

# Role of CAJ in Promoting Access to Better Services in Kenya



## History of the Ombudsman

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- ▶ The term 'Ombudsman' is a Swedish word '*Justitie Ombudsman*' meaning 'Agent'
- ▶ First established in Sweden 1809 as a *representative of Parliament* to ensure the observance of the law by courts and government employees. Later adopted by other countries
- ▶ In Kenya, it can be traced to 1971 when the Commission of Inquiry (*Public Service Structure and Remuneration Commission*), commonly known as the **Ndegwa Commission**, recommended that the office be established.
- ▶ Establishment of the Public Complaints Standing Committee in 2007 and later the Commission on Administrative Justice in September 2011



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## Establishment

- ▶ Established under Article 59(4) of the Constitution and the Commission on Administrative Justice Act, 2011.
- ▶ Is a Commission within the meaning of Chapter 15 of the Constitution and has the status and powers of a Commission under that Chapter.
- ▶ Other sister Commissions include the Kenya National Commission on Human Rights and the National Gender and Equality Commission



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## Mandate

- ➡ Covers all state and public offices and officers, at the National and County Governments.
- ➡ Action upon receipt of a complaint or on own motion
- ➡ Mandate encompasses the traditional role of the ombudsman and unique additional responsibilities such as overseeing access to information.



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## 1. Maladministration

- Means bad or improper administration or failure by a public agency to effectively perform its functions. Includes delay, inaction, inefficiency, ineptitude, discourtesy, incompetence and unresponsiveness.



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## 2. Administrative Injustice

- Inquire into allegations of administrative injustice, which includes an act, or decisions carried out in the Public Service or a failure to act when necessary.
- Art. 47 – Right to Fair Administrative Justice



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### 3. Misconduct and Integrity

- ◉ Investigation of improper conduct, abuse of power and misbehaviour in the Public Service.
- ◉ The Commission has conducted 25 investigations into various matters that impede good public administration.
- ◉ Complementary mandate to ensure compliance with the integrity requirements in the law by public Officers.



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### 4. Awareness Creation on Administrative Justice

- County Visits
- Media Advocacy – Mainstream and Vernacular Stations
- ASK Shows
- Website & Social Media Platforms – Twitter and Facebook
- Ombudsman Committees – An effective way of reaching the masses
- IEC Materials



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## 5. Persons in Custody

- Receipt of correspondence from persons in custody (Prison, Remand or Mental Institution) in confidence and under seal.



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## 6. Advisory Opinions and Proposals

 Advisory Opinions or Proposals on improvement of public administration and makes recommendations on legal, policy or administrative measures to address the specific concerns. We have issued 42 advisories in six years;

- Advisory on handling of employees in counties
- Advisory on misuse of public resources & participation of public officers in political activities
- Advisory on Spending by Counties on Foreign Trips
- Advisory on the relationship among the Arms of Government



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## 7. Training of Public Institutions and Performance Contracting

- Training on effective methods of handling complaints, and set-up complaints handling infrastructure.
- Role in performance contracting. We have trained over 10,000 public officers drawn from 789 institutions.
- Process Audits – To assess the standards of service delivery in public institutions



### Cont'd

- In six years, the Commission handled 345,703 cases out of which 87% were admissible and 13% were outside the mandate of the commission.
- A total of 286,059 were resolved, which represented a resolution rate of 83%.
- Complaints outside the mandate of the commission were handled through referrals and advisory services to the complainants on the appropriate channels of redress.



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## 8. Alternative Dispute Resolution Methods

Work with different public institutions to promote ADR through mediation, conciliation or negotiation on matters affecting public administration.



Let's Embrace  
ADR



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## 9. Special Interests

- Ensuring compliance with minority and marginalized groups rights in context of public service.



## 10. ACCESS TO INFORMATION



- ⦿ The Access to Information Act, 2016 gives the Commission the powers to oversight and enforce the right to access to information as provided for in Article 35 of the Constitution.
- ⦿ The Act further gives the Commission powers to enforce the right to access to information against private entities.



## 11. Promotion of Constitutionalism

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- ⦿ Protection of the sovereignty of the people, ensuring observance of the principles of democracy and the constitutional values.
- ⦿ We have participated in 30 matters of public interest litigation.
- ⦿ Promotion of the rule of law:
  - Election Monitoring and Observation
  - Observing police recruitment
  - Huduma Ombudsman Awards (Reward System)





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## Accountability


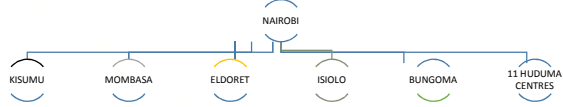


- Public
- Parliament & President
- Judicial Review
- Oversight by other Constitutional Commissions and Independent Offices
- International Linkages and Accountabilities (AOMA, IOI)


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## WAYS OF LODGING A COMPLAINT



**TOLL FREE NUMBER**  
0800221349

LETTERS BY POST 

**SMS PLATFORM**  
15700

**EMAIL**  
[complain@ombudsman.go.ke](mailto:complain@ombudsman.go.ke)

**WEBSITE**  
[www.ombudsman.go.ke](http://www.ombudsman.go.ke)

Online Integrated Public Complaints Referral Mechanism Centres

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