and information from any person;

(e) to make enquiries into, extracts from or copies of any book, voucher or other document which he or she deem necessary in connection with any inquiry or investigation;

(f) to seize anything which they deem necessary in connection with an inquiry or investigation.

Power to summon witnesses

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

to examine witnesses under oath.

(2) A summons for the attendance of a witness or the production of documents shall be served in the same manner as if it were a subpoena for the attendance of a witness in court.

(3) The ombudsman may by warrant order the arrest of any person, who after being served with a summons fails to appear before it.

Orders by Ombudsman

7. Orders, writs and directions issued by the Ombudsman shall have the same force as an order, writ or direction of the High Court.

Certificate of the President

8. (1) Notwithstanding section 5, where the President has certified that the giving of any information, or the production of any document: –

a) might prejudice the security, defence or international relations of the State or the investigation or determination of offences; or

b) might involve the disclosure of the deliberation of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest;

The Ombudsman shall not require the information to be given or the document to be produced.

Jurisdiction of Ombudsman

9. (1) The Ombudsman shall have jurisdiction to inquire into the conduct of any person to whom this Act applies.

(2) Notwithstanding subsection (1), the Ombudsman shall not have power to question or review -

a) the decision of any court of law or of any judicial officer in the exercise of judicial functions;

b) decisions of any tribunal established by law;

c) any matter which is sub-judice;

d) any matter relating to the exercise of the prerogative of mercy, and

e) any matter relating to the affairs of the President.

(3) (1) The Ombudsman may decide to discontinue an investigation where he or she is satisfied that -

a) the complaint is trivial, frivolous, vexatious, or not made in good faith; or

b) the inquiry would be unnecessary, improper or fruitless.

(4) The Ombudsman shall, in any case in which he or she decides to discontinue an investigation, inform the complainant in writing accordingly but shall not be bound to give any reasons.

Investigations to be in camera

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

(4) Notwithstanding subsection (1), the Ombudsman may in the public interest publish his or her findings at the end of an investigation.

Provisions relating to complaints and allegations

11. (1) A complaint under this Act can be made by anybody in any form; provided that where a complaint is made orally it shall be reduced into writing by a member of staff of the Ombudsman.

(2) Notwithstanding the provisions of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, such allegation or complaint shall not be made through, or subject to the scrutiny of any other person.

Evidence and procedure

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

(2) The Ombudsman may authorise any of his or her staff to exercise any of the powers under section 5.

(3) Where the Ombudsman proposes to conduct an investigation, it shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action complained of, an opportunity to comment on any allegation made to him or her.

Reports

13. (1) The Ombudsman shall submit to the President a report of every investigation it has conducted which shall contain -

(a) a summary of the evidence taken together with the conclusions and recommendations;

(b) a statement of any action that has been taken by any person whose conduct is under investigation or by the department or authority of which such person is a member, to correct or ameliorate any conduct, procedure, act or omission that is adversely commented upon in the report;

(c) where any person has suffered loss or injury as a result of any alleged misconduct, maladministration or abuse of office or authority by any person whose conduct is under investigation, the Ombudsman may in his or her recommendations state that compensation should be paid to the person who has suffered such loss or injury or to any dependent of such person, and shall determine the sum which it recommends as compensation.

Enforcement and notification

14. (1) The President may, on receipt of the report of the Ombudsman on any investigation conducted by him or her, or during the continuance of any such investigation, take such decision in respect of the matter investigated or being investigated into by the Ombudsman as the President deems fit.

(2) When the Ombudsman receives such decision he or she shall notify the complainant and the person complaint against whom the complaint or allegation was made.

Report to National Assembly

15. (1) The Ombudsman shall submit to the National Assembly an annual report of his or her operations.

(2) The annual report shall be submitted within six months of the following year.

(3) A report under this section shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation is made.

Staff of Ombudsman

16. The Ombudsman shall employ such staff as he or she shall determine, who shall become public officers.

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.

Finality of Ombudsman's acts

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.

immunity of Ombudsman and members of staff of office of Ombudsman

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 prescribed.

Expenditure

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;

Offences

(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:

(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.

Power to make rules

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