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OMBUDSMAN AND ETHICAL DILEMMA IN NIGERIAN PUBLIC ADMINISTRATION: FROM RISING EXPECTATIONS TO DASHED HOPES

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ABSTRACT

Ombudsman is an integral part of public sector transformation in the twentieth century. The complex nature of government and its continued grip on the lives of the citizens inform the need for a watchman that will guarantee that government is carrying out its day-to-day functions and does not trample on the fundamental rights of its citizens, and ensure commitment to ethical standards by public officials. The paper is qualitative in nature, while relevant data were gathered through secondary sources. The paper notes that although Ombudsman is a widely used institution for ensuring administrative accountability, transparency and maintaining ethical standard in the western countries, it has also been adopted in developing societies like Nigeria. In this paper, an attempt is made to analyze the role of Ombudsman in dealing with unethical dilemma in Nigerian public administration and how it can be improved upon. The paper observes that ombudsman has not been able to effectively deal with unethical conduct or misuse of administrative power in the public service. The paper however emphasize that the office of the ombudsman needs to be strengthened so that all the tenets of a credible public administration would be seen to be present and working to the advantage of all. This will help to check government activities in the interest of the citizens, and thus help to address the problems of human rights abuses, lack of accountability, absence of good governance and maintenance of ethical standard in the public service.

Keywords: Ethical Dilemma, Public Administration, Service Delivery, Accountability, Transparency

Introduction

In almost every country in the world, public administration has significantly expanded in the past century. With the expansion and the changing nature of the role of government, the number of complains about governmental performance has grown. As a result, governments around the world are experiencing a widening gulf between themselves and the people they serve. This is because the traditional institutions of checks and balances on power and accountability of public officials have become less effective due to the shifts (Kersbergen & Van Waarden, 2004). As a response to these developments, Ombudsman was established as new control mechanism institution to sustain ethical conduct in the public service.

Ombudsman is an integral part of public sector transformation in the twentieth century. The Ombudsman, an institution headed by a high level public official with independent authority to oversee public administration, has become a feature, and a standard, of modern democratic state (Diaw, 2008). The Ombudsman institution is one of the most essential institutions for any democratic society where constitution exists. The complex nature of government and its continued grip on the lives of the citizens inform the need for a watchman that will guarantee that government is carrying out its day-to-day functions and does not trample on the fundamental rights of its citizens and ensure maintenance of ethical principles by public officials (Fajonyomi, 2012). He notes further that without the presence of an Ombudsman, there is no way citizens can seek redress when abuse of office occurs, more so that existing mechanisms like the courts, legislatures, executive and other agencies charged with redressing such complaints might not be forthcoming.

Ombudsman in public administration has been given vast credence by the persistent maladies inherent in the public sector domain and the increased complexities under which modern public administrative machinery operates. These complexities are exacerbated by the financial constraints that rock most governments and the shrinking levels of public service delivery. The need to streamline public policy management processes calls for a professional and responsive public service and adequate accountability mechanisms (Bukhari & Asit, 2013). With a shift toward - new public government, increasing attention has been paid to governing according to collective values and a concomitant ethics code for public officials. As such, the challenge for public officials is to operate in a complex environment with shifting public expectations of performance while maintaining strict adherence to values of propriety (Osborne, 2006).

The existence of the office of the ombudsman reflects an affirmation of a commitment to assisting citizens who seek redress against mal-administration to get some reasonable amount of solution. The office of the ombudsman hoped to help the public service to enthrone a self-check that would enforce accountability, prevent corruption and guide against mal-administration (Mukoro, 2013). This paper was encouraged by the fact that the theoretical terrain of ethics in public administration and management posits that, despite the existence of ombudsman that regulates the conduct in the public sphere, the ethics in practice in general are still illusive.

Statement of the Problem

Public officials in Nigeria do not deliver effective and efficient services to the members of the society as expected. The reason behind this is partly the lack of commitment and failure to adhere to ethical standards in the public service. This makes them not care about service delivery as they do not understand how important it is to adhere to their public tasks (Mafunisa, 1999). Instead, public officials tend to involve themselves in unethical conducts as is prevalent in

Nigeria which includes among others the theft of assets, the mismanagement of funds, unauthorised deductions, irregular appointments/promotions, the irregular awarding of tenders, maladministration, the misuse of state vehicles, unauthorised private business, cheque fraud, false claims/irregular payments, unfair dismissals, and non-compliance with service delivery standards, etc. Public service, in Nigeria is characterised by widespread allegations of unethical conducts. Allegations of unethical conduct practices are relatively high and have generated widespread concern, and consequently, a search for remedies. It is therefore important that ethical conduct be promoted at Nigerian public service.

Objectives of the study

The paper examines the origin and nature of Ombudsman in Nigeria. It critically diagnoses the practices of Ombudsman in Nigeria, whether it has succeeded in raising the level of accountability and transparency of public officials and curb unethical practices in the public service and the barriers to its effective operation. The paper proffers remedial actions for effective operation of Ombudsman as a veritable institution for entrenching ethical standards and conducts in the public service.

