Admin Law Merits Review

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**Introduction**

The organisation of Commonwealth Ombudsman recognised as an independent legislative entity established under the domain of Ombudsman Act 1976. The main objective of this office is to resolve legal matters between people and government institutions. Commonwealth Ombudsman is entitled to provide liberated and free services to individuals in order to resolve their complaints. Identification of significant roles and operations of this authority is essential to determine its actual statuary position [[1]](#footnote-1). This form of consideration is important to evaluate the actual prospect of power for the authority of Commonwealth Ombudsman. The core objective of this institution is to provide necessary protection to the community when it comes to their dealings with different Australian Government agencies and some specific private sector entities. The management of Commonwealth Ombudsman is committed to ensuring fair actions of government institutions by ensuring proper handling of complaints, directing assessments, auditing and investigations [[2]](#footnote-2). It is noteworthy to indicate that the powers or authorities of the Commonwealth Ombudsman are critically focused by critics in case of its approach to acting as an agent of legal reform. It is significant to examine the practical powers of the authority of Commonwealth Ombudsman by defining its role as a representative of any form of legal reform. This paper focuses to critically discuss the powers of the Commonwealth Ombudsman to justify its approach of act as an agent of legal reform.

**Discussion**

The legitimate power of Commonwealth Ombudsman can be better identified by assessing particular functions and roles of this legislative body. This approach is helpful to determine the influence of this organisation when it comes to resolving different legal matters between community and government. The standard of motion investigation is adopted by this organisation to resolve different disputes between related authorities. Identification of major functions of this organisation is essential to figure out its actual legal position. Various guiding principles are adopted by this authority to ensure suitable outcomes of resolution in the end.

Statutory Functions of Commonwealth Ombudsman

1. Assessment of Complaints: The focus is to conduct different reviews and investigations to evaluate the administrative approach of the country's officials, different agencies, and authorities. This specific function is further expanding in case of assessing the actions of registered private service providers.
2. Motion Investigations: The specific and standardised form of investigation is adopted by this organisation to conduct investigations in case of administrative approaches of government authorities.
3. Compliance Audits: Critically and comprehensively inspects the records of government agencies such as the prospects of the Australian Federal Police (AFP) and the Australian Crime Commission (ACC). The main aim of this approach is to guarantees a significant level of compliance with actual legal requirements.
4. Immigration Detention Oversight: The authority of Commonwealth Ombudsman is also responsible to provide targeted reports about the overall detention arrangements under the Migration Act 1958. The reports presented by this authority eventually delivered in the Parliament to make inferences about the detention facilities under the immigration program.
5. The Commonwealth Public Interest Disclosure Scheme: The main agenda of this specific function is to provide the necessary encouragement to public officials in case of timely reporting of any form of suspected wrongdoing in the public sector of the country. It is one core responsibility of this authority to enhance awareness level about the Act and critically assess its relevant operations.

Identification of Decision-Making Powers of Commonwealth Ombudsman

Exploration of actual aspects of powers for the office of Commonwealth Ombudsman is essential to determine its influencing role as an agent of legal reforms. This form of examination is also viable to assess the actual effectiveness of the organisation’s role in case of different legal domains. It is critical to indicate that the association of Commonwealth Ombudsman play its role as an independent and impartial authority that provide free services against the complaints that have not been resolved by concerned institutions [[3]](#footnote-3). In other words, the approach of maladministration is catered by the office of Commonwealth Ombudsman under the domain of legal foundations.

The parliament of the country gives power to the institution of Commonwealth Ombudsman to investigate all complaints that cause conflict between government organisations and the general public. It is critical to indicate that powers of assessment and legislative investigations of Commonwealth Ombudsman ultimately considered as the prominent and independent authority. Legislative changes recommended by this body in case of performance of different government offices to ensure better application of work. “Own motion” powers utilised by Commonwealth Ombudsman under the statutory domain of Ombudsman act [[4]](#footnote-4). Furthermore, it is also vital to mention that the authority of investigation is restricted for this office concerning to perspective of some specific legislative departments. It is established that the authority of Commonwealth Ombudsman is never allowed to evaluate the decisions of different ministries or judicial decisions [[5]](#footnote-5). This specific phenomenon eventually limited the powers of the institution of Commonwealth Ombudsman. However, this office has an option to send legal recommendations to parliament to obtain the better legal prospect of government agencies.

