



## MISSION STATEMENT

The Office of the Ombudsman promotes and protects human rights, fair and effective administration, combats misappropriation or misuse of public resources and protects the environment and natural resources of Namibia through the independent and impartial investigation and resolution of complaints and through raising public awareness.

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## MESSAGE FROM THE OMBUDSMAN



Looking back at the past year with its many challenges and exiting moments, I am more than ever convinced that the Namibian institution of Ombudsman is indispensable; it is unique and above all a lasting institution. The strength of the office lies in the Constitution and its staff. The activities reported on in this Report, speak volumes of their dedication and the indispensability of the Office.

The Constitution in Article 89 guarantees its independence, impartiality, dignity and effectiveness as indispensable requirements for the proper execution of our mandates. The duty to keep alive these essential requirements for functionality and the necessary impact is placed on the organs of state. The fact that the Ombudsman is created, not by national legislation, but by the Supreme Law of Namibia, is how its role and powers must be understood.

Citizen and non-citizens, aggrieved by the conduct of public officials or whose fundamental rights were violated, have the right to lodge complaints with the Ombudsman who must receive and investigate them and then take appropriate remedial action.

To receive complaints, investigate them and take appropriate remedial action require resources. The Ombudsman must have the resources and capacities to effectively execute his constitutional mandate. Like all Ministries, offices and agencies, our office was also subject to budgetary cuts. Common sense dictates that any cut in the Ombudsman's budget, is a cut in its effectiveness. As an organ of state, the National Assembly is under obligation to keep alive the effectiveness of the Ombudsman by providing us with the resources necessary to effectively execute our constitutional mandates.

I have pleasure in reporting that our key priority, to make the office accessible to all citizens, will be realized when we open our fourth regional office in Otjiwarongo in January 2018 and the fifth in Katima Mulilo in January 2019. The necessary arrangements for this to happen are already put in place. The importance of the regional offices is unquestionable; not only did these offices receive more than 800 complaints during the past year but more than 800 people had direct or indirect access to them. If the complaints investigators of the regional offices could visit all places more often more people will have access to our office; however, this depends on our budget.

Our application for re-accreditation by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHR) was deferred in October 2016 to October 2017 and in 2017 again deferred to October 2018, because the Ombudsman Act no 7 of 1990, does not conform to the principles relating to the status of national institutions (Paris Principles). As reported in our 2016 Annual Report a draft bill was submitted to the Minister of Justice for consideration and action. The draft may have been considered, but no action was taken.

As in previous years, there were many cases in 2017 which stood out and attracted special attention some of which are reported on in more detail elsewhere in this Report.

My message will be incomplete if I do not acknowledge the hard work and contribution of all staff members to the success of the office. Individuals and institutions deserve our gratitude for their excellent cooperation with the Ombudsman; those who failed to cooperate with us, I wish to remind them that their failure is a failure of public service delivery to our citizens which they are entitled to.

The government also deserves our gratitude for providing the resources to ensure the effective functioning of our office, but I wish to caution that any cut in the budget of the Ombudsman, is a cut in our effectiveness.

In terms of section 6(2) of the Ombudsman Act, no 7 of 1990, I submit this report to the Parliament as a form of institutional accountability and for public awareness of what the Ombudsman does and how allocated resources are used.

## SCOPE OF ACTIVITIES

### Overview

Although traditionally Ombudsmen were confined to investigate matters of administrative injustices, recent developments have seen Ombudsmen requiring jurisdiction over matters unrelated to administration. The Namibian Ombudsman institution is a typical example. It is created by the Namibian Constitution as a multifunctional office with a unique and very broad mandate. The mandates are: the receiving and investigation of complaints relating to maladministration, violation of human rights and freedoms, misappropriation of public monies and misuse of state property by officials and the protection of the environment. All the activities undertaken during the previous year relate to these mandates.

We received a total number of 4103 complaints relating to these mandates. Why is this total significant? The total is important in its own right; as an indication of the frequency with which citizens turn to the Ombudsman for assistance, advice and the number of queries and grievances against government that are addressed each year by the Ombudsman and staff. It is also significant because through the Ombudsman, the Namibian people have a right to complain against government, to an independent office, without hindrance or reprisal and have their complaints resolved on their merits, always taking into account “the other side of the story”.

To obtain the other side of the story, remains a major obstacle in the timely resolution of complaints by the Ombudsman. Delay in responding to the Ombudsman enquiry, is the hallmark of the public administration in Namibia. It appears that public officials are under the impression they are doing the Ombudsman a favour by answering our enquiries or they conveniently forget that citizens have a right to access to public service.

Article 95 of our Constitution contains an impressive list of promises which the state undertakes to fulfil. The State promises to actively promote and maintain the welfare of the people by adopting, inter alia policies aimed inter alia at the following:

*“Ensurance that every citizen has a right to fair and reasonable access to public facilities and services in accordance with the law”*

This right to access to public facilities and services embodies:

- the right of every citizen to have his/her affairs handled impartially, fairly and within a reasonable time;
- the right of every citizen to be heard before any measure which will affect him/her adversely, is taken,
- the right of every person to have access to his/her file and
- the obligation of the administration body or official to give reasons for its decision.

It is incumbent on all administrative bodies and officials to act fairly in accordance with the requirements of Article 18 of our Constitution – this obligation entails the provision and making available of reasons to an affected party. The furnishing of reasons remains one of the most fundamental requirements to a fair administrative process.

In the case of Gerrit Johannes Viljoen and Another v Inspector-General of the Namibia Police, Acting Judge Angula (as he was then) said the following of Article 18.

“What I like about Article 18 is that its accessibility to those who are called upon to implement its principles and values. Administrative officials’ attention can easily be drawn to the provision of Article 18 upon their appointment to office, namely that they are expected to act fairly and reasonably failing which their actions and conducts would be liable to be declared unconstitutional. Article 18 should be made a meaningful and living provision, lest the values and ethos underpinning Article 18 would be unattainable”

The central responsibility for protecting human rights rests with government. Namibia has ratified the core international and regional human rights instruments. Each instrument imposes legal obligations to implement, the human rights standards contained in these treaties.

The Ombudsman with its human rights mandate is a state body with a constitutional and legislative mandate to protect human rights. Promotion of human rights is neither a constitutional nor a legislative duty, but the

Ombudsman regards it as an “assumed duty”. In terms of our Constitution and the Ombudsman Act, the Ombudsman has:

- the further duty to investigate complaints concerning the over-utilization of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia.
- the further duty to investigate vigorously all instances of alleged or suspected misappropriation of public monies and misuse of state property by officials, and
- lastly the duty to report annually to the National Assembly on the exercise of his or her powers and functions.

## **Cooperation with Ombudsman institutions, National Human Rights institutions, (NHRIS) and other stakeholders**

In compliance with the requirements of the Principles relating to the status of national institutions (Paris Principles) and the Bylaws of the International Ombudsman Institute (I.O.I) to cooperate with fellow Ombudsman institutions, NHRIs and international and regional bodies, the Ombudsman participated in the events, workshops, conferences, meetings, etc hosted by the following institutions:

### **■ Ombudsman Institutions**

- **Attending the 4th International Symposium on Ombudsman Institution**

On invitation by the Ombudsman of Turkey, the Ombudsman attended and participated in the Symposium with the theme: “*Migration and Refugees*” in Ankara on 2-3 March 2017.

- **Commonwealth Ombudsman 40th Anniversary**

On invitation of Acting Commonwealth Ombudsman, Mr Richard Glenn, the Ombudsman on 4-5 April 2017 attended and participated in the celebrations of the 40th Anniversary of the Commonwealth Ombudsman in Canberra, Australia. The Ombudsman delivered a paper where he shared information about Namibia and the challenges faced by the Ombudsman.

### **■ International and Regional Networks**

- **Global Alliance of National Human Rights Institutions (GANHRI)**

As an institutional member of GANHRI the Ombudsman attended the General Meeting and Conference of GANHRI on 6-9 March 2017 in Geneva, Switzerland.

- **Network of African National Human Rights Institutions (NANHRI)**

- As an institutional member of NANHRI the Ombudsman attended on 6 March 2017 the Steering Committee meeting of NANHRI and on 7 March 2017 the General Meeting of NANHRI, also in Geneva.
- The Ombudsman also attended on 8-9 November 2017 in Kigali, Rwanda, the General Assembly Meeting and 11th Biennial Conference of NANHRI with the theme:

*“A human rights-based approach to the implementation of Agenda 2030 and Agenda 2063: The role of National Human Rights Institution.” The Ombudsman made a presentation on “The implication of Goal 16, indicator 16.a.1 of the SDG’s on NHRIs work”.*

- **Commonwealth Forum of National Human Rights Institutions (CFNHRI)**

As a member of the CFNHRI, the Ombudsman attended the Annual Meeting of the Forum, also in Geneva on 8 March 2017.

- **Meeting of NHRIs from SADC countries**

On invitation of the Chairperson of the South African Human Rights Commission, Dr Majola, the Ombudsman



attended above meeting on 21-22 November 2017 where a forum of NHRIs of SADC countries was established. Dr Majola was elected as Chairperson and the Ombudsman as deputy.

## ■ Parliament

The Paris Principles also require that the Ombudsman, as a status “A” accredited NHRI should cooperate and advise Parliament. In fulfilment of this requirement, the Ombudsman and Parliament engaged in the following activities:

- **Namibia Women’s Health Network (NWHN) workshop with Parliamentarians**

On invitation of the NWHN, the Ombudsman attended this workshop on 16 September 2017 at Otjiwarongo where he delivered a paper on: *“How can Parliamentarians influence law and policy?”*

- **Reports**

The Ombudsman submitted his annual report as well as a special report, nl *“Report on the National Inquiry into Racism, racial and other forms of Discrimination and Tribalism: A nation divided: Why do racism and other forms of discrimination still persist after 27 years of Namibian Independence?”* to the National Assembly.

## ■ Civil Society Organizations, Non-Governmental Organizations and Government Bodies

In compliance with the Paris Principles, which require that the Ombudsman should co-operate with civil society and government, the Ombudsman attended and participated in the following events:

- **National dialogue on the prevention of harmful cultural practices in the Zambezi Region**

On invitation of the Women’s Leadership Centre, the Ombudsman attended and participated in above workshop on 13-14 February 2017 at Katima Mulilo, where he delivered a paper on: *“A human rights perspective on the prevention of harmful cultural practices”*.

- **National multi-stakeholder workshop on the prevention and combating of violent extremism and radicalization**

On invitation of the Director-General of the Namibian Central Intelligence Service, the Ombudsman on 29-30 March 2017 attended above workshop in Windhoek.

- **Global Convening on Strategies towards decriminalization of homo sexuality**

On invitation of the Positive Vibes Trust, the Ombudsman on 9-11 May 2017 and at Swakopmund, attended above Conference where he delivered the keynote address.

- **Induction Workshop**

On invitation of the Namibian Catholic Bishops Conference the Ombudsman on 18 May 2017 attended above workshop in Döbra where he delivered a paper on *“The Church and Human Rights”*.

- **Community meeting in Groot Aub**

On invitation of the Minister of Urban and Rural Development, Hon. Sophia Shaningwa, the Ombudsman attended on 22 May 2017, a meeting with the community of Groot Aub.

- **Launch of the 5<sup>th</sup> National Development Plan (NDP5)**

On invitation of the National Planning Commission, the Ombudsman on 31 May 2017 attended the launch of NDP 5 at State House by H.E. President Hage Geingob.

- **Public hearings on racism, racial discrimination, discrimination in general and tribalism**

The Ombudsman presided over the public hearings on the following dates and places:

Windhoek	-	6-9 June 2017
Gibeon	-	20 June 2017
Katima Mulilo	-	27 June 2017
Omega	-	28 June 2017
Opuwo	-	10 July 2017
Tsumkwe	-	13 July 2017
Gobabis	-	20 July 2017

- **Ombudsman and the Law Society of Namibia**

The Ombudsman and the Law Society of Namibia conducted a Free Legal Advice Day in Katutura on 4 August 2017, where lawyers provided free legal advice on wills and estates, domestic violence, divorce, labour law, etc and staff of the Ombudsman dealt with complaints relating to its mandate. Other Free Legal Advice Days were attended by staff members.

- **Investigation Training**

On 21-25 August 2017 in Swakopmund, staff members received training in different aspects of the work.

- **Ombudsman and the Ana –Jeh San Trust**

On invitation of the Women's Leadership Centre, the Ombudsman on 18 August 2017 attended the launch of the booklet on *"Inspirational Stories for San Youth"* in Windhoek.

- **Regional Consultation meetings on Advancing the White paper on the rights of Indigenous people in Namibia**

On invitation of the Office of the Vice President: Veterans, Marginalised and Disability Affairs, the Ombudsman on 11 September 2017 at Gobabis attended above workshop where he made some opening remarks. Staff of the Ombudsman participated in the consultation meeting in Gobabis and elsewhere in the country.

- **Regional Capacity Strengthening Convening**

On invitation of the Southern African Litigation Centre, the Ombudsman attended, above Conference on 4-7 September 2017 in Johannesburg.

- **Groot Aub formally part of Windhoek**

On invitation of Hon. Sophia Shaningwa the Ombudsman, on 9 September 2017 and at Groot Aub, attended the official handing over of Groot Aub to the Municipality of Windhoek.