Methodology

The study is descriptive and qualitative in nature, using only secondary method of data collection. For secondary sources, the study relied on relevant textbooks, journals, magazines, newspapers, official publications etc.

The Concept of Ombudsman

The word *Ombudsman* was coined from Swedish word *ombuds* meaning *officer* or *spokesman* or *representative* (Rowat, 1986). Many scholars defined Ombudsman from different perspectives. This paper therefore examines some definitions given by various scholars and notable organisations. According to Davis (2001), Ombudsman occupies a position of high prestige in the government and his job is to handle complaints from any citizen who displeased with the action or inaction of any administration or civil servant. Put differently, ombudsman is an independent and politically neutral public official that offers people an opportunity to have their complaints heard, evaluated, and investigated by a neutral and independent body, and offers recommendations to the involved parties (Rowat, 2012). To Frank (1986), Ombudsman means an office established by constitution or statute headed by an independent, high level public official who is responsible to the legislature, who receives complaints from aggrieved persons against government agencies, officials and employees or who acts on his own motion, and has power to investigate, recommend corrective action and issue reports.

Ombudsman is an independent, high-level official, usually with legal training, who is authorized to handle complaints from citizens who are not satisfied with the actions or lack of actions of any administrator in government, through the process of inquiring into the matters involved, and; making recommendations for appropriate solution (Raj, 1998). From his own perspective, Sultana (2007) sees ombudsman is an institution established under the constitution or by the legislature that receives and investigates complaints reported by individual citizens against any government and institution and recommend corrective actions.

The Canadian Ombudsman Association conceptualized Ombudsman as:

an independent person appointed to receive, investigate and resolve complaints from affected persons about unfairness in the administration of public services. An Ombudsman usually has the authority to launch investigations on his or her own initiative (cited in Owen, 1993)

Similarly, the United States Ombudsman Association (USOA) in (Fajonyomi, 2012) provides a comprehensive definition of Ombudsman thus:

an independent, impartial public official with authority and responsibility to receive, investigate or informally address complaints about government actions, and, when appropriate, make findings and recommendations, and publish reports.

From the above definitions, it shows that the features of Ombudsman include:

- independent of government.
- responsible for making sure that administrative practices and services of public bodies are fair, reasonable, appropriate and equitable.
- able to conduct confidential investigations that are non threatening and protect complainants against retribution.

It can therefore be ascertained that Ombudsman is an independent and nonpartisan officer, provided for by law, who is an experienced person having authority to inquire into and pronounce upon grievances of citizens against public authorities. It also shows that there are two broad types of ombudsman. First is the ombudsman appointed by the legislature and completely independent of the executive. Secondly, the ombudsman can be appointed by the executive, but acts independently of other administrative bodies.

Contextualising and Conceptualising Ethics and Ethical Dilemma

The concept of ethics is derived from Greek term 'ethos' which means the characteristic spirit of a culture, inner disposition or 'morality'. Ethics can be defined as a moral system of a particular school of thought. Ethics has to do with the application of moral values to people's behavior (Grint, 2007). Ethics is a set of rules or standards governing the moral conduct of employees in an institution. Ethics deals with values relating to human conduct, with respect to rightness or wrongness of particular actions and to the goodness or badness of the motives and ends of such actions. Rightness refers to what ought to be or what is approved, while wrongness refers to what ought not to be or what is disapproved of by society (Mafunisa, 2001).

Ethics can be seen as a system of moral principles that is based on values relating to human conduct, with respect to the rightness or wrongness of certain actions and to the goodness and badness of the motives and ends of such actions (Mbatha, 2005). Olanipekun (2006) defines ethics as a practical, normative, philosophical science that studies and evaluates the rights and wrongs of voluntary actions of human beings. Ethics deals with internal values that are a part of corporate culture and shapes decisions concerning social responsibility with respect to the external environment. An ethical issue is present in a situation when the actions of a person or organization may hurt or benefit others.

As stated by Hosmer (1987), public administration ethics refers to the determination of what is right and just in the decisions and actions that affect members of the public. Thus the concern with ethics in the public service focuses on what is considered the right and just behaviour of public officials. Public officials are expected to act in a proper and "just" manner in performing their official duties. This position is based on the belief that there are "right" and "wrong" ways of acting in a given situation, which, in turn, constitute a society's moral standards (Mafunisa, 2000).

The above definitions provide insight into the complexity of what makes up ethics. In order to understand ethics, one must accept the responsibility and accountability for one's actions. Further, people must have a concept of 'right and wrong' and a 'moral code'.

Ethical dilemma refers to a situation that often involves complex and conflicting principles of ethical behavior because no clear guideline is available on how to act and respond to a specific

problem (Kitchener, 1984). An ethical dilemma is a situation where a person or institution has to decide between two good or two bad solutions. A decision between an ethical and an unethical solution is not a dilemma, but ethically clear. But if somebody has to decide in favor of one value or objective while neglecting another one which is also important, it becomes an ethical dilemma.

