

The 2010/11 Report in summary

Executive Summary

This year's Report is divided into six sections. The First Section refers to two (2) Formal Public Inquiries commenced respectively in 2006 and 2010 and both concluded in 2010. The Second Section presents selected cases received in 2010 but includes complaints carried forward from past years into 2010/11. The third presents the outreach programme of the Ombudsman office; this is largely composed of "Lipitso" to raise public awareness about the mandate areas of the Ombudsman Office, dissemination of information through pamphlets and any other promotional material. Section four contains the administrative and other activities of the Office, the budget and collaborations with like institutions. The fifth Section highlights the backlog figures and gives generally the main grounds giving rise to such an instance. The last and sixth Section contains, where possible, some parts of the content of Sections one to five in statistical tables or graphs or charts. This Section is meant to catch the eye and mind of those who may prefer this method other than the narrative form.

In the 2009/10 Report we stated that there is a persistent decline since 2006/07 of the total number of complaints received at the office. This decline still exists. For instance, in 2009/10 a total of 365 complaints were received compared with 285 received for 2010/11; this results in a decrease of twenty two percent (22%) to the nearest. The percentage of sustained complaints in the two years is decreasing too; in the previous year it was about 56% of received complaints (that is, 203 out of 365). In 2010/11 the number of sustained complaints translates in percentage terms to 54% as only 154 out of 285 were sustained. Similarly rejected complaints falling within the Ombudsman mandate, but failing to be sustained on procedural grounds, were lower in 2009/10 than in 2010/11 reporting period: the two periods compare respectively at 44% and 46%.

*A drop down in the number of received and increase on rejected complaints can be interpreted in many ways. On the one hand, it may portray that the public generally lack awareness about Ombudsman office mandate and functions. This may mean that many complaints may still lie out there with no mechanism of redress; or that since the Office is situate only in Maseru, it is generally inaccessible. On the other hand, and perhaps positively, it may mean that there is performance improvement in upholding the rule of law, administrative fairness, justice and transparency by the Agencies and Ministries. The latter ground **might** be true because under this reporting year there are nil complaints from some Ministries and Agencies.*

*In respect of employment matters especially for civil Service, the adoption of improved civil service laws and procedures in 2005 and 2008, employee-employer disputes seem to be dealt with **in situ** than outside the ministries, departments or units. For other public institutions, the Directorate of Dispute Prevention and Resolution (DDPR) plus specific institutional employment laws and regulations present dispute resolution methods between employer and employee. Again the laws and procedures on GOL procurement and tender processes should, if the relevant rules and regulations are followed, lower chances of corrupt practices in Government service. All the above factors may account for the recurring decreases of received complaints and increase on rejected complaints.*

*Regarding selected complaints, **thirty three** (33) are highlighted under this reporting period. Out of this total **two are Formal Inquiries**. The first inquiry concerned complaints from individuals and communities in the Katse Dam area. The second concerned the Block Farmers complaints against the Ministry of Agriculture and Food Security (MAFS). Of the remaining thirty one (31), seven (7) complaints filed against GOL ministries, were aged two to fifteen years in the files of the Ombudsman but completed between April 2010 and March 2011. Of these seven, **one filed in 1996** OMB/1996/0088 was finalized late 2010; this complaint is annexed to the Report (**Annexes I**). The Parliament will note, from this annex, the problems created by lack of information or reluctance of 'parties' to **fully in form***

*the Ombudsman. But more specifically this complaint indicates the persistent ineptitude and amazing lack of interest and professionalism by the concerned Ministry and its Department to **timely address the matter**. The remaining twenty four **(24)** complaints are part of those received and concluded in 2010/ 2011 reporting year.*

From statistical presentation in Sections V and VI the Parliament will note that for this period, the highest number of received complaints were against the Ministries of Education and Training, followed by Health and Social Welfare, then Local Government and Chieftainship Affairs and the Judiciary. The National Assembly and the Ministry of Tourism, Sports and the Environment recorded no new complaints while the Central Bank and the Ministry of Foreign Affairs and International relations recorded one (1) complaint apiece.