- **Office of the Judiciary**

On invitation of the Deputy Chief Justice, the Hon Justice Damaseb, the Ombudsman attended the Criminal Justice System Task Force meeting on 14 September 2017 in Windhoek

- **Namibia Internet Governance Forum (NIGF) Conference**

On invitation of NIGF the Ombudsman attended, on 28 September 2017, in Windhoek, the opening session of the Conference where he delivered the keynote address. He said inter alia the following:

*"Namibia is compelled to enact national legislation to give effect to the right of access to information. Such an exercise will enhance the free flow of information to citizens in order to influence government's policies by debating its decisions; which will eventually lead to greater transparency and accountability as well as strengthening democracy. It will ensure that every person enjoys full and equal access to information."*

- **14<sup>th</sup> General Assembly of African Organizations of Supreme Audit Institution (AFROSAI)**

On invitation of the Auditor-General, Mr Junias Kandjeke, the Ombudsman attended the opening session of the Assembly on 25 October 2017 in Windhoek.

- **Regional advocacy meeting**

On invitation of the Sexual Rights Centre the Ombudsman attended above meeting from 2-4 October 2017 at Johannesburg on *“Developing strategies to challenge police abuse of marginalized persons”*

- **Civil Society Anti-Corruption Workshop**

On the invitation of the Executor Director of Forum for the Future, Mr Samson Ndeikwila, the Ombudsman attended above workshop with the theme: *“Namibia Civil Society Participation in Combating Corruption,”* on 17 November 2017 in Windhoek.

- **Namibia Children’s Rights Network**

On invitation of Ms Patricia Williams, the Ombudsman on 26 November 2017 in Windhoek, attended a training workshop for organizations working with children, where he gave an overview of the standards and principles that ensure that children’s rights are realized and the monitoring systems that are in place.

- **Office of the First Lady**

On invitation of Dr Veronica Theron, the Ombudsman on 14 November 2017 at Windhoek attended – The launch of *“The Breakfree 2# Befree Anti-Violence Campaign”* of the First Lady, Madam Geingos.

- **UN Training Workshop on the implementation of the Convention of the Rights of Persons with Disabilities (CRDP)**

On invitation of Mr Salvatore Favazza of UNDESA, the Ombudsman attended above workshop on 12 December 2017 at Windhoek, where he delivered a paper on *“The rights of persons with disability in Namibia and Africa”*. He said inter alia the following:

*“As said earlier, the CRDP has the same meaning for people in all parts of the world and it provides detailed guidance for the development of inclusive societies. Approximately 48 African countries had ratified the CRPD, which showed their commitment to all their citizens. However, ratification is not enough. The process of honouring commitments in practice will require effort on the part of national governments, local authorities, employers, disabled people’s organizations and parents”.*

## ■ Relations with the Media

Recognizing the important role the media plays in monitoring public opinion, enriching debate and in increasing the visibility of the office, the Ombudsman maintains an open and constructive relationship with the media. The main media activities for 2017 include the following:

- **Media Conference on the public hearings regarding racism, racial discrimination, discrimination in general, tribalism and intolerance**

To raise awareness of the public hearings, the Ombudsman called a media conference on 24 May 2017 where he introduced the fellow panellists, nl. Prof Nico Horn, Ms Tony Hancox, Ms Linda Baumann and staff members of our office to the media. He briefed the media on the purpose of the public hearings. The Ombudsman said inter alia the following:

*“It is against this background that I have decided to call for public hearings through which the necessary research could be conducted in order to get a sense of the prevalence of racism and racial discrimination in general in Namibia, as a pre-cursor to compile recommendations for legal and regulatory reform that will give effect to non discrimination provisions in various international and regional instruments.*



*Legislation alone is not enough to prevent and combat racism, racial discrimination and tribalism; we should look at new ways to address the problem, measures to counter racism on social media, adopt a victim-oriented approach as a tool to eliminate racism and racial discrimination, measures to ensure equality in the field of employment, improvement in the administration of justice and developing methodologies for teaching people how to unlearn old patterns in order to learn and create a new culture of multiracial democracy. However, changing entrenched patterns of behaviour is not always easy, but the media can help us through assistance in public awareness-raising campaigns"*

- **Media Conference on the launch of the "Report on the National Inquiry into Racism, Racial and other Forms of Discrimination and Tribalism": A nation divided: Why do racism and other forms of discrimination still persist after 27 years of Namibian Independence?"**

After the Report was tabled in the National Assembly, the Ombudsman called a media conference on 23 November 2017 where he and fellow panel members, Prof Nico Horn, Ms Toni Hancox and Ms Linda Baumann addressed the media. The Ombudsman said inter alia the following:

*"I further wish to thank the Media for keeping the topic alive through their constant reporting on the progress of the report.*

*We point out there is an urgent need for 'unlearning' racist language and dismantling of fixed identities through racial change. We need to engage a creative language in order to combat racist language.*

*We further point out that research has shown that effective remedies are unavailable or unhelpful to victims of racism, racial and discrimination in general. For this reason we suggest the creation of an informal and inexpensive tribunal where victims can tell their stories so that systemic inequalities, racism, racial discrimination may be eradicated. Our anti discrimination law fails dismally to bring about social change as it disempowers those who experience racial discrimination.*

*The duty to implement these recommendations flows from Namibia's obligation under international human rights law, which is part of our domestic law and our Constitution. We drew the attention of different ministries to the importance of these recommendations and requested them to provide the Ombudsman within six months after receipt of the Report with detailed information on the concrete measures taken to implement the recommendations"*

- **Live interviews on Television**

- On 20 April 2017 the Ombudsman participated in a live televised interview on the topic of racism and racial discrimination.
- On 20 May 2017, the Ombudsman was a panellist together with the Hon. Pendukeni Iivula-Ithana, Minister of Home Affairs and Immigration where the issue of marriages of convenience between Namibians and foreign nationals were discussed.
- On 29 November 2017, the Ombudsman participated in a live interview on Good Morning Namibia on the Ombudsman Report on racism, racial discrimination, discrimination in general and tribalism.
- On 13 September 2017 live interview with One Africa Television on the mandate of the Ombudsman.

- **Radio interviews**

The Ombudsman is always keen to address public opinion on any topic and to disseminate information to the public, e.g.

- On 12 June 2017, the Ombudsman participated in a live discussion on the Afrikaans radio station of the N.B.C on the topic of Child Labour.
- On 29 November 2017, the Ombudsman participated in a live discussion on the Afrikaans and English radio stations of the N.B.C on the launch of his racism report.
- On 7 July and 8 August 2017 the Ombudsman participated in a live discussion on the mandate, duties and functions of the Ombudsman on Fresh FM, a private radio station.

- **Live interview on N.B.C Television**

- On 6 December 2017, the Ombudsman participated together with Adv Van Der Merwe, Deputy Director-General of the ACC and Mr Junias Kandjeke, the Auditor-General in a discussion of *"Ethical leadership as an important leadership attribute in preventing and fighting corruption"*.

- **Telephonic interviews**

- The Ombudsman gave  $\pm$  30 interviews to journalists from the print, broadcast and electronic media where he expressed his view on a number of current topics.

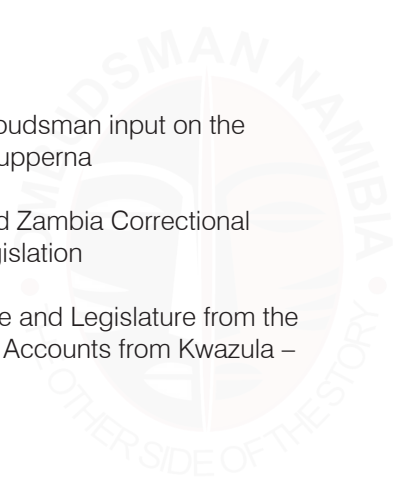


## ■ International Human Rights System

- On invitation of the Ministry of International Relations and Cooperation, the Ombudsman attended the 10th Conference of State parties to the Convention on the Rights of Persons with Disabilities on 13-15 June 2017 in New York.
- On invitation of the UNDP Resident Representative to Namibia, Ms Anita Kiki Gbeho, the Ombudsman attended the launch of the Human Development Report; theme, *"Human Development for Everyone"* on 27 April 2017 at Windhoek.
- On invitation of Ms Anita Gbeho, the Ombudsman attended the UN Day Celebration and exhibition on 24 October 2017 at Windhoek.

### Visitors to the Office

16/3/17	:	H.E Seyed Vahid Karimi: Ambassador of the Islamic Republic of Iran to Namibia
20/3/17	:	Members of the Committee on Constitutional, Legal and Parliamentary Affairs of the Christian Social Union in the Bavarian State Parliament of Germany
26/4/17	:	School children and teaching staff of the Hendrik Witbooi Primary School, Gibeon



15/9/17	:	Ms Sherry Mclean: Social Development Advisor for the Ombudsman input on the assessment of the Women's Leadership Centre for Afrikagrupperna
24/11/17	:	Members of the Zambia Law Development Commission and Zambia Correctional Service to exchange views on Prison Reforms and allied legislation
29/11/17	:	Members of the Oversight Committee of the Premier's Office and Legislature from the Gauteng Provincial Legislature and standing Committee on Accounts from Kwazula – Natal Legislature, Republic of South Africa.

### **International Membership**

Conferences and meetings of the following organizations of which the Namibian Ombudsman is a member, are regularly attended:

- The Global Alliance of National Human Rights Institutions (GANHRI)
- The Commonwealth Forum of Human Rights Institutions (CFHRI)
- The Network of African National Human Rights Institutions (NANHRI)
- The International Ombudsman Institute (I.O.I)
- The African Ombudsman and Mediators Association (AOMA)
- The African Court Coalition

### **Forthcoming Activities**

- Attending the Annual Meeting and Conference of GANHRI
- Attending the General Meeting of NANHRI
- Attending the General Meeting and Conference of AOMA
- Investigation of and the Report on the land resettlement programme

# MAJOR ACTIVITIES

## Investigations

### Overview

The greatest activity of the Office during the year was the core business of receiving and investigating complaints. We received complaints in person, telephonically, in writing as well as during complaint intake clinics.

Not all complaints warrant an investigation; of the 4103 complaints we received during 2017, only 2150 required investigation, 1175 were requests for information/advice and 837 complaints were non-jurisdictional.

Despite the fact that requests for information/advice or non-jurisdictional complaints do not require investigation, considerable time is spent listening to complainants or reading complaint letters and accompanying documents. What follows then is the capturing of the request or complaint on the computerized case management system and providing written feedback to the complainant.

Where an investigation is required, it may be formal or informal investigation. An increased number of complaints are settled quickly through informal means, but a formal investigation may be required where jurisdictional complaints are complex and cannot be resolved through informal resolution or by referral to another institution.

Investigation means: *a formal examination or study, enquiry, probe, exploration, research, analysis, inspection, scrutiny or review: Readers Digest Oxford Complete Word finder 1993.*

According to Gotteh and Levin: Ombudsman investigation means:

*"A systematic gathering and analysis of facts in order to understand and determine the merit of the complaint and in turn, to consult in order to settle a complaint or to make recommendations respecting an administrative action which itself has given rise to a grievance or harm."*

For Sir Brian Elwood, former Chief Ombudsman of New Zealand, the simple and basic strategy for an effective Ombudsman investigation is: "Let the facts speak for themselves". This requires that an Ombudsman –

- identifies the problem
- listens to the affected parties
- ascertains the facts and
- recommends a resolution as justified by those facts and in a language that is not likely to offend, but enables all parties to move on.

We received a total number of 4103 complaints in 2017, which represents an increase of 354 complaints compared to 3749 complaints received in 2016.

People still prefer to file their complaints in person compared to other means of filing complaints. We received 1898 complaints in person, 1151 complaints in writing, 233 complaints telephonically and 821 complaints through our complaint intake clinics.

Seven regions recorded increases in the number of complaints received; they are Khomas where the number increased from 1005 in 2016 to 1270 in 2017; Erongo from 630 in 2016 to 695 in 2017; Hardap from 202 in 2016 to 277 in 2017, Otjozondjupa from 199 in 2016 to 214 in 2017; Kavango from 131 in 2016 to 150 in 2017, Zambezi from 56 in 2016 to 112 in 2017, Kunene from 62 in 2016 to 106 in 2017 and Oshikoto from 120 in 2016 to 170 in 2017.

It is worrisome to note that the number of complaints received decreased in the //Karas Region from 438 in 2016 to 348 in 2017 and Omusati Region from 151 in 2016 to 79 in 2017. There is a slight decrease in the number of complaints received in the Oshana Region; from 482 in 2016 to 478 in 2017.

An analysis of statistics indicates that the regions where we have regional offices recorded the highest number of complaints, e.g. Khomas 1270, Erongo 695, Oshana 478 and //Karas 348. We are confident that we will open a



regional office at Otjiwarongo in 2018 and at Katima Mulilo in 2019. We managed to resolve 84% of the complaints received in 2017 with 16% of the complaints carried over to the following year. In 2016 we managed to resolve 77%. We supported 52% of the complaints received with 48% not supported.

We received 459 human rights complaints in 2017 compared to 301 in 2016. The majority of complaints received relate to maladministration. The complaints against the police topped the list of complaints against government institutions. The number of complaints increased from 682 in 2016 to 757 in 2017. The Ministry of Justice is second on the list; although the number of complaints against the Ministry decreased from 460 in 2016 to 335 in 2017. The Correctional Service is third on the list with 194 complaints against it in 2016 compared to 318 in 2017.

## Mandates

### Human Rights

On 25 September 2015, the UN General Assembly adopted a resolution, namely: *“Transforming our world: the 2030 Agenda for Sustainable Development”*.