An ethical dilemma arises from a situation that necessitates a choice between competing sets of principles. Thus an ethical dilemma can be described as a circumstance that requires a choice between competing sets of principles in a given, usually undesirable or perplexing, situation. Conflicts of interest are possibly the most obvious example that could place public sector leaders in an ethical dilemma (Cranston, Ehrich & Kimber, 2002). Other types of ethical dilemmas in which public servants may find themselves as observed by Edwards, 2001; Preston, Samford & Connors (2002) include conflict between the values of public administration; justifications for the institutions; aspects of the code of conduct; personal values and supervisor or governmental directive; professional ethics and supervisor or governmental directive; personal values and professional ethics versus governmental directive; blurred or competing accountabilities; and the dimensions of ethical conduct.

Ethical dilemmas exist when public officials have to make decisions and choices between alternatives. Baai (1999) supports this statement that ethical dilemmas arise where there is conflict between competing obligations or between a sense of duty and self-interest. Kidder (1995) is of the opinion that ethical dilemmas are conflicts between right and right, while moral temptations relate to conflicts between right and wrong. Ethical dilemmas are issues such as economic growth versus environmental protection, or discipline versus compassion towards employees. These are conflicts between two or more right values and lie at the heart of ethical decision-making. It is therefore imperative that public officials be clear about the content, purpose and basis of their decisions. As noted by Hunt & Vasquez-Parraga (1993), it is important for an individual to recognize the presence of ethical dilemma, since it acts as catalyst for the entire decision-making process. This in the view of Jones (1991) is so because ethical decision-making criteria will not be employed if the existence of ethical dilemma is unrecognized.

Theoretical Framework

Ethical theories are the foundations of ethical analysis because they are the viewpoints from which guidance can be obtained along the way to a decision. Each theory emphasises different points such as predicting the outcome and following one's duties in order to reach an ethically correct decision. There are three major schools of thought on ethics, and these include consequentialism, deontology and utilitarianism. However, in order for an ethical theory to be useful, Rainbow (2002) argues that the theory must be directed towards a common set of goals. As a result, this paper adopts utilitarianism theory to analyse ethical dilemma in Nigerian public administration. This is because theoretical investigations into ethical dilemmas in public sector respond to theories that perceive public service as a value-laden profession and used to accomplish the balance between societal and personal well-being.

Utilitarianism represents the dominant and most influential normative teleological or consequential ethical philosophy. Utilitarian theorists, developed various approaches explaining what should be perceived as good consequences. Classical utilitarians believe that the ultimate good is something that most people actually desire, such as happiness or pleasure. In its simplest form, utilitarianism states that in any situation where there is a moral choice, the right thing to do is that which is likely to produce the greatest happiness for the greatest number of people or the least harm to the world as a whole. Therefore, everyone ought to obey the laws that ensure the

balance between the good for the individual and for the society as a whole (Rhodes, 1986). As Clark (2000) states, the utilitarian approach on ethics provides a very important justification, that of utility, however it fails as a single principle to examine the ethicality of human actions.

The important aspect of utilitarianism is its inclusiveness. It is the consideration of all. It is this requirement to be comprehensive that distinguishes it from the more common form of teleological reasoning, “The Ends Justify the Means” (Vance & Trani, 2008). Utilitarianism focuses on ends and not on the means required to achieving those ends, and it takes into account all present and future benefits and harms that accrue or might accrue to anyone who is affected by the action, including items that may be difficult to evaluate accurately (Schumann, 2001).

Utilitarianism in public life has one great benefit; its impartiality, and one great weakness; it can be overly demanding. Practically, the greatest benefit of the utilitarian theory would be the requirement that all should at least be considered. This consideration would certainly influence all public decisions, international and domestic, even if deontological and virtue ethics were part of the moral reasoning (Singer, 2006). As the general public becomes confident that their elected officials are making decisions for the good of the populace, they may become more interested in the political process as a whole. This is one of the most important outcomes of this type of utilitarian thinking, the trust that people will gain in the democratic process. Utilitarian decision makers are required to estimate the effect of each alternative on all parties concerned, and to select the one that optimizes the satisfaction of the greatest number.

The Genesis and Development of the institution of Ombudsman

The term Ombudsman was derived from the Germanic language and has its roots from the early days of Germanic tribes. The person who was chosen from a neutral group to collect blood money (Wergild) on behalf of the wrongdoer was called Ombudsman. But the modern office of Ombudsman was first conceived in Sweden by the Swedish Constitution Act 1809 (Chowdhury, 1996), and has spread throughout the world. In the early 19th century the first ombudsman institution was established in Sweden in 1809. The institution spread outside Sweden to Finland in 1918, when Finland became independent from Russia. Followed by Denmark (1953) and Norway (1958), where it was considered as a matter of necessity to establish machinery to safeguard the citizenry’s right against civil servants’ abuses.