Consideration of Powers of Commonwealth Ombudsman to Act as Agent of Legal Reform

It is vital to examine whether the ‘own motion’ powers of commonwealth Ombudsman are enough to play its role as an agent to offer different legal reform in the country. Exploration of the evolving approach of this authority is mandatory to make better inferences about this particular argument. In recent years, the role of Commonwealth Ombudsman is expanding with the enhancement of different and crucial functions [[6]](#footnote-6). Active consideration of auditing agency records complain handling, and publishing guidelines to effective decision making are some of significant aspects or functions performed by the legislative body of Commonwealth Ombudsman. The powers of this authority are enhanced by offering different legal recommendations to the legislative body of parliament of the country. This specific legal indemnity allows this authority to play its role as an agent of legal reform in the country. It is critical to explore proper distinction in case of authority of decision-making and the approach to acting as an agent of legal reform [[7]](#footnote-7). The influential role of this authority can never be ignored as it is the responsible institute of critically examine oversight actions of law enforcement agencies. Independent investigation eventually ensures to propose better legal reforms in the future to regulate the role of different legislative authorities.

Different schemes developed and implemented by Commonwealth Ombudsman play their role as the necessary part of the overall legal framework to ensure proper access to justice. Standards of public administration can never be formulated without the guidance of authority of Commonwealth Ombudsman. The actions and decisions of public institutions are greatly influenced by the reports and advise presented by the office of Commonwealth Ombudsman. On the other hand, it is also critical to indicate that the role of this authority is limited when it comes to the approach of judicial decision making. The powers of this institute are limited in case of offering a new policy or legal reforms. This particular restriction appeared in case of the role of different government ministries and overall judicial paradigm [[8]](#footnote-8). The indirect role of Commonwealth Ombudsman as an agent of legal reform can never be overlooked by identifying its approach of sending advisory reports to the parliament of the country. The modern evolving office of Commonwealth Ombudsman is different as compared to its traditional role that only related to the limited domain of functions. With the passage of time, the powers and contributions of this institution are evolving with the compliance of different legal domains. The simple meaning of Ombudsman is to play their role as an agent in case of identification of any mis-administration by government entities. The independent entity of Commonwealth Ombudsman makes it easy for the decision-makers to develop necessary reforms concerning the performance approach of legal representatives in case of different government offices. The authority of Commonwealth Ombudsman as an agent of legal reform is responsible to ensure legal fulfilment and consideration by government authorities.

Consideration of Determinative Powers

A critical examination of different determinative powers in the context of authority of Commonwealth Ombudsman is also essential to identify as the legal position of this authority as an agent. Lack of determinative powers in the context of commonwealth ombudsman

It is important to consider the fact that the ombudsman is not a ‘toothless tiger’. A critical examination of the commonwealth ombudsman indicates that its actual influence is neither measurable nor enforceable. Effectiveness of commonwealth ombudsman is undermined by the lack of determinative powers. The lack of determinative powers in commonwealth ombudsman did not impact its recommendation as agencies accepted the majority of the commonwealth ombudsman’s recommendations [[9]](#footnote-9). One must need to understand the fact that cooperative relationship between the commonwealth ombudsman and government agencies could in fact diminished as opposed to recommendatory powers. Due to the lack of determinative powers in commonwealth ombudsman’ recommendations, it had a limited power to provide relief as a tribunal or court could. A critical evaluation of the entire scenario determines that government works in accordance with procedural justice.

Commonwealth ombudsman’s recommendations are more like substantive correctness of decisions, which significantly lack determinative decree. Matters such as delay lost paperwork, discourtesy, inexplicable reasons, and misleading advice are prevalent issues that ultimately generated various complaints regarding the recommendations of commonwealth ombudsman. If a recommendation has influential power, then it is more likely to make a significant difference regarding a specific scenario [[10]](#footnote-10). However, the commonwealth ombudsman's recommendations lack influential powers, so it did not force any agency to do anything as per provided recommendations. It is important to consider the fact that without having any determinative power, the commonwealth ombudsman's recommendations compel agencies to make changes accordingly. A critical evaluation of the entire scenario indicates that the commonwealth ombudsman's recommendations forced government decision-makers to act with integrity [[11]](#footnote-11). However, if the commonwealth ombudsman’s recommendations had the jurisdiction or determinative power, then it would be more likely to influence government agencies in an effective manner.

**Conclusion**

To conclude the critical discussion about the role of Commonwealth Ombudsman as an agent of legal reform, it is necessary to mention that this argument is to connect with many different aspects of consideration. The powers of this independent authority are evolving with the expansion of different legal functions. The entity of Commonwealth Ombudsman never has any direct role as the active part in the procedure of legal reforms. There is consideration of indirect involvement of this authority as an agent to critically examine the approach of existing laws by evaluating the performance of different administrative authorities. In this particular prospect, the role of Commonwealth Ombudsman is critically effective as an effective agent to influence the overall process of legal reforms in the country. Furthermore, the authority of this institution is limited as it has no participation in legal decision making or legal amendments but it acts as an agent to advocate and assess different legislative changes.

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