In this resolution the world leaders envisaged inter alia the following:

*“The 17 Sustainable Development Goals (SDGs) and 169 targets which we are announcing today demonstrate the scale and ambition of this new Agenda.*

*In these Goals and targets, we are setting out a supremely ambitious and transformational vision. We envisage a world free of poverty, hunger, disease and want, where all life can thrive. We envisage a world free of fear and violence. A world with universal literacy. A world with equitable and universal access to quality education at all levels, to health care and social protection, where physical, mental and social well-being are assured. A world where we reaffirm our commitments regarding the human right to safe drinking water and sanitation and where there is improved hygiene; and where food is sufficient, safe, affordable and nutritious. A world where human habitats are safe, resilient and sustainable and where there is universal access to affordable, reliable and sustainable energy.*

*We envisage a world of universal respect of human rights and human dignity, the rule of law, justice, equality and non-discrimination: of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed. A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”*

### The 17 Sustainable Development Goals are:







**11 SUSTAINABLE CITIES AND COMMUNITIES**  
Make cities and human settlements inclusive, safe, resilient and sustainable.



**12 RESPONSIBLE CONSUMPTION AND PRODUCTION**  
Ensure sustainable consumption and production patterns.



**13 CLIMATE ACTION**  
Take urgent action to combat climate change and its impacts.



**14 LIFE BELOW WATER**  
Conserve and sustainably use the oceans, seas and marine resources for Sustainable Development.



**15 LIFE ON LAND**  
Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.



**16 PEACE, JUSTICE AND STRONG INSTITUTIONS**  
Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.



**17 PARTNERSHIPS FOR THE GOALS**  
Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.

Namibia has the primary responsibility for its own economic and social development and has assumed the duty to implement the SDGs. Namibia has the further responsibility to develop practical ambitious national responses to the overall implementation of the Agenda. These responses can support the transition to the SDG's and build on existing planning instruments, such as the 5<sup>th</sup> National Development Plan (NDP5), the Harambee Prosperity Plan (HPP) and other sustainable development strategies.

Namibia is obliged to conduct regular and inclusive reviews of progress at the national and sub-national level which are country-led and country driven. Such reviews should draw on contributions from indigenous people, civil society, the private sector and other stakeholders in line with national circumstances, policies and priorities. Parliament and other institutions like the Ombudsman can also support these processes.

## Report on the National Inquiry into Racism, Racial and Other Forms of Discrimination and Tribalism

While many of the humiliations and gross violations of human dignity characterized by apartheid have been removed through, amongst others, legislation and other policy directives, it is clear that there is still not a total break with the racialized social order through the re-distribution of land and resources. Many Namibians are still patiently waiting for a house, a job, potable water, sanitation and to be resettled on land, as well as acceptable access to requisite services.

The need for a national inquiry regarding the extent to which human rights violations in terms of racism, racial discrimination, discrimination in general, tribalism, etc are still being perpetrated, was necessitated by:

- the many concluding observations and recommendations by UN treaty monitoring committees with regard to racism, racial discrimination and discrimination in general;
- the State's responsibility to respect, protect and fulfil the rights contained in international, regional and sub-regional human rights instruments to which Namibia is a State Party;
- the recommendations of the World Conference Against Racism contained in the Durban Declaration and Programme of Action;
- media reports on the persistence of racism, racial discrimination and tribalism;
- concerns expressed about very few or no prosecutions under the Racial Discrimination Prohibition Act 26 of 1991 (as amended); and
- the Ombudsman's responsibilities under the National Human Rights Action Plan (NHRAP) 2015-2019 with regard to The Right not to be Discriminated Against.

The inquiry culminated in a report, which considered all the submissions, allegations, responses and points of law and fact; after careful consideration of all the information and desk research, numerous concluding observations and recommendations were made. The Report was submitted to Parliament.

The Report deals with “*Ancestral Land and International Law*” and discusses the following thematic areas separately:

- Access to justice
- Derogatory expression and racial slurs
- Disability
- Education
- Employment
- Health
- Indigenous people
- Land resettlement
- Language
- Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people
- Media and the internet
- Sport
- Women and girls

Concluding observations and recommendations on each of the thematic areas are made, directed to the responsible Minister for implementation. In January 2018, the Report was sent to the responsible Minister and Permanent Secretary with the request to inform the Ombudsman within 6 months after receipt thereof on how the Ministry intends to implement the recommendations.

### **White Paper on the Rights of Indigenous Peoples**

The Working Group on the Universal Periodic Review (UPR) in March 2011 recommended that Namibia should “*formulate a white paper in accordance with the United Nations Declaration on the Rights of Indigenous Peoples....*”

In accordance with this recommendation, the Ombudsman developed a draft white paper on the rights of indigenous people which was submitted to the Office of the Vice-President for consideration. Under the auspices of the Office of the Vice President: Division Marginalised Communities and with the assistance of the United Nations, workshops on the draft whitepaper were held with indigenous peoples during 2017. The workshops were held at Gobabis on 11-12 September; Tsumkwe on 14-15 September; Otavi on 18-19 September; Divundu on 21-22 September; Eenhana on 25-26 September and Opuwo on 28-29 September. The Ombudsman participated in the first workshop at Gobabis and his staff participated in all the workshops. The workshops were reported to be very successful as indigenous communities were properly consulted and their views were taken into account for consideration on the final draft. It is expected that the final draft will be adopted during 2018.

### **Selected Human Rights case summaries**

#### **A case of unlawful detention**

On 10 February 2017 the Ombudsman of the Republic of Namibia, acting in terms of the powers vested in him by Article 91(e) of the Namibian Constitution, on an urgent basis, approached the High Court seeking an order compelling the Station Commanders of four police stations situated in Windhoek namely: Katutura, Seeis, Wanaheda, and Windhoek Police Stations, to produce to the Court 47 persons who were detained by the Namibian Police at the mentioned police stations for the purpose of enquiring into the lawfulness of the detention of those persons. The 47 persons were detained by the Namibian Police at the mentioned police stations on the instructions of the Chief Immigration Officer.

The application by the Ombudsman was prompted by an investigation which was conducted by our office, and which unravelled the unlawful detention of persons who are considered prohibited immigrants.

The Government-Attorney acting on behalf of the respondents conceded that the arrests and the detention of the 47 persons were not in compliance with the Immigration Control Act, 1993 or any other law. The Court ordered their release from custody with immediate effect on 15 February 2017. The court further ordered that: The Chief Immigration Officer and the Permanent Secretary in the Ministry of Home Affairs must:

- a) with the assistance of other governmental departments particularly the Information Technology Department in the office of the Prime Minister, design programmes that are directed at addressing the short comings

identified in the in the affidavit of the Chief Immigration Officer, Mr Elias Ernst; and

- b) with the assistance of other governmental departments particularly the office of the Attorney General (and if necessary the Faculty of Law in the University of Namibia), design a training programme and train all immigration officers and other persons in the Ministry of Home Affairs and Immigration who are tasked with the implementation of the Immigration Control Act, 1993 in the application of the Immigration Control Act, 1993 and other Constitutional provisions that are relevant to their functions.

*"The Chief Immigration Officer and the Permanent Secretary in the Ministry of Home Affairs must design the programmes identified above in paragraph 23 of this judgment by not later than 30 September 2018 and report back, by not later than 15 October 2018, to this Court through the office of the Chief Registrar on the implementation of the order set out in that paragraph.*

*After 30 November 2018 a person who has not been trained or who is not conversant with the provisions of the Immigration Control Act 1993 must not be permitted to exercise the powers set out in that Act.*

*The Chief Registrar must provide a copy of this judgement for the personal attention of the Prime Minister, the Minister Responsible for Home Affairs and Immigration, the Attorney General, the Permanent Secretary in the Ministry of Home Affairs and Immigration and the Chief Immigration Officer."*

### **Abuse of power by police**

Mr P was arrested by the Kahenge police on a criminal charge. He appeared in the Magistrate's Court at Katima Mulilo and was granted bail in the amount of N\$ 3000-00. He could not afford the bail amount, but on 22 May 2017 the court reduced the amount to N\$ 1500-00. When he wanted to pay the bail amount at Kahenge police station, the Head of the Serious Crime Unit, ordered that he should not be released on bail.

On our periodical visit to the police cells at Kahenge on 30 May 2017, our complaints investigator received this complaint from Mr P. The complaints investigator held a meeting with the Kavango West Police Regional Commander, Regional Crime Coordinator and the Head of the Serious Crime Unit, but the officers were adamant that they could not allow him to pay the bail amount, because he may abscond if released on bail.

The complaints investigator nevertheless instructed the Station Commander to accept the bail amount and released Mr P. The Station Commander complied and Mr P was released on the same day, i.e. 30 May 2017.

### **Infringement of the Right to Health**

- Mr S a detainee at the Oshikango police cells alleged that he was diagnosed with high blood pressure and has been under medication since. He ran out of medicine three months before and the police refused to take him to the hospital for a new prescription. Mr S's right to adequate health care was infringed which placed his physical health and life in danger. When our complaints investigator took up the matter with the Station Commander, he denied knowledge of the complaint, but with our intervention the complainant was taken to the hospital.
- The complainant, an inmate in one of our correctional facilities felt that special provision with regard to the times when food is served should be made for inmates under ARV treatment. Supper is served at 15h00 during weekdays and at 13h00 over weekends, which is not in line with their prescriptions. They must take their medication twice per day; either at 07h00 or 08h00 in the mornings and again at 19h00 or 20h00 in the evenings. With our intervention, food is now served during the evenings to those taking ARV medication.

### **Infringement of the Right to Dignity - Assault on detained persons**

- Mr Simon Lukas complained that his brother, who is detained at Okahao police station, together with three other detainees were assaulted by police officers. One of them allegedly sustained a broken rib. The detainees were arrested on Monday 5 June 2017 at Okahao, allegedly assaulted and taken to court on 7 June 2017. The Magistrate ordered that they be taken to the hospital, but the police apparently refused and Mr Lukas sought our urgent intervention. With our intervention the following criminal cases were registered at Okahao Police Station; CR 36/6/17, 38/06/17 and 39/06/17. Our office will monitor the progress of the criminal investigation and outcome of the prosecution.

- Mr K, an inmate at Oluno Correctional Facility complained that he was allegedly assaulted by two correctional offices and he wanted to file criminal cases against them. With our assistance a criminal case under CR 76/07/17 was registered at Ondangwa police station. We will monitor the progress of the criminal investigation and outcome of the prosecution.

### **Violation of the Right of Access to Water**

The complainant alleged that Namwater cut the water supply to their residential area, despite the fact that their payments were up to date. The water supply had been disconnected for almost two weeks. The complainant requested the Ombudsman to find out why Namwater disconnected their water supply and to instruct them to reconnect it as soon as possible.

Our complaint investigator took up the matter with Namwater and the problem was resolved. The following day the complainant confirmed that Namwater's officials visited their residential area and reconnected the water supply.

### **Violation of the Right to Education**

The complainant was enrolled as a Grade 7 learner at Kamwandi Combined School in 2017 and at the end of the year, she was informed not to come to this school in 2018 because her mother could not afford the school hostel fees. Complainant wants to go to school and approached our office for assistance to enforce her right to education. With our assistance, the complainant was readmitted at the School.

### **Education denied because school fees were not paid**

According to this complainant, his brother, a minor was sent home from school because his school fees were apparently not paid. He requested our intervention because he felt that his brother was unnecessarily prejudiced. The matter was brought under the attention of the Regional Director of the Ministry of Education, Arts and Culture, who instructed the school principal to allow the learner to return to school. The learner returned to school the next day.

### **Failure by police to execute duty**

The complainant filed a complaint of failure to pay maintenance by the father of her children and the court at Keetmanshoop issued a warrant of arrest for the arrest of the father. The warrant of arrest was sent to Okahandja police for execution, but they failed to do so. The complainant approached our office because her children are denied maintenance by the failure of the police to execute the warrant of arrest.

With our intervention, the warrant of arrest was executed by the police in Okahandja. They confirmed that the father is in their custody awaiting transfer to Keetmanshoop.

### **Unfair treatment**

The complainant, a retired public official and still a member of the public employees medical scheme (PSEMAS), complained about unfair treatment. According to him he had to travel to Windhoek for medical treatment on 12 October 2015. After the treatment he filed a claim with PSEMAS and his expenses were refunded, except his travelling expenses. He felt that he was treated unfairly because section 5.1 of the Member's Guide 2013/2014 provides for the reimbursement of travelling cost. With our intervention the claim was settled by 26 April 2017.

### **Disability**

Complainant is a person with a disability and depends on a wheelchair to move from one place to another. He was unable to access public transport because his wheelchair is not foldable. Complainant approached our office for assistance to get a foldable wheelchair.

Our office took the matter up with the local authority and after much consultations, the local authority provided a foldable wheelchair to the complainant.



## **Violation of dignity**

The Ombudsman received a telephonic complaint from the brother of a detainee about serious human rights violations of detainees by police officers. We immediately sent investigators to investigate the complaint.

According to the police, they received information that a cell phone and simcard were hidden in the buttocks of two detainees. The detainees alleged that the police conducted improper searches on them by:

- making them undress and
- in full view of female officers and other detainees, the officers inserted their fingers into their buttocks in search of the cell phone and simcard. Afterwards they were denied the opportunity to lay criminal charges against the perpetrators.
- the incident was brought under the attention of the Inspector-General of the Namibian Police Force to take appropriate remedial action and with our assistance the detainees filed criminal charges.

## **Delay in the finalization of criminal cases against police officers**

Police officers, like any other citizen, are entitled to protection of all their fundamental rights including the right to a speedy trial.