First ombudsman institution established outside Nordic countries was in New Zealand in 1962. The institution of the ombudsman enjoyed the greatest popularity in the 1960’s, when mainly European countries established the institution. Today, with the expansion of every society and its government, ombudsman are found in the Scandinavian countries, Great Britain, New Zealand, West Germany, Canada and so on. In addition, similar agencies like the ombudsman system exist in France, the United States Army, the USSR, Tanzania, Nigeria, Japan, China, Zambia etc. (Daniel, 2013).

It is therefore important to note that the name given to the Ombudsman institution varies from one country to the other. Emulating the Scandinavian countries, various countries have established the ombudsman system which has assumed different names in different countries. In some instances like that of France and Spain, some of the former colonies retain the same nomenclature for their Ombudsman. Some of these names/nomenclatures are stated below.

S/N	Countries	Nomenclature	Year of Establishment
1	Sweden	Justitie ombudsman	1809
2	Tanzania	Parliamentary Commission of Enquiry	1966
3	United Kingdom	Commissioner for Administration	1967
4	Canada	Protecteur du Citoyen	1967

5	Sri Lanka	Commissioner for Administration	1971
6	India	Lok Ayukta	1971
7	France	Mediateur de la Republique	1973
8	Nigeria	Public Complaints Commission	1975
9	Portugal	Provedor De Justica	1975
10	Austria	Volksanwaltschaft	1977
11	Spain	Defensores del Pueblo	1981
12	Uganda	Inspector General of Government	1986

Adapted from Fajonyomi, S.B (2012)

In the continent of Africa, the ombudsman institution is now widely accepted as one of the key components of the democratic transition in Africa. The first generation of ombudsman institutions is a clear reflection of a more open and liberal atmosphere on the continent. The factors largely responsible for giving the concept a wide currency are the British Commonwealth and the influence of the French. According to Oosting (1996), the permanent commission of Enquiry in Tanzania, established in 1965 “was the first ombudsman’s institution in Africa”, and thus was in the vanguard of the dissemination of the idea especially amongst the Anglophone countries in Africa.

After gaining independence from the British Colonial rule, the Nigerian government did not deviate from the established practice of the colonial administration in relation to the protection of the right of the citizens. The only available channel for citizens to challenge arbitrary and capricious actions of administrative officials is the ordinary court of law. Justice in the administrative areas under this arrangement often seems slow and wanting. By the mid-seventies, military rule in Nigeria even though an aberration, has become well entrenched in our polity. Arising from the flagrant disregard of lawfully laid down rules, regulation and administrative excesses and abuse of the office morale among the civil servants had declined ever before the democratic government. Worried by public outcry, the federal government thought of borrowing the idea of setting up a Commission for listening, receiving and resolving public outcry concerning bureaucratic injustice, a sort of corrective institution. The government wanted an organ that could curtail abuses of all due process and privileges by bureaucrats. It thus set up a panel known as Udoji Public Service Review Panel which went into action. Accepting the Udoji Public Service Review Panel’s recommendation, the Federal Military Government promulgated the commission’s enabling law, the Decree No. 31 of 1975 (Awpeju & Oyewole, 2011). Thus, Ombudsman was established in Nigeria in 1975. It is important to note that the institution of Ombudsman in Nigeria is refers to as Public Complaint Commission (PCC).

The evolution of the Ombudsman can be summarized in four phases. These include:

- 1) **Early Scandinavian Movement: 1809 – 1962.** This is the period when ombudsman was mainly practiced in Sweden, Denmark and Norway. These are the countries referred to as Scandinavian countries.
- 2) **Universalization of Movement: 1962 – 1990.** This was the period when ombudsman became acceptable in most countries of the world as an instrument of ensuring accountability in governance. Be it developed or developing societies.
- 3) **Era of Regime Transformation: 1990 – 2000.** This is the period when regimes begun changing around the world. Most countries are changing from autocratic regime to democratic elected government.

- 4) **Early 21st Century Consolidation: 2000 till date.** During this period emphasis is placed on effective service delivery as a result of globalization and the changing nature of government in different countries of the world (Ayeni, 2013)

The Raison D'êtres of Ombudsman System

The modern Ombudsman institution is an important pillar of effective accountability and service delivery in the public service. The office has enormous potential for promoting ethical governance and optimising public accountability through enhancing the people's voice and the state's conscience. The Ombudsman office can also make a significant contribution towards ensuring that the exercise of state power and control over state resources and opportunities resources is always informed by public interest and fairness thus contributing to the protection and promotion of human rights and ultimately, peace and stability. The Ombudsman is, therefore, a formidable institution and can or should not be taken for granted. The importance of the Ombudsman was aptly captured by Pearce (1993:13) thus:

... undoubtedly the most valuable institution from the viewpoint of both the citizen and bureaucrat that has evolved during this century....there has been broad public demand for the establishment of an Ombudsman to resolve problems in a very large number of countries and institutions. This astonishing growth of an institution is not and has not been emulated by any other body. Contrast the many centuries that it took Parliament and the Courts to establish their roles...

