

EIO as a democratic institution

Citizens have always been victims of power abuse and maladministration - not just under authoritarian regimes but - even under democracies where governments strive to meet their local and global commitments to promote democracy and strengthen the rule of law.

This has to do with the very nature of human beings: their ever-present free will. Men are free to do good or evil, to honor or break laws. And there has always been a host of tempting factors that influence the will, and many a good official has succumbed to one or many of them. As a result, doing away with abuse of power and maladministration is perhaps an ideal that must always be deferred to the future - indefinitely.

This no doubt has rendered the commitment of governments to promote democracy and strengthen the rule of law a continuous, non-stop Project.

The overriding goal or ideal of promoting democracy is to protect the society from the hazards of bad decisions and their partial implementation by the government. Indeed, many are the sources of bad governance as are the (democratic) institutions mandated to correct them. The key role of

democratic mechanisms and institutions, including elections, parliamentary oversight or legislative and judicial review cannot be overstated. However, the self-monitoring of its own performances on the part of the government and its organs cannot be good enough to guarantee accountability - much less to stop the abuse of citizens.

It is in the context of societies with the resolve to embark upon the none stop project to offer better services and to fight abuses that such democratic institutions as the ombudsman could exist in the first place.

This gives the ombudsman the opportunity to play its key supplementary roles as an “alternative” institution to ensure accountability and the rule of law. As a democratic institution the ombudsman is an arm of the legislative organ, which has the responsibility to supervise the observance [by the executive] of the laws that it enacts: the respect for the rule of law.

The observance of the principle of the rule of law to a large measure depends on the existence of a truly independent judiciary and - most relevant to the mission of the EIO - the will of the executive to restrain itself and accord due respect to the law. The executive is, of course, duty bound to do so. And too often government officials are known for their repeated

declarations of allegiance to the rule of law. However, that is not just good enough; for, the devil, as the saying goes, is the details; this time, the details in administrative decisions and actions of the numerous organs of the executive.

Need less to say, there is no way to take for granted the faithfulness of the executive to the laws - at any rate, there is always the need to check and ascertain.

This is where the need becomes apparent for independent and impartial democratic institutions that oversee the performance of the executive on behalf of the legislative.

EIO's place in the system of governance is at the interface between citizens and the administration. It offers few but quite important remedies with its interventions in one of the notorious source of painful abuses administrative actions and decisions that citizens are bound to face every day.

It is one of the watchdog bodies created by the legislative to control the activities of the potent organs of the executive (branch of the government.)

As an arm of the legislative - the representative of the will of the people -

EIO is vested with the power to play a supplementary role on its behalf.

While, as a democratic institution, EIO strives to strengthen the rule of law and prevent the violation of rights, it has key features to set it apart from institutions with similar independence and objectives, especially, courts and the Ethiopia Human Rights Commission.

Unlike courts, which are vested with the power to rule over all cases` and issues of justices, EIO's mandate is limited only to administrative matters. Also the EIO, unlike courts, could conduct investigations on its own accord. Most importantly, its procedure is less costly and by far simpler than required by courts. Furthermore, the EIO could handle the last thing that courts of law could consider: complaints from anonymous pleader, which gives the chance for citizens, who refrain from speaking out of fear of the wrath full vengeance of authorities.

For all its simplicity and convenience, the EIO can never replace the indispensable services of the courts of law. However, it surely stands to an offer alternative conflict resolution mechanism.

Similarly, the EIO is essentially different even from an equally independent institution with a mandate to prevent the violation of rights: the Human Right Commission [HRC]. The responsibilities of the HRC extend to

ensuring respect for international and continental human rights instruments ratified or acceded to by Ethiopia. It further aims at preventing acts of violations of the rights of citizens committed by any organ or institute; where as the EIO's power is specifically limited to violations of rights and abuses committed by the administrative apparatus.

However, when it comes to issues of violations of rights, the jurisdictions of the EIO and the HRC may overlap on account of the similar purposes they both stand for and the similar interests they intend to protect. No wonder, Art 29 of EIO's establishment proclamation anticipates the possibility of "overlap of jurisdiction" and provides for the possible consultation between the two institutions over the question of which of them should handle a given case.

This underscores the obvious fact that the two institutions share the common denominators of objectives and victims.

Still, the contrast reveals that as a democratic institute, the EIO stands with more specific areas of concern. EIO's limited scope allows it to effectively deal in the problems with in the administrative organs.

Over all, while most democratic institutions share the EIO's objectives, we find in the EIO, an institute that offers services unavailable anywhere else. It has simpler procedure and less costly alternative mechanism of dispute settlement; also it has the power to receive complaints and probe into citizen's complaints against government official and recommend remedies to the abuses that matter most and that face citizens at the daily basis: rectifying administrative abuses of power, violation of rights and the rule of law.