Concerned about the many complaints by police officers that they are not considered for promotion because of a pending criminal case against them, the Ombudsman launched a comprehensive investigation into the delay in the finalization of criminal cases against police officers in all 14 regions of the country. The Inspector-General of the Namibian Police Force assured us of the cooperation of the Police Regional Commanders and our complaints investigators started in August 2017 with their visits to the various Internal Investigation Directorates (IID) in the Regions. The IID in the regions is responsible for the investigation of criminal cases against police officers.

By the time of preparing this report, the investigation by our office was not completed and we will report more fully on the matter in our 2018 annual report.

## **The right to adequate housing and illegal eviction and demolition of houses**

During our complaint intake clinics in the Zambezi Region during October 2017, our complaints investigators on 11 October 2017 witnessed the eviction of residents and demolition of their houses at Lwanyanda, Cowboy and Diary locations near Katima Mulilo. Our complaint investigators took affidavits from the affected house owners and all of them claimed that they were not served with eviction orders issued by a court.

In a meeting with the Acting CEO of the Town Council of Katima Mulilo, he admitted that not a single eviction order was obtained authorizing the eviction and demolition of houses. He claimed as justification that the majority of the residents were served with notices and warned to vacate the land which belongs to the Town Council of Katima Mulilo. Although the occupation of the land was illegal, the Town Council has no right to use illegal means to evict residents and demolish their houses.

On instruction of the Ombudsman, lawyers tried to compel the Town Council to make good the losses of the residents. Needless to say they did not respond on our demands. The tragedy of the matter is that the Ombudsman could not provide the affected residents with a remedy because we did not have the resources to enforce the rights of the residents through our courts.

## **Children's Advocate**

In May 2015, Namibia promulgated the Child Care and Protection Act, (Act 3 of 2015). Section 25 of the Act provides:

"There shall be a Children's Advocate in the Office of the Ombudsman ..... who must assist the Ombudsman in the performance of its functions relating to children by:

- a) receiving and investigating complaints concerning children who receive services under this Act;
- b) monitoring the implementation of the Convention of the Rights of the Child;



- c) monitoring the implementation of this Act;
- d) bringing proceedings in a court of competent jurisdiction;
- e) raising awareness throughout Namibia of the content of this law and the protection of children generally.

In response to the recommendation made by the Committee on the Rights of the Child, that Namibia must establish a Children's Rights Division in the Office of the Ombudsman, and in complying with Section 25 of the Act, the position of Children's Advocate was established within the Office of the Ombudsman. The Children's Advocate is obliged to investigate all complaints received from children cared for by social welfare institutions and to ensure that in all actions concerning these children undertaken by these institutions, the best interest of the child be a primary consideration.

Despite the fact that the Act was promulgated in 2015, it is not in operation yet. This made it impossible for the Children's Advocate to monitor the implementation of legislation which is not in operation. However, it is not an obstacle for the Children's Advocate to comply with her core function, i.e. to receive and investigate complaints concerning violation of children's rights and monitoring care provided by child care facilities.

### **Receiving and Investigating complaints**

On 23 October 2017 a complaint was lodged with the Ombudsman by a 17 year old girl, accompanied by her grandmother, about an incident of sexual abuse perpetrated against her at a childcare facility where she was cared for. She apparently reported the incident to the social worker of the facility, but was according to her not given the required attention.

The Ombudsman became aware of further allegations of violation of children's rights at this facility when on 24 October 2017, an e-mail containing links to three You Tube videos was sent to our Office. One Africa television station further reported on allegations made by residents of this facility. The allegations are about:

- physical and emotional neglect of infants and toddlers;
- sexual activity among minors;
- sexual abuse and teenage pregnancies;
- HIV statuses of children which are not kept confidential;
- failure of social workers of the Ministry of Gender Equality and Child Welfare, to look into complaints and allegations made by children and staff of this facility;
- unfair working conditions of house mothers.

Concerned about the seriousness of the allegations, the Ombudsman launched an immediate investigation into the allegations made against the facility and the Ministry of Gender Equality and Child Welfare.

At the time of preparing this annual report, the investigation into the allegations is not completed, but it is envisaged that the Ombudsman's report with its recommendations will be submitted to the Permanent Secretary early in 2018. We will report more fully on our investigation and recommendations in our 2018 annual report. The Ombudsman wishes to recommend to the Ministry of Gender and Equality and Child Welfare to seriously address the delay in putting the Act into operation and ensure its speedy and full implementation.

### **Monitoring Child Care Facilities**

#### **Divine Mercy Window of Life- Andara**

The facility is a safe home for children, based in Andara, Kavango East Region. It is managed by the Catholic Church in Andara, with Father Andre Cieszkowski as the Manager/Founder. They admit children between the ages of 0 to 5, and at the time of the visit they had 15 (7 females and 8 males) children in their care. The facility is not registered with the Ministry of Gender Equality and Child Welfare yet. This has become a challenge for them because as a non-registered facility, they cannot benefit from the Government subsidy.

#### **Children of Zion Village –Katima Mulilo**

This facility is managed by the Mount Zion Methodist Church. It provides a safe home for children in need of care. Twenty one (21) children were found in their care during the time of the visit. The admission age is 0 to 14 years.

We observed that the facility is well maintained; the children appeared to be well nourished and given proper care. All children of school going age are enrolled in schools.

The facility manager (Ms Jenny Simushi) raised concerns about inadequate skills amongst the staff members with regard to handling children with special needs. She further complained about the Social Worker's failure to provide reconstruction services to the families where the children were removed from. The lengthy process of adoption is also raised as a concern.

### **Help Me Centre - Gibeon**

Founded by Ms. Lydia Kooper in 1996, the facility is home to 24 children. The services offered are mainly a safe home and basic care. Children between the ages 5 and 16 years are admitted.

The facility is not registered yet, and this is affecting them financially. Being unregistered, they cannot solicit funds from possible donors; neither can they access the government subsidy.

We observed that they struggle to provide for the children, in terms of food and clothing. The house also appeared to be dilapidated.

### **Amitofo Care Centre – Hochfeld**

The visit to this facility was prompted by a complaint received by our office against their operations. The issues raised by the complainant were that:

- The children as well as the workers are allegedly forced to worship Buddha in a Chinese language
- They eat food that is first offered to the Buddha.
- All Centre inhabitants are forced to become vegetarians.
- The water used at the facility is not conducive for human consumption.

The facility is registered as a school with the Ministry of Education, Arts and Culture. It has two parts to it: The school (Jouan Jue Private School) and the Centre where the children are accommodated. They had 53 children enrolled with them (23 girls and 30 boys).

The services offered at this facility are care and education for orphans and vulnerable children (OVC) free of charge. Admission is for children from vulnerable families, who are ready for grades 0 to 1.

Regarding the allegations, the centre's management did not entirely deny them. They rather claimed that their sponsors are Buddhist, and they require that no meat should be consumed at the centre, as they do not believe in the killing of animals. They further claimed that this information is availed to the parents as well as their employees before they join the centre.

Based on the observations and consultations made, it was concluded that there is not much evidence pointing to the violation of rights as alleged by the complainant. However, the Ombudsman will continue to closely monitor the operations of this facility.

### **Omaruru Children's Home – Omaruru**

Based in Omaruru, Erongo Region, this facility is home to 18 children. They basically provide a safe home for children in need of care from age 0 to 18 years.

We observed that the facility is well maintained, and they also try to adhere to the minimum standards for running a children's home.

### **Children's Education Centre – Usakos**

The facility is managed by the Catholic Church, and they admit children between the ages of 4 to 10 years.

They had 14 children (4 boys and 10 girls) in their care at the time of the visit. However, the news was that the facility was going to close down in November 2017, due to lack of further funding.

The concern raised was that there is still need for a children's home in the area as they still have children who are in need of care.

### **Walvis Bay Kids Haven - Walvis Bay**

This home is hospital based and accommodated 23 children (10 boys and 13) girls. It is registered as a children's home but they also provide services as a place of safety. They admit children in need of care between the ages of 0 to 18 years. Although children are supposed to be placed with a court order, at the time of the visit 3 children did not have court orders as their cases were still pending.

We observed that they adhere very well to the minimum standards of running a home. The facility is well kept, children are well taken care of, and all of school going age are in schools.

### **Jonah Home For Children – Walvis Bay**

This facility is a registered children's home, which accommodated 12 children (9 boys and 3 girls) at the time of the visit.

They take in children between the ages of 2 to 10. The children presently in the facility have been there for a long time and the children have no plan of going back to their families, because there have not been contact between them and their families.

Issues of behavioural problems among the children were reported by the house mother. Nonetheless the Social Workers responsible for the facility are aware of the problems and are closely monitoring the situation.

### **SOS Children's Home – Tsumeb and Ondangwa**

These two facilities are similar in nature as both are registered children's homes. Their operations in terms of administration and the execution of their duties are similar.

They both offer Family Based Care for children accommodated at the facilities, and also Family Strengthening programmes for families of vulnerable children in the community. The Tsumeb facility has 93 children (51 males & 43 females), while Ondangwa has 104 children in their care at the time of the visit. They admit children from the age of 0 to 9 years.

It was highlighted that although the facilities receive Government subsidy and sponsorships from donors, funding remains a challenge for them.

### **James Haven Children's Home – Tsumeb**

This facility is a children's home, and they had 10 children in their care at the time of the visit.

It was founded by a church organisation, which plans to close down the home and this has affected their funding negatively. As a result, the house mother now struggles to supply in the needs of the children.

The facility appears to be dilapidated; nonetheless the children are well taken care off.

### **After School Centre – Windhoek**

The centre is operated under the management of the Ministry of Gender Equality and Child Welfare; an interim night shelter, accommodating children from the streets, and those in need of care.

They also offer after school activities, as well as a school integration program for the children who are of school going age. Additionally they have a soup kitchen for the children.

No children were present at the time of the visit.

They experience challenges with children who are over school going age. When they are removed from the streets they cannot be integrated into schools and the Centre has no programme to assist them further.

The majority of the children coming from the streets, abuse drugs, and need rehabilitation, yet there are no facilities that cater for the rehabilitation of children.

It is recommended that the Ministry of Gender Equality and Child Welfare seriously looks into the possibility of establishing rehabilitation centres for children with drug problems.

## Monitoring places of detention

### Overview

Places of detention around the country remain a cause of concern in terms of infrastructure and general services. Dilapidated or inadequate infrastructure is the norm, lack of utensils where in some instances inmates are forced to share food from small bowls, while cases of assault on detainees by police officers are a common occurrence. Below is a summary of our findings of our visits to detention facilities across the country.

### Visit to the Windhoek Correctional Facility

On 22 March 2017, the Ombudsman and some staff members had a meeting with the Officer in-charge and members of his management team. The Officer-in charge informed us that there were at present 936 offenders in custody comprising of 933 males and three females. A total number of 49 inmates are foreign nationals. The current organisational structure reflects a staff compliment of 1120 positions of which 507 are filled and 613 positions are vacant. The facility faces a challenge of under-staffing, lack of security equipment, etc.

We then shared with the staff, the complaints which we received from correctional officers and inmates. We discussed all the complaints, resolved some and the rest were deferred for further feedback.

We also inspected certain parts of the facility which were in good condition. The Ombudsman spoke to inmates who wanted to air their complaints; the Ombudsman invited the inmates to arrange a date with the Officer in-charge for the Ombudsman to receive their complaints. We did not receive any feedback regarding this.

### Kavango West and East Regions

**Mururani Police Station:** A total number of 27 inmates were found in custody. The station Commander informed us that he faces a shortage of some food stuffs such as maize meal. The Station Commander further informed us that there was no supply of fuel for the vehicles of the station. Upon inspection, we found that there were not sufficient plates for all inmates to eat from, consequently the inmates are forced to share and eat from one big bowl. Inmates further complained that this was unhygienic and it put their health at risk. Inmates further complained about a lack of access to health care as some of them suffer from chronic illnesses such as high blood pressure but are not taken for treatment. The Station Commander attributed the problem to a lack of transport; he alleged that the station only has one operational vehicle. We asked the Station Commander to make arrangements for the patients to be taken for medical care as soon as possible as they were being denied the right to health care; we were subsequently informed that the patients had been taken for medical attention the day after our visit.



*The bowls from which inmates have to eat their food in large groups*

**Kahenge police station:** This police station has the capacity to hold 40 inmates and we found 43 inmates in detention. The Police station building is in a dilapidated condition and the police officers stated that they only had one vehicle to carry out all their activities. Inmates complained about the unhygienic environment and the stove which takes a long time to warm up.

**Divundu Police Station:** A total number of 24 inmates were detained at this facility where all ablution and kitchen facilities are in good working condition. Amongst the issues affecting the station, the Station Commander singled out a lack of gas for





cooking, and lack of constant food supply which results in inmates being restricted to two meals a day; she was further concerned about illegal immigrants being detained by immigration officers over a long period of time, with no immediate viable actions on their deportation. Two Zambian nationals were detained at the station. We took up the issue with the Director of Immigrations at the Ministry of Home Affairs and Immigration who informed us at the time that the illegal immigrants were waiting to appear before the tribunal, but this could not happen due to a lack of funds.

**Ncaute Police station:** We were welcomed by the station commander who informed us that the structure of the station makes provision for her 52 members, but there are currently 32 in total. The four cells are had a total number of seven inmates. The station which was inaugurated during 2015 is in very good condition and no defects were observed. In his address to the inmates, Senior complaints investigator, Nikanor Idhogela urged the inmates to desist from vandalising the facility. No complaints were recorded; detainees only required clarity on questions concerning cases before court.

## Erongo Region

**Karibib police station:** Inmates in the holding cells complained about the unavailability of cutlery and crockery. We raised the issue with the warrant officer who informed us that the items are provided but inmates claimed that they are too small and refuse to use them. Some inmates resort to eating out of used plastic containers and bottles as depicted below.