In modern times the government in both developed and developing countries have assumed with varying number and volume and enormous multitude of functions and roles in the field of socio-economic welfare of the citizens. The scope and dimension of the activities of the government and those of the powers and the authorities of the officials and public agencies have thus expanded enormously. As a result, the government has become complicated in modern times (Gellhorn, 2001). As a result, it has been felt that the existing machineries for adjusting and redressing grievances of the individuals increasingly tend to be inadequate to fulfill this purpose. Nowadays, the court has traditionally played a very important role in correcting abuse by administration. But a number of problems are associated with the role of the judiciary. Unlike the Ombudsman system, informal investigation cannot be conducted by the regular or ordinary courts. Legislation is expensive, time-consuming, protracted, slow and very complicated and cumbersome process. The judicial process is also highly impersonal and formal. On the contrary, the process of Ombudsman's investigation is very informal and flexible and there is an element of personal touch and concern. Furthermore, as the complainant is required to pay a very nominal or no fee/deposit, the Ombudsman provides a much cheaper justice than the regular court/judicial system can offer (Abedin, 1992).

Frank (2012) made extensive research on Ombudsman system. According to him, the reasons for the adoption of Ombudsman are as follows:

- The Ombudsman as an independent body assists the legislature in its function of maintaining the activities of government agencies and officials.
- The Ombudsman system has as its basic purpose the protection of the human rights of the citizens.
- The existing mechanisms for adjusting grievances in modern system are inadequate. In law courts litigation is expensive, tension creating and protracted. Administrative courts follow court like procedures. Executive complaint handling agencies lack the essential characteristics of independence.

- The Ombudsman provides the citizens with an expert and impartial agent who acts informally, without delay, without requirement of counsel and recommends corrective action.
- The presence of the Ombudsman has psychological value. The citizens become confident as there is a watchdog and it serves as deterrent to the bureaucracy (Frank, 2012:241).

The Office of the Ombudsman functions as an independent body to ensure that citizens have an avenue opens to them, free of red-tape, and free of political interference. Despite proactive functions such as to contribute towards educational and developmental issues, the Ombudsman has reactive functions as laid down in the Constitution and the Ombudsman Act. The role of an ombudsman is to ensure government accountability through effective oversight of the administration of government services. It can be helpful to conceptualize the role of ombudsman as a “commissioner for fairness.”

It is evident that ombudsman have dual roles. On one hand, they provide redress for individual grievances, while on the other hand they are concerned with the improvement of service delivery standard.

Ethics and Ombudsman: The Interface

Ethics and Ombudsman have often been thought of as mutually-reinforcing concepts. They are important elements in comprising the “body and soul” of public administration (Menzel, 2003). Accordingly, several scholars and practitioners have sought to identify and understand the ethical responsibility of the public administrator.

Ethics is not a new topic in public administration, and the amount of information on the subject demonstrates the importance of ethics in the field. The reputation and success of governance depends upon the conduct of public functionaries and what the public believe about their conduct. It is therefore of fundamental importance that public functionaries act justly and fairly to all, not only paying lip service to ethical conduct but also ensuring that these are manifestly and undoubtedly seen to be done. It is imperative that all public functionaries upon accepting government employment recognize that they have a special duty to be open, fair and impartial in their dealings with society. Denhardt & Denhardt (2002) argue that public administrators influence, and are influenced by, all of the competing standards, values, and preferences of the complex governance system. These variables not only influence, and are influenced by, public administrators; they also represent points of accountability. For instance, Maesschalk (2004), found that the framework for New Public Management has a definite impact of the ethical decisions of administrators. Today, ethics seems an especially urgent aspect of public administration.

Globally the concept of ombudsman has been promoted in public administration. It is seen that this concept is related to the measures which promote establishment of accountability and transparency mechanisms leading to the reduction in unethical practices and development of quality service delivery in the public service. The values that are promoted by the ethics of the service of goods are mainly efficiency and maximization of the inputs to outputs (Radhika, 2012). Ombudsman is a key instrument that has been used with regard to holding leaders accountable, particularly in the area of ethical conduct. The interface between Ombudsman and ethics is that Ombudsman handles cases involving allegations of violations of ethical standard in the public service. Ombudsman encourages a certain work ethic and compels public officials within government to behave in an ethical way. According to Brammer & Millington (2005), attention to ethics in a professional setting guides how public officials should act. Even more importantly, the existence and practice of ethics in a workplace helps to ensure that strong moral

principles are retained, even during difficult times and struggles. For many institutions, Ombudsman has become a force to reckon with in mission-driven and maintenance of ethical standards. This implies that public officials in delivering services to the people can be honest. Honesty is one of the core values when one refers to ethical behaviour.

