

Economic, Financial and Social Benefits of A Transparent and Effective Compliant Mechanism and Handling System

*Professor Siracha Charoenpanij **



** Ombudsman of Thailand*



Complaint mechanisms and handling systems are interrelated with economic, financial and social benefits. As concern that these factors are applicable and important to every organization and sector, I accepted the invitation to deliver the speech on this topic under the theme “Administrative Complaint Mechanisms in ASEAN” in Siem Reap, Kingdom of Cambodia, during June 3-4, 2013. I am also pleased to share this improved version of my speech in the “Journal of Thai Ombudsman” with my sincere hope that it would be of interest to all readers.

Introduction

In case of Thailand, the Ombudsman is stipulated in the Constitution of Thailand in 2000 with the prime responsibility to supervise the act of maladministration or abuse of power by the public official that creates an unfair infliction to the public. The action of maladministration can range from the negligence of power, the excessive use of power, to an unfair decision made by the government agencies whether such decision is legitimate or not. Also, the Ombudsman

is eligible to recommend for the amendment of such laws, rules, or regulations to ensure justice for all.

We all know that in the democratic political system, which relies on the principle of separation of power which normally divided into 3 branches; Legislative, Executive and Judiciary. Each branch needs to be executed in the framework of “the Rule of Law” and “Check and Balance”. The growth of constitutionalism and democracy has given rise to the concept of administrative accountability. Mass democracy of modern time is not practicable without large employed state officials. This raises the question of administrative responsibility. The people have the right to know how decision are made on routine as well as on policy matter, whether they are benefitted or affected by the decision, how service is rendered or how and when the goods are delivered. What are the work procedures and how are the objectives accomplished?

To ensure the public administration to do the job well in practicing rule of law, accountability and transparency, we have to have mechanism for check and balance of power. In doing so, public oversight with the transparent and effective complaint handling system is regarded as one of the methodologies. However, the complaint handling mechanism itself has to be also transparent and effective in order that the public can rely on and achieve what they are looking for, such as fairness,

grievance redress, apology, understanding, access to information, etc. Otherwise, a unit for complaint handling itself may be in doubt of various criticisms.

What do we mean by the transparent and effective? What are the key guidelines or characters?

Transparency implies “openness” of working or decision making process and “freedom of information” to the public. The people have the right to know what’s going on in the office that is routinely run by their money (taxes). Organizations have to provide channel for the public to “access” to appropriate information relevant to their rights to know. Transparency also creates a climate of self-restraint and self-checks to avoid irregularity. Lack of transparency and public participation may lead to inefficiency, corruption, and misuse of power.

In case of Thailand’s Ombudsman Office, the ombudsman has set a complaint mechanism and handling system to be transparent and effective known as “SEFA”

- SERVICE : complainant shall receive good service from the ombudsman staffs.
- EFFICIENCY : the investigation has to be prompt and reliable.
- FAIRNESS : the investigation has to be fair to all parties concerned.
- ACCOUNTABILITY : the Ombudsman and investigation process should

be open to inspection.

Furthermore, we have laid down the procedural steps for the concerned officers in complaint handling system. First, once the complaint has been received for further consideration and investigation or so-called the “jurisdictional complaint” or “complaint fall under our jurisdiction”, we will send a notification letter to the complainant to confirm that his or her complaint has been received in our process. This contact with our clients does not just only communicate our concern on their grievances but also convey our transparency that embedded in every step of our system.

Also, we have deployed the Case Tracking System (CTS) that allow that responsible officers and management to closely monitor the complaint’ status. Once the complainant calls to our toll-free number “1676” to follow up on their complaint, the CTS system will display all the information on the screen, for example, what are the number of case, who is the responsible investigator, and also the current status of complaint. The fact that we input all relevant and step-by-step information into the system made it easy for the staff to respond to the complainant as well as to show how our transparent system work to the public.

Once the Ombudsman’s decision is made, the notification letter will be sent to the complainants for their acknowledgement. In our closing paragraph of the letter, we will include

the clause “If you are not satisfied with the Ombudsman’s decision, please exercise your rights to petition within 15 days commencing from the day you received this letter”. This shows that we are open-minded to their objection and are ready to give them more explanation.

So, transparency of agency functioning will make officials concerned take decision more rationally and objectively as well as accountable for public time and money. A transparent complaint handling mechanism, therefore, involves public participation, openness, freedom of accessibility and information.