## Omaheke Region

**Otjinene Police Station:** At the time of our visit, there were no offenders found in custody at the station. The station detains inmates temporarily and later transfers them to Du Plessis Police Station. The station is a newly constructed Class B level police station and is yet to be officially inaugurated. It consists of three units; Operations, Scene of Crime & Traffic.

**Gobabis Police station:** We found 70 inmates including one female in detention; the inmates were housed in eight different cells. With the exception of the female cell, all facilities were found to be in good working order and one other cell with a flushing toilet, all showers were out of order and toilets were not functional. This forces inmates to flush the toilets with buckets of water and use basins to take baths.





Inmates complained that they are served under-cooked food and that their food is served to them through the burglar doors. Upon discussing the complaints with the management, it was confirmed that there have been consistent complaints of undercooked food served by a certain cook. The Station Commander informed us that he had spoken to the said cook, and agreed to do so again upon our request.

**Leonardville Police station:** The station had a total number of 43 inmates at the time of our visit. We were informed of a vehicle shortage which makes it difficult to carry out daily operations. Inmates indicated that they wait long periods to receive responses on their applications for legal aid. This delay causes the cells to be overcrowded as it takes longer for inmates to appear in court. We were provided with a list of applicants for legal aid in order to follow up with the legal aid directorate. Inmates are kept in four cells, of which only one has a functioning toilet. We were informed that the Ministry of Works and Transport fixed the toilet and a broken burglar door, shortly after our visit to the facility.

**Du Plessis police station:** We found 16 inmates in the holding cells at this facility. Except for one toilet in Cell number three, all ablution facilities were found to be in good working condition. The security lights were not working and this makes it difficult for the officers to patrol during the night. No complaints were recorded at the facility.

**Trans Kalahari Police station:** A total number of eight male offenders are detained in Cells number one and two with each cell accommodating four offenders. Apart from a leakage of the toilet pipe at Cell number one, all facilities were found in good working order and no further complaints were raised by inmates.

## Hardap Region

**Aranos Police station:** The holding cells were found to be in a deplorable condition, with no running water in some of the cells. Most ablution facilities were out of order and inmates claimed they were placed in cells without running water as a form of "punishment". We found a total number of 50 inmates, one of whom was female and two juveniles. A total number of 34 complaints were received at this facility; a notable one being of an inmate who claimed to have been assaulted by the police. The complainant alleged that he was beaten with a baton and fists for refusing to eat porridge which he claimed was not well prepared. We forwarded the matter to the police Internal Investigation Directorate in Mariental.



## Karas Region

**Maltahohe Police station:** We found four inmates, one female and three males in the cells, the overall condition of the facility is good. The holding cells and kitchen were also found to be in good and clean condition. The Station Commander, Warrant Officer Windstaan informed us that the station had been without electricity for three months due to non-payment of the electricity bill.

**Gochas Police station:** On our visit to the police holding cells we found eight male inmates in custody, who did not lodge any complaints. The kitchen and store rooms were inspected and found to be in good condition, ablution facilities were also in good working condition.

**Luderitz Correctional facility:** We were well received by the Officer-in-Charge of this Facility where the inmates were beforehand informed to put their complaints in writing. Upon our arrival, complaints were submitted. There were 233 inmates in custody, none of whom were females. Four inmates were kept in the sick bay inside the facility due to ill health. Inmates informed us that they were no longer allowed to call their families. When our complaints investigator enquired about this, he was informed that the Facility can no longer afford to provide free phone calls to inmates. The inmates were informed about the mandates of the Ombudsman and information brochures were handed to them.

## **Maladministration**

### **Overview**

The majority of complaints which we received during the past year relate to maladministration. In 2017 we received a total number of 2040 complaints compared to 1774 in 2016 and 2018 in 2015. A total number of 837 complaints received were outside our jurisdiction. This high number of complaints may indicate the frequency with which citizens turn to the Ombudsman for assistance and may also indicate the discontent of citizens is not effectively dealt with at its origin.

The case summaries below are typical examples of maladministration which originate from within ministries, state owned enterprises, agencies, offices or organisations, which can be resolved speedily and at no cost through internal complaint handling mechanisms. The Ombudsman should only be approached for assistance when such mechanisms cannot resolve complaints. I wish to repeat my recommendation that each ministry, agency, state owned enterprise or office should have a clear visible help-desk in their respective buildings where the public can obtain general information about the institution as well as information about the complaint hearing mechanisms and the procedures to be followed when filing a complaint.

### **Selected maladministration cases/summaries**

#### **Leave gratuity not paid on time**

The complainant informed us that since her retirement in 2015, her leave credit days were not paid and she struggled to get through to the Ministry of Education where she was formerly employed. She had made several enquiries but to no avail. Our investigators intervened by engaging the Ministry and making them aware of the complainant's plight. The monies were subsequently paid out. Similarly, a complainant approached us with the same issue; he had retired in 2016 from the public service and was still awaiting payment of his leave gratuity. Upon our intervention, the complainant received the money owed to him.

#### **Wrong billing of municipal arrears**

The complainant alleged that he bought a house from his local Town Council and was being billed excessively on his municipal account. He alleged that upon buying the house, he paid off some of the arrears on the account and that his bill is now higher than it should have been. Upon our intervention, it was found that the complainant was indeed being wrongly billed and the matter was rectified.

#### **Refusal to return confiscated equipment after acquittal**

This complainant alleged that he was implicated in a theft case in 2001, and his agricultural equipment was confiscated as a result of the investigations into the case. He alleged that the equipment was booked in by the police as exhibits. The complainant was later found not guilty and acquitted of the charges in 2014. The complainant narrated that despite his numerous requests, the police refused to hand over his equipment after the case was finalized. Upon our intervention, the police eventually handed over the complainant's property on 27 September 2017.

#### **Refusal to return confiscated identity documents**

Complainant is a public servant who informed us that he was arrested by an Immigration Officer on 30 September 2016. He alleged that he was accused of being an illegal immigrant and was detained at the Omaruru, Windhoek, Otavi and Ondangwa Police cells respectively. The complainant stated that he was only released on 27 October 2016 without being taken to court. He added that he was not an immigrant but a Namibian by birth. The Immigration Officer took his national documents including his Namibian Identity card and passport and refused to return his documents to him. We approached the Ministry of Home Affairs and Immigration with the matter and the complainant's identity documents were returned.

#### **Missing case docket recovered**

Complainant opened a stock theft case at a police station in one of the Northern regions. The case docket was

forwarded to the Magistrate Court and was received by a certain Public Prosecutor. The complainant went to inquire about the progress of his case and he was informed that the case docket was nowhere to be found. The complainant approached us and informed us that he wanted the case finalized as soon as possible. After our intervention, the case docket was found abandoned together with other case dockets in an old filing cabinet. The case was subsequently placed back on the court roll.

### **Unfair treatment by employer**

The complainant who is employed as a driver by a certain Ministry in the Erongo Region approached us with a complaint of monies being deducted from his salary unjustly. The complainant informed us that he had been unfairly treated by the regional office after attending a course for which he was nominated for by the national head office. The course was in line with the complainant's scope of work.

The complainant attended the course in the interest of the ministry whilst his subsistence and travel allowance claim was not processed. Upon returning from the training, the complainant was allegedly presented with a written warning without any opportunity for a hearing and was also penalised with unpaid leave whereby the ministry started deducting N\$1000 from his salary every month. Upon our intervention, we found that the decision of the regional office was unprocedural and unfair. The complainant's money was subsequently repaid to him.

### **Land grabbing at Groot – Aub**

On 27 February 2017, the Ombudsman received a complaint of land grabbing in Groot Aub from the Groot Aub Development Committee (CDC), who claimed to be the elected body representing residents of Groot Aub. We visited Groot Aub where we first held a meeting with members of the CDC who provided us with the necessary information and documentation. They also pointed out the illegal structures and land that was fenced off. We took photographs of the structures and fence.

The Ombudsman thereafter prepared a report with a photo album which was submitted on 27 February 2017 to the Minister of Urban and Rural Development in which it was recommended that the Minister calls a stakeholders meeting to discuss the situation in order to find a solution. When we received no response from the Minister, we followed it up with a reminder dated 8 May 2017. The Ombudsman then received an invitation to attend a stakeholders' meeting on 22 May 2017 in Groot Aub.

It was resolved at the meeting to request the municipal council of Windhoek to take over the management of Groot Aub. On 9 September 2017, Groot Aub was officially handed over to the municipal council of Windhoek.

## **Environment**

### **Overview**

The constitutional and statutory duty of the Ombudsman with regard to the environment, is to: *"investigate complaints concerning the over-utilisation of living natural resources, the irrational exploration and destruction of eco systems and failure to protect the beauty and character of Namibia"*. Great pressure is placed on the environment due to poor waste management practices which inevitably lead to degradation of our environment. Therefore waste disposal sites that are badly sited, designated and separated, increase the risk of soil, water and atmospheric pollution.

### **Investigation into solid and liquid waste management**

We reported in our 2016 Annual Report about the comprehensive investigation into the management of solid and liquid waste by town and village councils. The investigation into the management of solid and liquid waste management by all towns and villages covering all 14 regions was completed in December 2017. The separate regional reports will be consolidated into one comprehensive report during 2018 for submission to the National Assembly in 2018.



## Selected environment case summaries

### Danger of soil and water pollution

The complainant alleged that a certain University campus' sewage water was flowing towards the dam that is used by both humans and animals. Upon visiting the site, we found that this was indeed the case. We approached the head of maintenance at the institution and brought the issue to his attention. The matter was acknowledged by the maintenance manager and the institution subsequently rectified the defect.

### Unhygienic conditions at open market

The complainant, a resident of Kuisebmond in Walvis Bay resides near the well-known Ekutu open market. The open market is surrounded by a wall with two entrances which remain open during business hours. The complainant raised issues of environmental pollution emanating from the market. He stated that, bad odour, littering and streams of urine flowing into his and his neighbours' yards was a health hazard and an inconvenience to them. We went to assess the situation and found that it was indeed the case; revellers urinate against the walls, and the market was surrounded in waste.

The complainant stated that he and other affected parties engaged the municipality of Walvis Bay and suggested that, the entrance facing their houses be closed so that they were at least spared from the urine streaming into their yards. The meeting however did not yield any results. He said the municipality at one point brought sand and filled up the area where people urinated, this was however not a long term solution as it was only done once and people continued to urinate at the area. Complainant informed us that he wrote letters to the municipality but received no response.

The matter was thoroughly investigated; the site was visited on several occasions to monitor and evaluate the situation. We engaged the municipality of Walvis Bay and directed them to rectify the situation since the environment was unhygienic and posing a health hazard to residents and the vendors alike. The municipality heeded our call and arranged temporary intervention measures at first and finally implemented a long term solution by closing the market and temporarily relocating the vendors to a cleaner area. The Ekutu market is now being renovated.



### Dumping of sewerage alongside public road

Our office received a complaint about the dumping of sewage in a stream alongside a public road. The stream flows into the Seeis River where Namwater separates boreholes. Haties Trading Enterprise cc was awarded the tender to remove refuse and to pump septic tanks at various government institutions in the Khomas Region. The incident was brought under the attention of the Khomas Regional Council who promised to take up the matter with the contractors.

The Chief Regional Officer of the Council informed us that the contractor, in a meeting with them, admitted breach of the tender condition which prohibits the spilling of sewage enroute to the sewage ponds and disposal of sewage at places other than the designated sites. It was agreed that the contractor will transport sewage to a newly designated site at Dordabis and was warned about further breaches of the tender conditions.





## SPECIAL EVENTS AND PUBLIC EDUCATION/OUTREACH ACTIVITIES

### Public hearings on racism, racial and other forms of discrimination and tribalism

Several concerned groups and individuals made submissions on what they deem as discrimination and how they believe the issues should be tackled. The presentations brought to light many issues that the Namibian people have struggled with over the years and which still continue to plague our society. Law Professor, Nico Horn, Legal Assistance Director Ms Toni Hancock and National Coordinator of the Namibian Diverse Women Association, Ms Linda Baumann who served as panel members throughout the hearings assisted the Ombudsman with the drafting of the final report. The comprehensive report with recommendations was submitted to the National Assembly in November 2017 and is available on our website, [www.ombudsman.org.na](http://www.ombudsman.org.na)



## Maintenance public hearings

On the 04th and 05th of December 2017 public hearings were held at Swakopmund and Walvisbay respectively. Complainants in maintenance cases at the local courts were invited to attend the hearings with the Ombudsman. The purpose of the hearings was to get insight on the way the complainants are treated and to establish the problems they face regarding the maintenance procedure at the local maintenance courts. The Ombudsman initiated these hearings with the aim of compiling a report on the findings for submission to the Ministry of Justice. Similar hearings are expected to be carried out in other regions during the course of 2018

## Free legal advice days

The Ombudsman in conjunction with the Law Society of Namibia has this year continued with their free legal advice day initiative. The aim of the free legal advice day is to provide legal advice, free of charge to members of the community across the country. This year, a total of five free legal advice days were held at Mariental, Ongwediva, Swakopmund, Tsumeb and Windhoek respectively. People were given free legal advice on issues pertaining to domestic violence, divorce, labour issues, wills and estates among others. Staff of the Ombudsman received complaints relating to its mandates.





## School children visit the Ombudsman

The Ombudsman continues to be accessible to school children who seek information about our operations and functions. This year was no exception as learners from Rietquelle Junior Secondary School in the Omaheke region visited the office to learn more about the office and to familiarize themselves with their rights and responsibilities as Namibian children. Learners were given copies of the simplified Namibian Constitution as well information brochures to take back to their school and share with those who could not make the trip.