It is necessary to have an institution which makes available the standardization of professional ethical values, and an Aristotelian procedure of absorbing constant adjustments. This achievement resides in true ethics-based politics, which is standardized and universal. It is a must to move from forced bureaucratic demands to more agreement-based behaviour for public good (Radhika, 2012). Ombudsman has helped to make public officials to realise that they occupy a unique position in society and that the promotion of the general welfare of the community must be their first priority. Their unique position must not be used for the furtherance of their ideas and public officials must adhere to ethics which are seen as a system of moral principles which Ombudsman tries to maintain. Ethics are essential for sound transparent public administration and when viewed in conjunction with morals, serve as the cornerstone of transparent public administration.

Ethical Dilemma and Nigerian Public Administration

Ethical dilemmas confront public sector managers as they endeavour to choose options amongst competing sets of principles, values and beliefs. Badaracco (1992) refers to these competing sets of principles as “spheres of responsibility” that have the potential to “pull (managers) in different directions” and thus create ethical dilemmas for them. An ethical dilemma can be described as a decision that requires a choice among competing sets of principles, often in complex and value laden contexts. Kidder (1995) maintains that many of the ethical dilemmas facing professionals and leaders “don't (just) centre upon right versus wrong (but can) involve right versus right”. Ethical dilemmas can arise from equally attractive options that could be justified as being ‘right’ in particular situations (Duignan & Collins, 2003).

Unethical practices in the public sector have been with every country for thousands of years. Since then, no period in the world history has been without its own kind of fraud, waste, and abuse by the public officials mainly the political leaders appointed by the political party in power, or by the acts and misdeeds of elected or career public servants. Changing times bring changes in unethical practices and to some extent, a change in their focus. Although common threads such as political influence and insider information about procurements continue to poison the practice of government, changes in public perception about politicians of any persuasion have led to a narrowing of the opportunities and incentives for unethical practices (Osborne, 2006). The problem of unethical practices in the public sector persists, however, and will continue as long as government leaders continue to tolerate and, even worse, contribute to the problem. Warwick (1981), in identifying some of the common ethical dilemmas faced by public officials in the exercise of discretion, offers five ethical principles of guidance: the exercise of discretion should serve the public interest; public officials should push back bounds on rationality so that deliberation may take place; public officials should provide truthfulness in the discharge of official responsibilities; public officials should demonstrate procedural respect; and public officials should exercise restraints on the means chosen to accomplish organizational ends.

Public servants swear on oath to be loyal to the Federal Republic of Nigeria on assuming office. It is a ritual that all public servants undergo. However, no sooner had they come into office than they forgot this oath and pursue their private interest. Recent revelations of official misconducts in the public service are case in point (Adenuga, 2001). The reflections on Nigeria's experience in

dealing with public service ethical dilemma is a continuum of the growing global concern for promoting ethical fitness as an underpinning tonic for sound public service and better governance. Be that as it may, these reflections seek to highlight the types of ethical dilemmas experienced in Nigeria's public service and the framework of mechanisms that the country has adopted to navigate through the labyrinths of the ethical dilemmas as well as the commonly encountered challenges. As noted by Abia (2006), the debate to curb ethical violations and enforce accountability has intensified in Nigeria and Africa in general mainly due to four reasons. These include:

- (a) The increase in the incidence of unethical practices and lack of accountability;
- (b) The wave of political liberalization, that engulfed most Africa since 1989, which has emboldened a civil society into demanding greater enforcement of ethical standards and the punishment of violators;
- (c) A growing recognition that unethical practices have contributed to the economic difficulties that many African countries faced, and;
- (d) The pressure exerted by international donors requiring stricter adherence by African countries to good governance and the curtailment of waste and squandering of resources.

In Nigeria, the public service sector is experiencing a myriad of problems ranging from lack of indiscipline among the civil service workers, misappropriation of public funds, laziness at work, corrupt practices and their cold and non-chalant attitude towards their job and colleagues and moral values of the community. Since independence in 1960, Nigeria has battled integrity, transparency and accountability problems within its public service. The crisis of governance over the past decades in Nigeria has been associated with the collapse of ethical and professional standards in virtually every aspect of our national life. Particularly, the inability to maintain professional and ethical standards in the Armed Forces resulted in various military coups which adversely affected every stratum of the Nigerian society. The Nigerian public service has undergone changes and transformation over the years. However, successive reforms aimed at achieving ethical standard, efficiency and effectiveness has failed to make significant impact in terms of re-engineering the public sector (Chukwuebuka & Chidubem, 2011).

The Nigerian society is filled with stories of unethical practices such as stories of ghost workers on the pay roll of Ministries, Extra-ministerial Departments and Parastatals, frauds, embezzlements and setting ablaze of offices housing sensitive documents and corruption are found everywhere in the country (Okwoli, 2004). One of the major ethical problems in the public sector is associated with corrupt activities which robs the citizens of their access to public services. It is argued that no other threat of effective public service performance in any nation supersede the danger of corruption in the society (Sandholtz & Taagepera, 2005; Mohammed, 2013). Unethical behaviours, including bribery and corruption, are universal and possibly inherent in human society existing in practically all countries of the world. In Nigeria, they have attained disturbing levels. Their practice seemingly enjoys societal indifference instead of condemnation. Unethical behaviour involves: immorality, debasement or bad conduct, it is evil behaviour. The consequence of which are decay, loss of strength and prosperity, leading to deterioration and rottenness. Such depravity includes bribes, using sex to secure favour, and several forms of fraudulent practices (Ogundele, Hassan, Idris, & Aliu, 2013).

