

Ombudsman retires early, says he gave his best to public service

Commission on Administrative Justice Chairman Otiende Amollo leaves office at the end of this month. Dr Amollo, a former member of the Committee of Experts (COE), was appointed chair to CAJ in 2011, and leaves office one year before expiry of his term. The commission, also known as the office of the Ombudsman, succeeded the Public Complaints Standing Committee, and is mandated to investigate abuse of power, unfair treatment, injustice and unfair or unresponsive official conduct of public officers. He spoke to The Standard on Sunday's **Lillian Aluanga-Delvaux**

Question: What has been your greatest challenge as CAJ chair?

Answer: My term at the commission has been fulfilling, but challenging in some respects given its unique mandate. Most people, including lawyers and judges, still don't understand the unique jurisdiction of the Ombudsman's office. It has also been challenging to make the Government understand the unique nature of this office, given that it's within the state machinery but checks on the excesses of public officers. Some quarters have even mistakenly viewed it as a commission that fights the government and an appendage to the Opposition.

What have been your greatest achievements?

The commission has sensitised the public of its existence and trained government officers on what we do. To date we have trained about 20,000 officers. Efficiency in complaints handling has improved and the process of lodging complaints is now easier. This can be reflected by the rise in the number of complaints filed, from about 4,000 four years ago to over 117,000, with efficiency in complaint resolution rising from 26 to 87 per cent. We have issued over 50 advisories, made determinations on thousands of matters and have others pending in court. Kenya is now part of the 42-member African Ombudsmans Association, where I was elected secretary general. The commission also introduced the concept of commendation going hand in hand with commendation and came up with the Huduma Ombudsman Awards, which reward public officers for exemplary service.

Have any public institutions been a stumbling block to the commission in discharging its duties? If yes, which ones?

We have had problems with a number of offices. While successive Inspector Generals of Police have generally been cooperative, there are a number of senior police officers that have still not appreciated the work of the commission. The Department of Defence has also tended to be obtrusive when complaints are lodged against it. Although the situation has lately improved, the Lands Department still remains among the institutions that have not been easy to deal with. County governments are mostly operating under a mistaken belief that they are independent offices, thus posing a challenge. There have also been individual officers like Principal Secretaries who have exhibited great unresponsiveness to the commission.

There has been a perception that the Commission largely has "more bark than bite". The argument advanced in some quarters is that it has produced dozens of reports and made recommendations on several matters



that have not been implemented. Do you agree with this view and do you think the office of the Ombudsman in Kenya gets the recognition it deserves?

The question of whether the office of the Ombudsman can be equated to a toothless bulldog has been the subject of debate across the globe. It must be acknowledged that the office has recommendatory powers. Good governance demands that recommendations made by this office are adhered to. In South Africa, Namibia, Zambia and Kenya's case, the Ombudsman's office has binding powers, which means the decisions we arrive at aren't just recommendations but must be implemented. Judges and lawyers are however yet to appreciate this. My singular regret is that I leave office before the Judiciary fully appreciates this fact. I believe that only when it does will

government officials also begin to appreciate the same.

There has been speculation on your decision to leave office a year before expiry of your term, including the fact that you could be going into politics. Are you seeking an elective seat in the 2017 General Election?

I was clear on what I wanted to do when I took up this position. I have achieved over 90 per cent of it and it's time for me to let someone else push the commission into the future. I have given eight years to appointive public service and it's now time for me to return to my law firm. Going into politics is not the main reason why I am leaving, but if there are any issues around that, they will follow in time.

Some quarters have accused you of gross violation of the Constitution as

CAJ chairman and claim your decision to leave is pre-emptive to avoid facing your accusers. Please comment.

I am not aware of any such allegations nor of a petition filed in Parliament on the same. If there was, Parliament would have written to me on the matter and I would have gladly addressed any issues raised. Such claims amount to nothing more than the usual social media smear campaigns.

Do you have any regrets as you leave office and is there any unfinished business?

I would not have done anything differently because I took the approach I outlined when being interviewed for this position. I would however have liked to see the office decentralised to all the 47 counties.

What was your lowest moment as CAJ chair?

It's discouraging to hear some quarters say there are too many commissions doing nothing. At CAJ, for instance, we have 40 lawyers handling over 170,000 complaints. Its also disheartening to have the Treasury slash budgetary allocations without any justification because this hamper's the commissions' work. CAJ has been one of the least funded commissions, getting Sh460 million this financial year. Our projected budget in 2012/2013, for instance was Sh1.3 billion. This could now have risen to about Sh5 billion. We have been able, nonetheless, to establish five offices across the country and 12 within Huduma centres.

How would you rate the country's fight against corruption and what effect would you say it has had on the workings of public institutions?

Maladministration is closely related to corruption, elements which undermine good governance. I believe we are not fighting corruption because we have refused to ensure its absence as a factor in elective office and created a perception that to be elected one must be corrupt. In return, we have had successive parliaments that owe their existence to the vice.

We have also got it wrong on legislation on corruption and are conflicted on the model we want. The country has created an Ethics and Anti-Corruption Commission and made it look like the sole entity with the mandate to fight the vice. But there are other agencies like CAJ, Independent Policing Oversight Authority (IPOA) and even the National Land Commission, that have a stake in the fight against graft but whose recommendations are sometimes ignored. Besides the lack of political will, the structure of the anti-graft body is a challenge, as it is not clear whether it's the CEO of the secretariat or the commission's chair that is boss.

Otiende: This is what we have achieved

By **LILLIAN ALUANGA-DELVAUX**

Commission on Administrative Justice (CAJ) chairman Otiende Amollo leaves office at the end of this month.

His departure comes a year early to the expiry of his term, raising speculations on his reasons for quitting when holders of such offices rarely make early exits.

"I have done what I set out to do and I believe it's time to leave and let somebody else push the commission into the future," says Dr Amollo.

The Office of the Ombudsman is mandated to investigate any conduct in state affairs or any act or omission in public administration in any sphere of government, as well as complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

The CAJ is a constitutional commission and succeeded the Public Complaints Standing Committee. Coming in at a time when less than 2,000 complaints were recorded, not much was known about the body.

That narrative has since changed, with CAJ handling over 117,000 complaints, with a resolution rate of 87 per cent, up from 26 per cent about five years ago. The commission has also established itself in five regional offices and 12 Huduma centres.

The commission has in the past five years undertaken dozens of investigations, including on the grabbing of a playground at the Langata Road Primary School, Nairobi, the Garissa University College terror attack, misuse of public funds by MCAs and the crisis of acquiring identification documents in Kenya.

Other matters it has investigated include the grabbing of Eastleigh market in Nairobi, the attacks in Lamu's Mpeketoni area and the botched security operation in Baragoi that led to the death of dozens of police officers four years ago.

Its latest report, released about a week ago, recommends the firing of NGOs Co-ordination Board chairman Fazul Mohamed for abuse of office.

Amollo describes his experience as head of the commission as "both interesting and challenging" and singles out the lack of understanding of CAJ's jurisdiction as among the greatest hurdles it has had to surmount.

The commission, under Section 42 of its Constitutive Act, is required to prepare a report to the State organ, public office or organisation to which an investigation relates. While good governance demands that these recommendations are implemented, this has not always been the case.

As he leaves office, Amollo decries the fact that the commission is yet to have a presence in each of the 47 counties.