## Katutura youth visit the Ombudsman

It has long been a tradition of the Ombudsman to host youth and school children and 2017 was no exception when a group of 15 children from the Basketball Association of Namibia (BAS) visited the office in order to acquaint themselves with the functions of the Ombudsman and to learn more about their rights. BAS is a nonprofit association that mentors teenagers and young children and teaches them sport as a means of exercise and discipline.



## Community outreach

### Overview

Our complaints investigators continued with the community visits that form part of the annual outreach programme. Below is a summary of some of the community visits. The community visits usually serve as complaint intake clinics as some community members lay complaints after gaining better understanding of the functions of the Ombudsman.

### Ncaute Community

Ncaute is situated about 60 Km west of Rundu in the Kavango West Region. The community gathered at a local gathering spot near Ncaute Primary School. Among the concerns raised was the dissatisfaction with the services of the Ministry of Home Affairs & Immigration when it comes to the provision of national documents; they added that they were constantly turned away from the Ministry without any assistance. One such a case was that of an Angolan national who had been residing at the village long before Independence. The man has a Namibian partner and they have five children but was denied Namibian documentation. His attempts to acquire national documents through the Councilor's office all failed, even though he was issued with a voter's card following a declaration provided by the headman. A Namibian mother of a minor school girl also complained that her daughter was denied a birth certificate because her Angolan father could not be traced.

The headman further raised a concern of an increasing number of learners being suspended from the local school, Angelina Matumbo Senior Secondary School. Our investigator informed the community about the correct procedures of suspending learners from schools, and encouraged them to approach the office when incidents of such nature occur in the future. The community was also dissatisfied with the decision by the Education Ministry to separate the two local schools among the two Kavango Regions by placing the primary school under Kavango West while the secondary school was placed under Kavango East.

This change has resulted in learners from the primary school not being allowed admission at the local secondary school because it falls in another region, forcing the local children to seek for admission at other schools farther away while they are having a school in the community.

### Grashoek Community

This community visit also served as a human rights complaint investigation after a complaint was lodged with the Ombudsman about alleged human rights violations. In January of 2017 some Grashoek community members lodged a complaint in which they claimed that police officers from Otjiwarongo, Grootfontein, Maroelaboom and Rooidag Gate came to their settlement in search of inmates who had escaped from Maroelaboom police holding cells. The complainants alleged that the police officers assaulted about twelve community members of whom five people were seriously injured, the escapees were allegedly also assaulted when they were apprehended.

Our investigators, Mr. Erastus Arnold and Mr. Hendrik Mauyoma consulted the affected community members, the arrestees and some police officers in order to shed more light on the incident. The inmates informed us that they were apprehended by community members and handed over to the police; some of them stated that they surrendered themselves to the police. During the process of their re-arrests the police officers allegedly physically assaulted them by hitting them with fists, kicking them and stepping on them while they laid on the ground.



Community members were also assaulted by the police who accused them of hiding the escapees in their homes. The inmates acknowledged that they were wrong to escape from police custody and informed our investigators that they would not file charges against the police officers in question but instead requested us to educate the police officers on torture and cruel or inhuman treatment of prisoners.

The officers were informed about the human rights of the inmates as stipulated in article 8 of the Namibian constitution, and reminded them that their duty is to serve and protect the citizens and not to cause them harm. The officers informed the investigators that they generally work well with the community and admitted that some community members apprehended the suspects and informed the police.

Community members were given the opportunity to raise their concerns and complaints with our investigators during the community meeting. Consultations were then held with members of the two communities and they were provided with an opportunity to raise their concerns to our complaints investigators.

### Uis and Omaruru communities

In Uis, 45 residents turned up at the community hall and 12 complaints were recorded. The general complaints recorded were; the absence of an ambulance, shortage of nurses at the clinic and the alleged dilapidated old age home which requires major renovations.

The Omaruru community members were consulted at the municipality hall and the number of people who turned up was approximately 90. The community members raised issues regarding their unhappiness with the leadership of the Omaruru municipality and town councilors. Residents claimed that the municipality is run by corrupt officials whom they claim threatened them to use specific contractors chosen by the municipality when they want to construct their houses or face forfeiture of their land.



A group of pensioners representing the pensioners of Karibib, reported the problems they experience relating to lack of medical treatment at the local clinic and the poor service provided by Nampost when their pensions are paid out; they also highlighted the unsafe payment method by which pensioners in the rural areas get paid. This issue was also raised in Otjimbingwe. We arranged a meeting with the Postmaster and the pensioners in order to resolve the issue.



### Kriss community

Kriss is a settlement, situated 45 kilometers south east of Mariental with around 300 inhabitants. There is a primary school in good condition and one kindergarten. The Kindergarten is under the Ministry of Gender Equality and Child Welfare but the building is in a very bad state. The administrative clerk at the Settlement said the latest development at the settlement was the construction of toilets but there is no existing sewerage system, rendering the toilets useless. The administrative clerk and staff were invited to the community meeting where they were encouraged to distribute the pamphlets to the community, while complaints investigator Mr. Swartz personally handed out pamphlets at the shop and to some community members. The settlement does not have a police station, police officers from Gibeon Station situated 35 kilometers from the settlement attend to complaints. A satellite clinic is available for those seeking medical help, the settlement does not have an established clinic.

### Salambala community

This community is located in the Salmabala Conservancy which is situated about 60 kilometers from the town of Katima Mulilo. The residents informed us that they were being forced to relocate elsewhere. We approached the Masubia Traditional Authority (T.A) to clarify the issue of occupancy in the Salambala Conservancy by several families who complained. In their response, the group of 13 traditional leaders stated that the concerned area is traditionally known as the hunting area for the Chief. They added that nobody was authorized to live in the core area of the conservancy where most of the wildlife is found, except for some families who have recently been relocated from flood prone areas.

The traditional leaders further informed us that people were consulted about the idea of turning the area into a conservancy, of which the generated income would be used in the best interest of the entire community by providing them with food, funding cultural festivals, etc. As a result, the constitution was drafted and the conservancy was gazetted in 1998. As part of the agreement, transport was availed by an organisation named WWF to relocate the affected families from the conservancy to their new locations specifically to Masikili, Iwoma and Isizwe. Some members of the families were offered jobs in the conservancy.

However, even though most of the people agreed to move, there are three families who refused to move up to date. It was indicated to us by the T.A that the conservancy management commenced with the legal process to evict the three families from the core area, and should it not materialise, the T.A intends to take it up and ensure that they are moved out of the area. Unfortunately, we did not manage to meet with the management of the conservancy as they failed to turn up for the scheduled meeting, even though they were informed in advance and their office along the Ngoma border post was found closed. We then held a meeting with the seven concerned families. In their arguments they all stated that the land in dispute is their ancestral land and that they are not part of the agreement to establish the conservancy which in their mind is only benefiting the T.A and not the whole community as stated by the T.A. They further stated that there is no available land for allocation anymore in the entire Zambezi region; therefore they only want to settle in the conservancy area. The issue is unfortunately not resolved.



## M'kata Community

The M'kata community visit was part of the Ombudsman's programme, but the Ombudsman could not consult the community as intended. This was due to the fact that community members were found gathered at the Community Forest office, aggrieved with the decision of the forest officer for the Tsumkwe constituency. The community alleged that the forest officer confiscated the timber permit book with the intention to cancel the agreement between the Community Forest and a certain contractor.

The Ombudsman intervened and met with the forest officer in order to establish what the problem was. The officer informed the Ombudsman that he took the permit book because the contractor violated the provisions of the Forest Act, by illegally harvesting more trees than what was authorized on the permit. The Ombudsman then advised the forest officer to explain the reasons for his actions to the community leaders, and the community forest committee. The officer agreed and the concerned community members acknowledged the reasons for his actions.

## School visits

### Overview

School children remain an integral part of our community outreach and 2017 was no exception. Our Regional Offices continue to reach out to school children, especially those in the remote areas. Below are some of the schools visited and the concerns that were raised by learners, teachers and community members respectively. The office provided the schools that were visited with human rights educational material, and complaints were also recorded during the school visits. During the school visits we also toured the facilities in order to acquaint ourselves with the conditions of the school facilities and bring them to the attention of the relevant authorities.

### Linus Shashipapo Senior Secondary School

Most of the buildings of this school which was established in 1972 are in a bad state, ceilings in offices, classrooms, the library, the school hall, kitchen and teachers' houses are falling apart. This damage is mainly caused by rain water leaking through the damaged roofs. As a result, the buildings are infested with termites, which feed on the books in the library. The school is also facing a shortage of chemicals for science subjects and chairs in the laboratory.



### A.M.E. Church Primary School

Staff from the Keetmanshoop regional office visited this primary school which is situated in Hoachanas, 55 kilometers northeast of Kalkrand on 16 June 2107, which happens to be the Day of the African Child. The theme for the school's celebrations was *Accelerating, Protection and Equal Opportunities for Children in Africa by 2030*. Our investigators made a presentation informing the learners about their rights and responsibilities as Namibian children and sensitized them on the Office of the Ombudsman and its functions.





### Omena Junior Primary School

On 11 October 2017, staff from our Ongwediva regional office visited the Omena Primary School. The school was established in 2016 and it accommodates 69 learners and three teachers. One of the teachers is responsible for two grades as they do not have enough teachers to cater for all the learners. Although the school premises have running water, there are no bathrooms or toilets and the teachers and learners are forced to make use of the nearby bushes when nature calls. The school is not connected to electricity supply of any kind and consists of four classrooms which are made of corrugated iron.



### Katere Primary School

The concern at this school is that the staff and learners fear that one block of classrooms will collapse due to the suspected sinking foundation and leaking roofs. The school is also experiencing a shortage of classrooms, and as a result they have turned the staff room into a classroom and make use of a makeshift structure made out of reeds as the school office. The structure is depicted on the right.



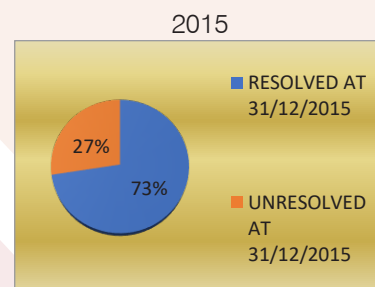
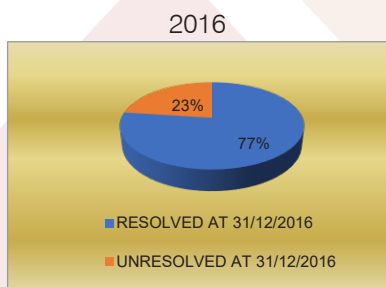
### Ndonga Linena Combined School



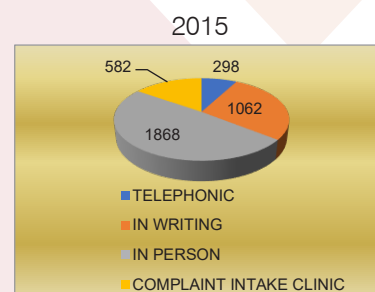
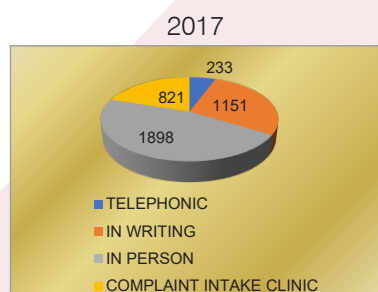
The greatest concern at this school is the lack of hostel facilities for the children. Classrooms are used as bedrooms, while children brought their own bedding from home and prepare their meals in an open area. The overall building structure is not in a very bad condition, however the lack of mattresses and other bedding remain a concern.