Nepotism and favouritism are also problems of ethical conduct in the Nigerian public service in the sense that public resources are directed to the benefit of a particular cartel or clan or political groupings. The problem of nepotism and favouritism is considered bad when other members of the public coming from a minority group are discriminated against the benefit of the resources of

a country. Such is becoming worse if policies to be implemented by government are rendered impossible in relation to such dynamics. Public service in Nigeria is today viewed as an avenue for sharing the national cake among public official. Hence, the unending demands for effective public service delivery. The situation is further accelerated by the public perception that the public service is amoral realm that is to be plundered to sustain individual. It is important to note that repeated attempts have been made over the years to combat corrupt practices and ethical violations. A common feature of those is the establishment of the institution of Ombudsman to enforce ethical behavior.

Pathologies of Ombudsman in Nigerian Public Administration

Nigeria established Public Complaint Commission in 1975 to investigate complaints against public officials. Yet, more crucial has been the fact that the incidence of ethical violation has increased even when a large number of violators have been investigated. The salient question is that why has this measure been generally unsuccessful, and given the extent to the malaise of unethical conduct and hitherto limited power in dealing with it.

The institution of Ombudsman in Nigerian has over the years been plagued by a number of problems which continue to adversely affect its role as an instrument for checking unethical practices in the public service. In the recent times, Ombudsman has been pronounced much more in politico-administrative discussion. It is generally alleged that a major problem throughout Nigeria's public sector is not only lack of accountability but also the nature of accountability. If the administrators vested with vast authority but of unfettered type there is very apprehension that they may become tyrannical. Hence, some sort of controls over the administration is essential for ensuring accountability. In Nigeria, to make the administrators accountable and to minimize mal-administration, inefficiency, arrogance and abuse of power which are built into the system of our administration, some internal based on hierarchy and include time limits for disposal of files, inspection, supervision, Annual Confidential Report, civil service conduct rules etc. and external, such as parliamentary control, the role of the judiciary, the press and the citizens or the pressure group mechanisms are existing within the system and society. But the prevailing administrative process and internal mechanisms of control over administrative malpractices is not so effective (Khan, 1995).

In practice, the ombudsman cannot order a decision to be quashed. This to a certain extent negates the effectiveness of the system, because it makes the ombudsman decision vulnerable to the wishes of the bureaucrats affected, whether the bureaucrats' fear or respect the ombudsman's office. Ombudsman does not have powers to take its decisions to court for enforcement. This has been restricted to recommendations and using soft powers of persuasion and mediation. Further, the law does not expressly impose a duty on public agencies to comply with the decisions of the Ombudsman. In addition, the weakness in the law has made public agencies to interpret their duty to co-operate with the Ombudsman to mean cooperation during investigations, but not in the enforcement of its decisions. This is made worse by the lack of clear strategy to enforce decisions of the Ombudsman, making it to only rely on informal arrangements for Enforcement (Medhane, 2013).

Judging from the practice of the institution of the ombudsman in Nigeria, what is however still found worrisome is that despite the adoption of the office of the ombudsman into the governance and administrative practices in Nigeria, a lot of shortcomings are still being detected in the way they operate. The high incidences of corruption, the lack of respect for democratic tenets, poverty, ignorance and the near absence of enforceable agencies are factors that have been constraining the institution of the ombudsman from performing to the high level of efficiency

and effectiveness that is expected of it. Also, the control of the institution of the ombudsman in Nigeria is still very much tied to the apronstring of government. This shows that Ombudsman in Nigeria lacks the essential characteristics of independence (Mukoro, 2013). Therefore, an urgent need of the time is to evolve an adequate and effective mechanism for controlling the administration in exercising its powers, safeguarding individual rights and creating procedures for redress of individual grievances against the administration.

A critical overview of the performance of Ombudsman office in Nigeria show that there are still a lot of flaws in matters of maintaining ethical standard, accountability and good governance, largely as a result of over centralization of government and its bureaucratic character and its unwillingness to become truly democratic. The resultant effect has been that many persons cannot meaningfully seek redress against mal-administration nor can they complain about poor governance and service delivery. Another ethical problem is the low sense of integrity among civil servants. This low sense of integrity provides a fertile ground for pilfering and diversion of resources for private use, falsification of contracts as well as leaking of official records and government classified information (Osborne, 2006).

Ombudsman offices are prevented from investigating cases where litigation is pending before a court or where judgement on the same facts has already been delivered. Another major hindrance to the effectiveness of Ombudsman in Nigeria is that of inadequate finance to run its affairs sensitizing and advocating the idea of public accountability and educating the public about the existence of the Commission and its functions. It is observed that not many people are aware of the function, work and achievement of the Public Complaints Commission due to lack of adequate publicity (Radhika, 2012). The effectiveness of the ombudsman is seriously hindered if there is no adequate co-operation between the government bodies and other institutions concerned with improving ethical standards and improvement of good governance. Despite these challenges, the Ombudsman in Nigeria has made strides and has a promising future.