Not only transparency is an indispensable qualification of complaint handling system, effectiveness is also an undeniable condition. When people complain, they need the clear answer or clear explanation. Responsible organization has to be accountable for such complaint in an effective manner.

The first aspect of efficiency in complaint handling system is convenience of complaint channel. Thailand’s Ombudsman Office has introduced various channels to facilitate complaint lodging service from

- Walk-in complaint where people can come to file their complaint in person with our investigator or,
- On-line complaint through the internet or,
- Telephone to call center by dialing

1676 toll-free number nationwide or,

- Facsimile or
- Also, we have initiated an outreach program and mobile unit to remote areas to ensure that people will have equal access to Ombudsman’s service.

Another aspect of efficient system is a matter of time. Complaint has to be tackle in a “timely fashion” with impartial resolution. Comparing to the court procedure, the Ombudsman approaches can process a complaint faster according to the set standard of 6 month investigation indicator with an inquiring pattern for facts finding to ensure absolute fairness to all concerned parties. Moreover, the Ombudsman can render a decision for a matter beyond the ground of complaint based upon the principle of rightfulness and fairness whereas the court prosecution has been limited by legality for not working beyond the content of the submitted case.

Performance must be measured and focused by “result-based oriented”. Discretion and recommendation are able to be enforced and achieve complainant need. If complaint handling unit can provide such mechanism, we can count it effectiveness.

Benefit of having transparent and effective complaint handling system can be highlighted in the following examples.

1. Promoting the accountability in

public administration - Accountability in public administration will be promoted through the course of check and balance by the complaint handling system. Fair and clean society can be expected.

2. Efficiency with save cost and resources - Resources will be saved. Financial leak will be protected and audited gearing for optimal utilization of time and money.

Some example of Ombudsman's recommendation that leads to a solid change in government's procedure could be described as follows.

The copies of ID card

This example seems to be very simple but effect in very large scale throughout the country. Previously, according to the regulation issued by Department of Local Administration, Ministry of Interior it requires for a copy each side of the ID card, i.e. front and back side of the individual ID card since personal data are printed on both sides. Later on, when the Smart Card has been introduced and used to replace the former ID card, all personal data are on the front side, this means that only one copy of the card, which contain all data is needed and only be submitted, and no longer need to copy both sides. The Ombudsman therefore presented the opinion and related recommendation to the Cabinet and the Ministry of Interior respectively. Respectively, the Ministry of

Interior issued the letter of announcement to accept the idea to make a photocopy only on one side of ID card. This is of double benefits since it saves half of the cost on the part of those who have to submit the ID card copies, while this contributes to conserve energy and natural resources.

3. Citizen-driven public management - Good and ethical governance in the society will be ensured. Public authorities will run errands for the voices of the citizens; voices of citizens will not be left unheard.

4. Good understanding between Public authorities and people - Trust and support on the public administration will be enhanced. Gap between Public authorities and people will be narrow down and finally closed (hopefully) and work together with mutual understanding on a peaceful settlement.

5. Protection of Human rights - Human Rights and dignity will be care and strengthened through a friendly and sincere public administration.

A classic example is about a complaint was lodged to the Ombudsman by two examination candidates with poliomyelitis who were disqualified for an admission test of judicial civil servant on the grounds of their physical and mental inappropriateness. The two candidates who were also lawyers hence filed the case to the Ombudsman requesting for a review of the constitutionality of Article

26(10) of the Regulations on Judicial Civil Servant of the Judicial Court Act B.E. 2543 (2000) that posted a discrimination on disable persons by broadly describing the term “physically and mentally unsuitable to become a judicial civil servant” (i.e. judge). The Ombudsman finally proposed official recommendation to the Constitutional Court addressing that such provision was unconstitutional and was against the Constitution of Thailand. Later the Court agreed with the Ombudsman and issued a final ruling that those provisions indeed infringe the right of candidate who are physically disabled.

In conclusion, there is a multiplied benefit from the above mentioned benefits. That is a competitiveness of the country through fair, good, ethical and accountable public administration. Comparative advantage will be enhanced and motivated to those who would like to seek a country for investment and visit. Activities and transaction in connection with that potential and reliable circumstance will affect income growth and distribution as well as happiness to the people and finally the development and stability of the country.