## STATISTICS

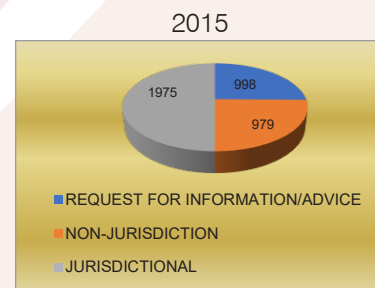
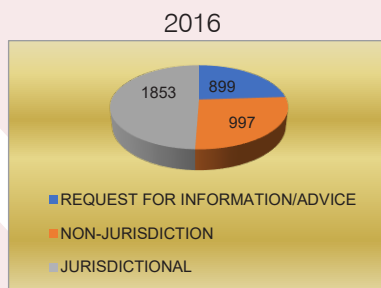
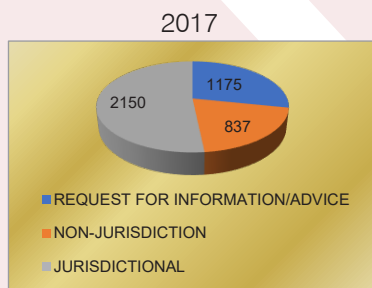
### Complaints resolved/unresolved



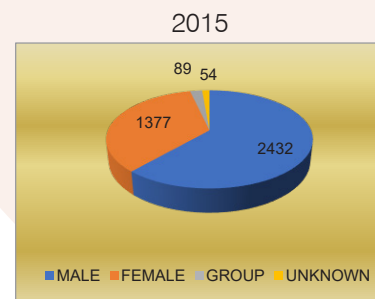
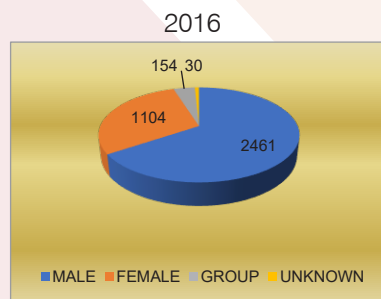
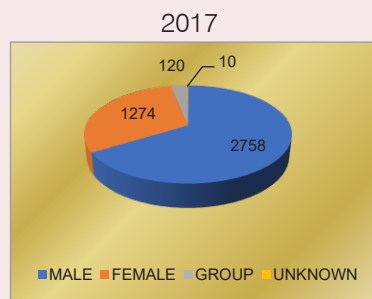
### Complaints by intake type



### Complaints by complaint type

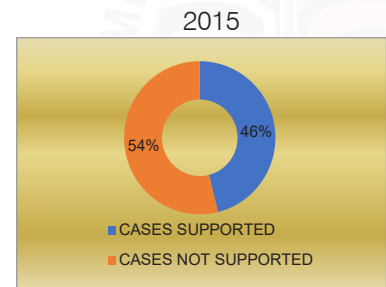
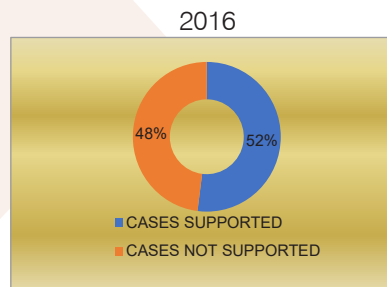
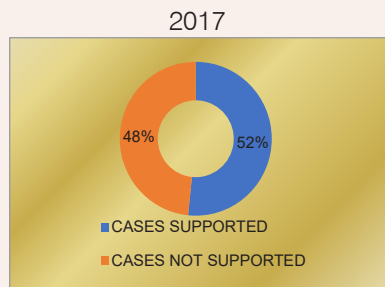


### Complaints by gender

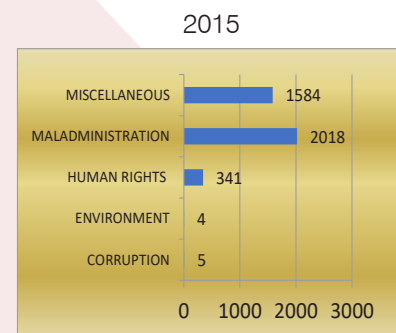
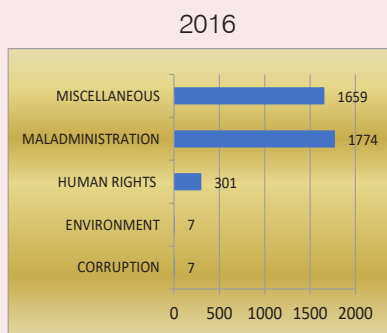
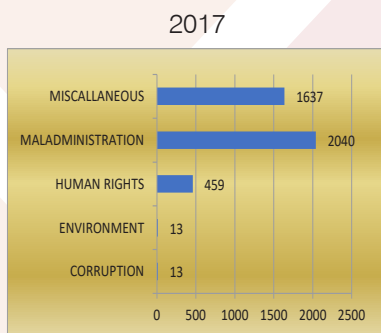




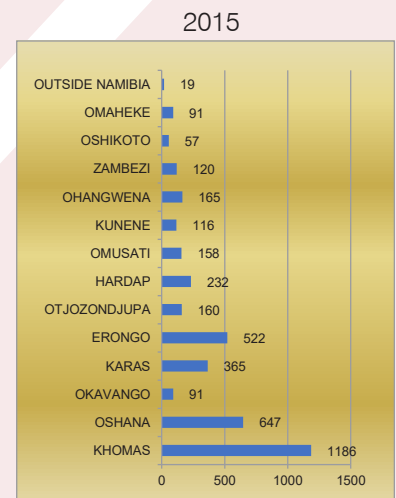
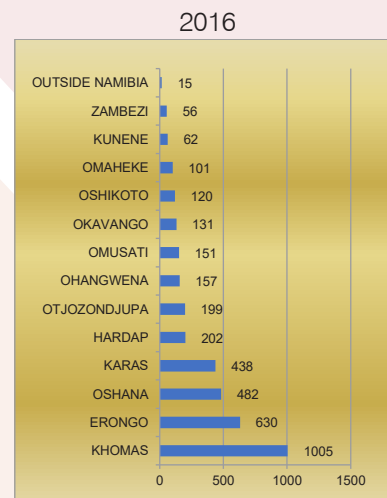
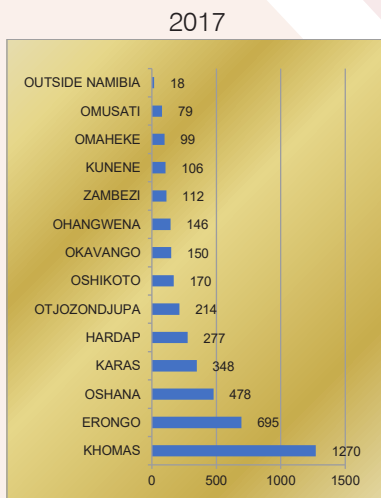
## Complaints supported/not supported



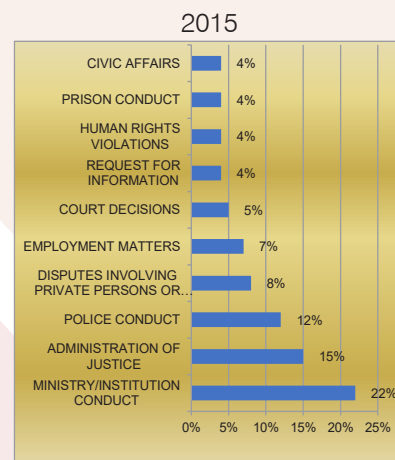
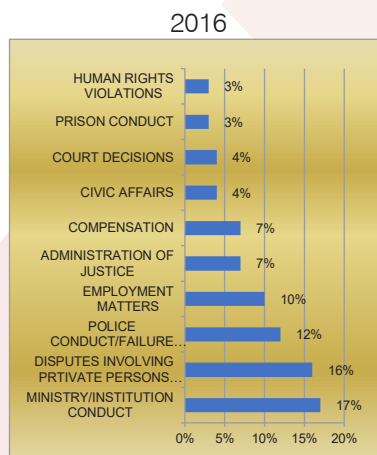
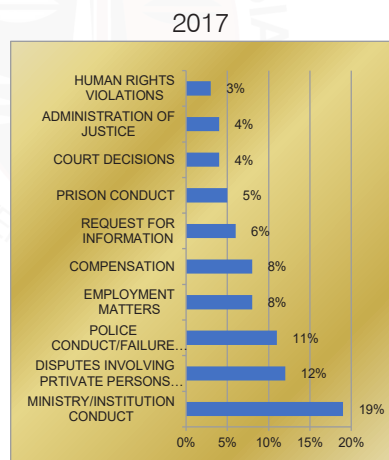
## Complaints by Mandate



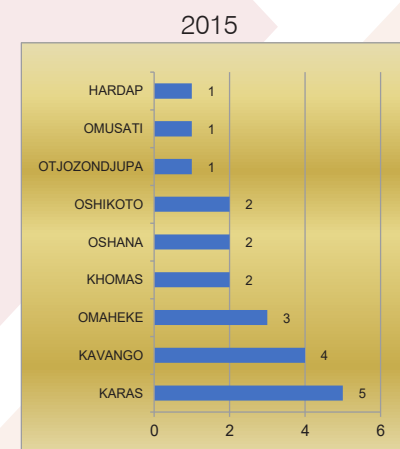
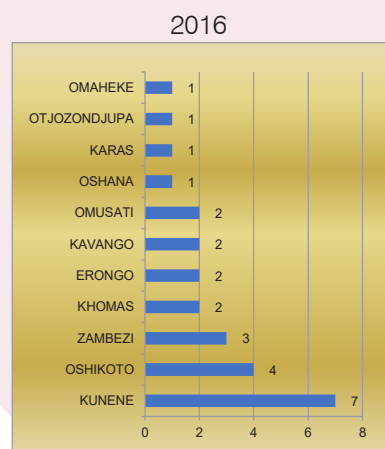
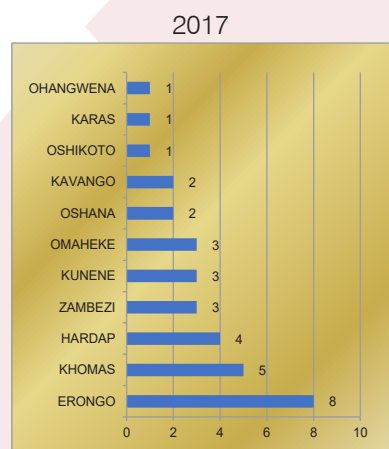
## Complaints by Region



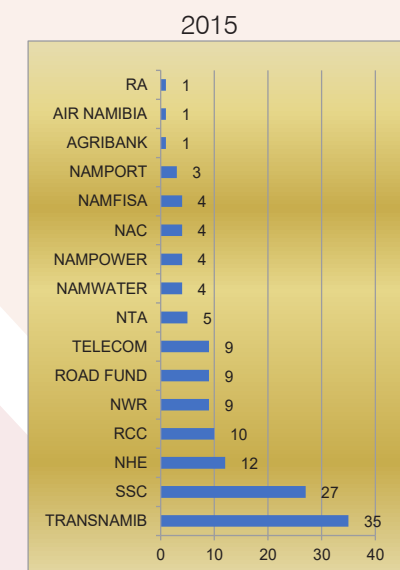
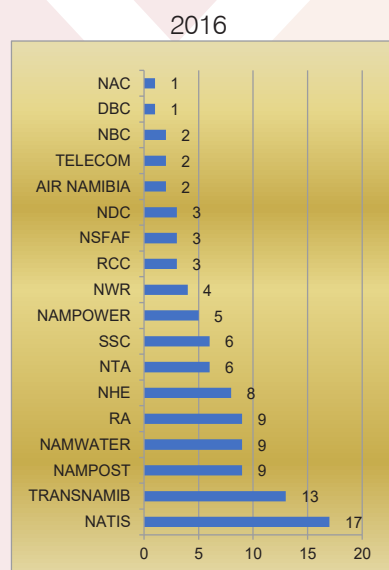
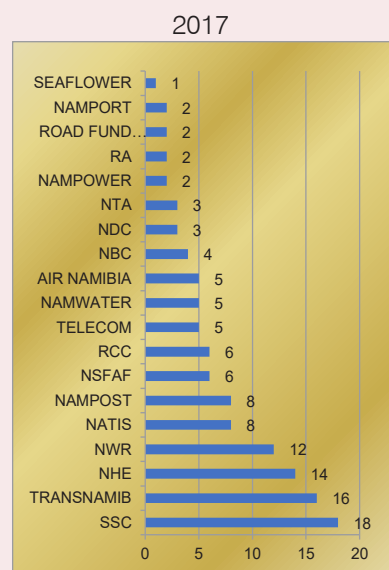
## Complaints by category