*Seven ministries plus some units, and two corporations registered on the average 8 complaints. However, of these agencies and ministries some had very serious backlog of unresolved complaints. For instance, the Ministry of Defence registered only **4 sustained** complaints in 2010/11 but unfortunately had a **backlog of 21** and could only conclusively **deal with 7** out of a **total of 25**; thus, once more its backlog hovers on 20 complaints for 2011/12. Similarly the LHDA had only **7 sustained** complaints yet it had **66** in backlog and only a total of **16** complaints were finalized; the same goes for the Prime Minister's Office. The list could go on and on; nonetheless several ministries or units or agencies registered lowest complaints under this reporting period.*

To date it would seem that the number of complaints against agencies or ministries sometimes depends on the size of the Agency or Ministry. For instance, large Ministries such as that of Education, Health and Local Government may record high number of complaints per year. While the technical ministries and agencies such as the Ministry of Works, the LHDA and LEC often present complex complaints involving many complainants with similar claims. In this way, one backlog file from these technical authorities may contain at the least 5 or a maximum of 200 complainants. It has been a tradition that the Ombudsman

statistics are presented by the number of registered complaints files and not by the number of complainants. In a way, this style gives weird statistics.

There is a very slow progress in addressing complaints. This seems to result from a combination of factors; however, largely and generally it is attributable to reluctance of Specified Authorities to divulge information, plus lack of enthusiasm to expeditiously address complaints and close matters. Following Ministries and Agencies have been the worst culprits for non-response to public complaints and unwillingness to take action even when so bound due to overt errors or mistakes on their part: these are the Ministries of Local Government and Chieftainship Affairs, Agriculture and Food Security, Finance and Development Planning, Health and Social Welfare, the Prime Minister's Office and the Ministry of Trade, Industry, Cooperatives and Marketing. Whereas the LHDA is notorious for dilatory resolution of complaints either because it will rely on non-existent policy and sometimes tell lies by changing stories; or it will repetitively subject a complaint to the technical procedures thus taking a year or years before a complaint could pass LHDA screening processes (e.g. Acquisition procedures, registering, approval to pay, or even to get into financial system of the Authority).

The worst scenario for non-compliance is where a Specified Authority defies the Ombudsman Determinations and Recommendations and raising queries without further proof. This has been the situation with the Bureau of Statistics under the Ministry of Finance and Development Planning; WASCO for appropriation of land for waste disposal; and the LHDA for non-compensation of some communities or individuals in all areas of the Lesotho Highland Water Project.

*As in the past, the distribution of complaints by category for 2010/11 shows the highest percentage of complaints based on injustice at **68%**, followed by maladministration at **24%** and private matters at a **4%**. Complaints involving corrupt practices, human rights violations were the lowest standing respectively at **3%** and **1%**. The agencies or ministries with the highest number of injustice-based complaints are the Ministries of Education and Training and that of Health and Social welfare. On the maladministration category, the Judiciary and the Ministry of Local Government and Chieftainship Affairs recorded more. The eight (8)*

complaints alleging corruption were against the Judiciary, Standard-Lesotho Bank, the Ministries of Home Affairs and Public Safety, Finance and Development Planning, Local government and Chieftainship Affairs plus that of Trade, Industry, cooperatives and Marketing (**Ref. Annexure II**).

Regarding the Ombudsman financial resources, the Office has barely floated above water. While decreased budget ran across all GOL funded sectors and institutions from 2009/10/11 budget years, however, the Ombudsman Office decrease were on the high side and this seriously affected performance. For instance, the Budget allocations for these years began reductions on running and operating costs; while the actual budgets were less than the reflected budget allocations. Also, the budget line on training had some thousands in 2009/10 but the following year, it attracted zero amounts. The training courses attended in 2010/11 were made possible through sponsorship under CDGG for international training in human rights and a training offered by Public Administration International (PAI–UK) under the theme “when citizens complain- the role of the Ombudsman in Improving Public Services”. These training courses were attended in separate forums by 3 investigators out of 9. Unfortunately, trainings held internationally or regionally are expensive and restrictive as only one participant or a few can attend; the converse would result where a local forum is used.

The Lesotho Ombudsman institution is a member of African Ombudsman and Mediators Association (AOMA) and International Ombudsman Institution (IOI). These associations are crucial and beneficial in the following ways to mention but a few of the benefits: regulating collaborations amongst members, encouraging and ensuring institutional principles, good practices; and where feasible, embarking on periodic training of investigators.

In February, 2011 Lesotho and Botswana signed a **Memorandum of Understanding (MOU)** with the main objective of staff exchange programme. The activities earmarked under this MOU will be feasible in 2011/12 depending on the costs to be borne by each party.