Conclusion and Policy Implications

Ombudsman is the institution that controls the mal-administration done by the public official. The office of Ombudsman is a crucial institution in ensuring both transparency and accountability of government decision making around the world. It is also a cost-effective institution in that the Ombudsman has the flexibility to deal with matters informally.

The ombudsman can improve the accountability and improve ethical standard of governments by permitting members of the public to lodge complaints that the government has not acted legally or fairly; investigating the conduct of public administration; recommending changes of law, policy or practice when illegal or improper administration is uncovered; reporting to the legislature and the public; ability to take cases to constitutional and other courts for judicial determination; and the power to prosecute state officials. By holding public officials responsible for the abuse of governing power, the ombudsman also facilitate a legitimate government.

The Ombudsman is no longer just a concept, neither is it an organization; it is an institution and has become increasingly looking like a club because everybody wants to be part of it and call themselves Ombudsmen. It has also grown a lot of professional networks in all regions of the world. The Ombudsman has also increasingly become a brand. The Ombudsman provided an opportunity for checks on abuse of enormous powers entrusted to public officers. It therefore became a system of protection of individuals against the executive and administrative misuse and abuse of power. The institution of ombudsman is part of the story of state transformation in the twentieth century; its effectiveness needs to be situated within the functioning of the encapsulating state.

More than ever, the 21st century will require our ethical decision to be inclusive. While it is easy to say that officials should subject themselves to more rigorous decision making, there are of course other areas that must be examined as well. It has been shown that competence in one's field can lead to more stringent ethical decisions, so it is equally important to allow officials the tools to make the best decisions for the most people (Macaulay & Lawton, 2006). Therefore, there is always more that can be done on an individual level to help improve ethical decision making. In order not to render the Ombudsman as a toothless bull-dog that can only bark but cannot bite, it is hereby recommended that its decisions should be made enforceable and binding on the parties. The fact that Ombudsman is a watch-dog for social justice and promoter of peaceful conduct of state affairs, it is necessary to equip it with the necessary administrative wherewithal to be able to make its decisions binding. It should be given the power to prosecute and follow its cases to logical conclusions before some designated high courts similar to the law and practice governing the conduct of Economic and Financial Crimes Commission (EFCC). This will further make the Commission achieve its vision statement of ensuring the protection of the vulnerable individuals against administrative injustice which it is irrevocably committed to. Also, government should improve on the financial allocation to the Commission for optimal performance of the commission. It is imperative that all public functionaries upon accepting government employment recognize that they have a special duty to be open, fair and impartial in their dealings with society. Personal self-interest should be subordinate to the public good in all circumstances, especially if circumstances arise where the possibility of a conflict of interest may become an ethical dilemma.

The Ombudsman needs to come up with a communication strategy to educate and bring awareness of the public on its key role. It is important for the Ombudsman to understand that they hold no magic wand to make things happen. The Ombudsman's goal should be a continuous quest for justice. It becomes apparent that adequate publicity and awareness should be given to the general public on the functions and services rendered by the commission. It is also of importance for government to give the Commission enough power to carry out its responsibilities independently without any interference this can only be done when adequate funds will be provided for the Commission in terms of its budget so that the Commission assumes its neutrality and impartiality when taking decision after its investigation. For the functioning of the ombudsman it is necessary that appropriate financial resources are provided. The ombudsman institutions must be in the position to employ the needed human resources for the effective case handling and more general investigations and recommendations on the violations of the side of the authorities. In addition, it is necessary that the resources are provided for adequate accessibility of the institution.

The Ombudsman must adapt in the changing environment to become more relevant and respond to the challenges and provide appropriate services to the people. In addition, the Ombudsman should jealously guard its independence since it determines its credibility and survival. The Ombudsman should be able to act in equity and make public administration more sensitive to public opinion and more responsive to demands of fairness and justice. In other words, the Ombudsman must strive, with the co-operation of public officers, to bring an administration with a human face.

From the above discussion, it is clear that though the establishment of an Ombudsman in Nigeria has not been able to effectively curb unethical practices in Nigerian public administration due to constitutional and other barriers to its effectiveness. It is clear that the establishment of an ombudsman will undoubtedly go a long way in helping to ensure ethical conduct and good

governance. If the government's pledge to the people is to serve them and bring accountability and transparency within the public administration there is no alternative but to set up an office of ombudsman. It is our believe in this paper that Ombudsman will undoubtedly go a long way in helping to establish an effective and efficient public administration based on ethical principles and standards for the well being of the people at large. To conclude, it is worth noting that ethical behaviour, where it is promoted and corruption combated. The performance of public administration will be improved towards effective public service delivery for the benefits and wellbeing of the citizenry.

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