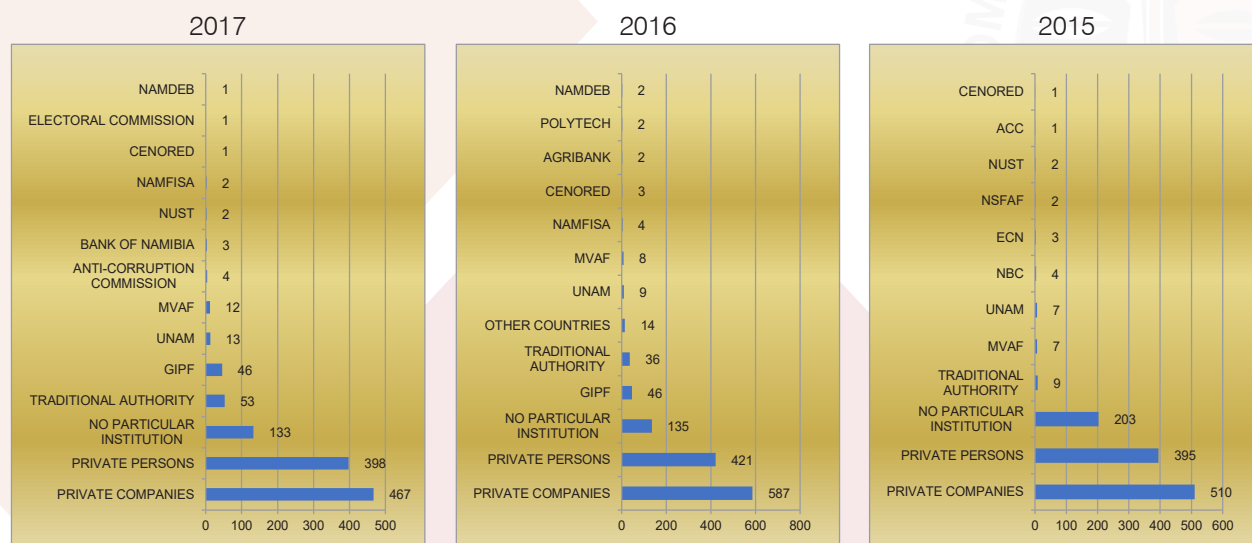
## Complaints against Regional Councils



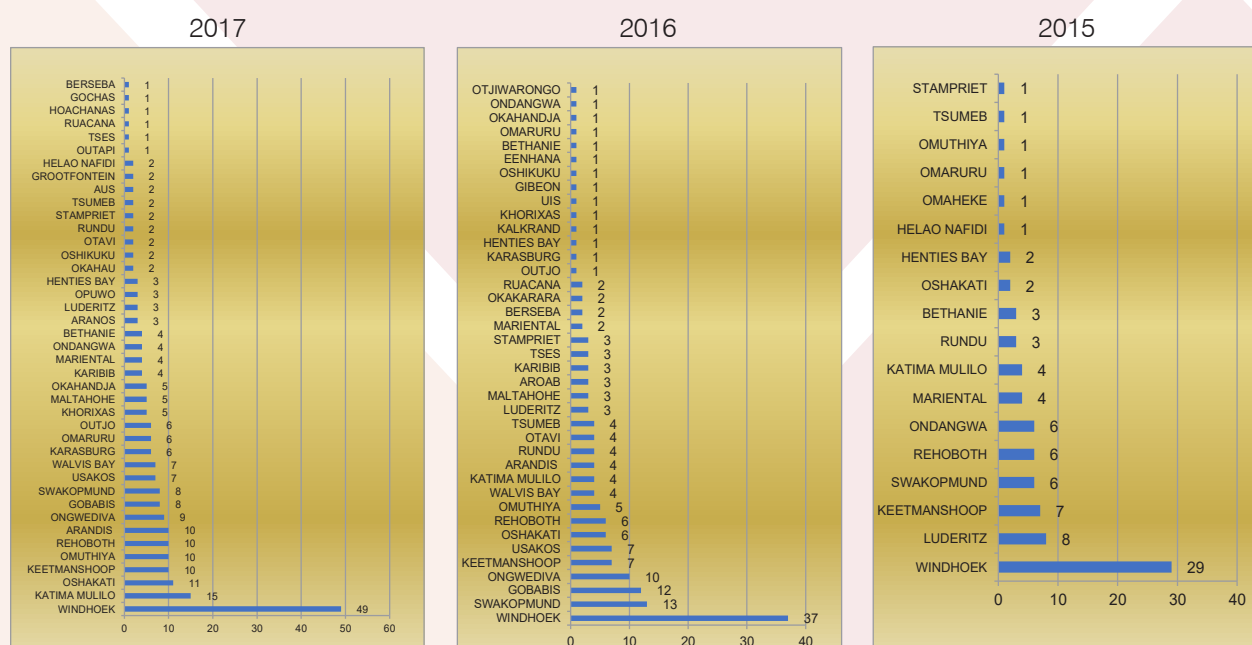
## Complaints against parastatals



## Complaints against Other Institutions

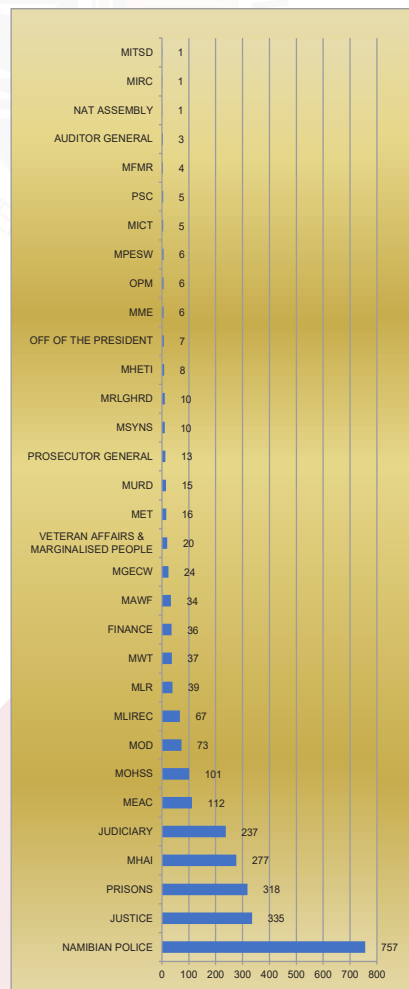


## Complaints against Local Authorities

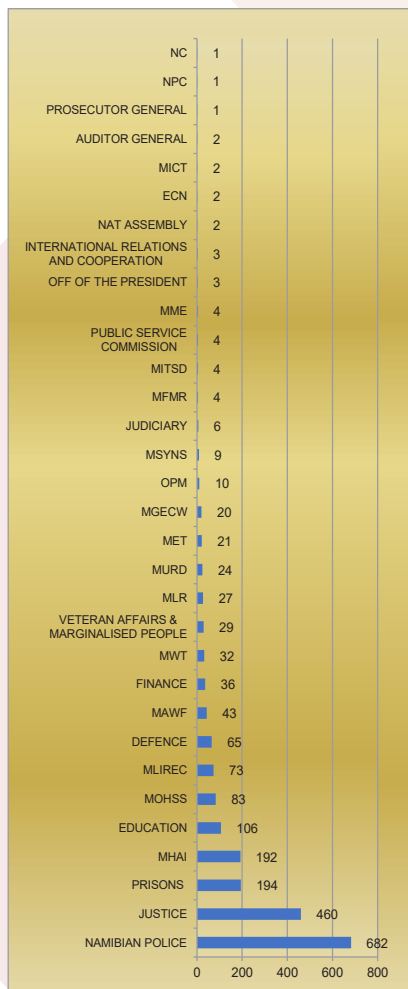


## Complaints against Government Offices/Ministries/Agencies

2017



2016



2015

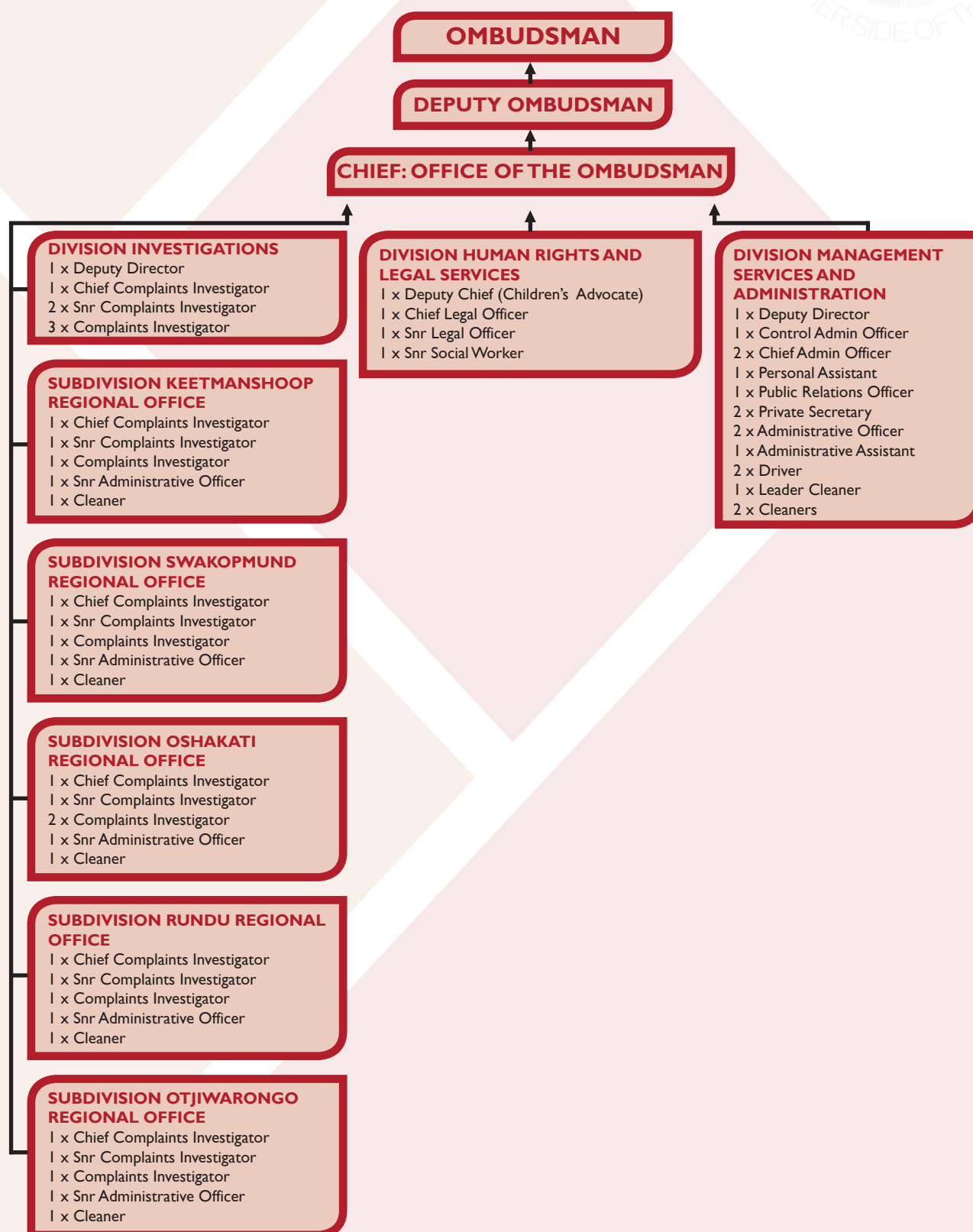




# MANAGEMENT SERVICES AND ADMINISTRATION

## Organizational structure

Below is the organisational structure as amended in the year 2013. Please note that the Subdivisions: Rundu and Otjiwarongo regional offices are not yet operational, as plans are underway to ensure full operations of the entire structure.



## General

## Human Resources

### Appointments



*Mr. Bennestus Kaputjaza was appointed as driver at head office as of 1 February 2017*



*Ms. Menneth Kaulungamenwa was appointed as Administrative Officer at head office as of 1 April 2017.*



*Mr. Murangi Ngunderipo was appointed as Control Administrative Officer as of 1 February 2017*

### Staff members were involved in the following training/workshops in 2017

Employee	Workshops/seminars/conferences attended	Date	Location
Benestus Tjirimuje	Customer service training	October 2017	Windhoek
Stephanus Boois	Defensive driving and etiquette training	February 2017	Windhoek
Ngunderipo Murangi, Jorina Baard, Fabiola Haradoes	Management and leadership training	March 2017	Windhoek
Erastus Arnold and Hermiene Appolus	African NHRIs Workshop on the Indigenous Navigator. Mr. Arnold made a presentation based on the Namibian marginalized groups namely; the San, Ovatie and Ovatombo. The presentation highlighted some of the concerns cited in the white paper for the rights of indigenous people	November 2017	Nairobi



*Mr. Stephanus Boois with his certificate*

## Financial Resources

Description	Amount (N\$)		
	2015/16	2016/17	2017/18
Personnel expenditure	14 456 421	13 691 000	16 344 000
Travel and Subsistence Allowance	893 497	707 000	1 000 000
Material and Supplies	168 604	194 000	272 000
Utilities	19 231	26 000	48 000
Maintenance Expenses	77 763	108 000	128 000
Other Services and Expenses	1 304 359	728 000	1 310 000
Membership Fees and Subscriptions	94 080	189 000	184 000
Furniture and Office Equipment	0	0	0
Total appropriation	17 013 955	15 643 000	19 296 000 *

\* This was the initial appropriation but was significantly reduced during the financial year due to the financial crisis.

## Logistical resources

The office has a fleet of 9 motor vehicles, as follow:

### Windhoek:

- 1 x Nissan NP 300 Double Cab 4x4 bakkie
- 2 x Chevrolet Cruz sedans, one for administrative errands and one for investigations

### Regions:

- 3 x Chevrolet Cruz sedans, one at each regional office
- 2 x Isuzu Single Cab 4x4 bakkies, one at Swakopmund and one at Ongwediva
- 1 x Toyota Hilux Double Cab 4x4 bakkie at Keetmanshoop

## Stock Control

All stock registers and inventories at both head office and the regional offices were updated intermittently. Materials and supplies which were budgeted for were mostly acquired, however, the unstable budget situation impacted significantly on other areas of expenditure.

## Accommodation

The office occupies a leased building on the corner of Feld and Lossen Streets in Windhoek since January 2009, with regional offices in Keetmanshoop, Oshakati (Ongwediva) and Swakopmund. The Ministry of Justice took over the responsibility for the monthly rental of the Head Office of the Ombudsman and it is currently up to date. The feasibility study and documentation for the construction of an office in Keetmanshoop were completed in 2015 and construction of these offices will hopefully start under the 2017-2018 budget.

## Information Technology

All staff members in Windhoek as well as the Oshakati (Ongwediva), Keetmanshoop and Swakopmund regional offices have access to the main server and the computerized case management system as well as e-mail and internet facilities. The office website, [www.ombudsman.org.na](http://www.ombudsman.org.na), is updated and maintained regularly, as is the face book page.

## Office support systems

- A switchboard with adequate incoming and outgoing lines is in use at head office in Windhoek, while one each are in use at the Keetmanshoop, Swakopmund and Ongwediva regional offices, respectively.
- Three fax machines are in use at head office in Windhoek and one each at the three regional offices.
- Two photo copiers are in use at head office in Windhoek, one of these are very old and due to be replaced. There is also one each in the Ongwediva and Keetmanshoop regional offices; the Swakopmund office is still without a photo copier due to the fact that the photo copier acquired for that office, was given to another office. Efforts will again be made to acquire a photo copier for Swakopmund.
- The Windhoek office has two colour laser jet printers for general use and a bigger laser colour printer for more specialized printing, while the Keetmanshoop, Swakopmund and Ongwediva regional offices have one each colour laser jet. In addition, most of the staff at head office as well as the regional offices have small black and white laser jet printers.
- All staff members have access to computers and complaints investigators and other key staff are issued with laptops and cellular phones.

## Regional Offices

Our regional offices remain an integral part of our operations and 2017 was no exception, our regional branches continue to carry out the mandate of the office in and around their respective regions. We have three fully functioning regional offices in Swakopmund, Ongwediva and Keetmanshoop respectively.

### Swakopmund

The Swakopmund regional office has a staff complement of five, consisting of a cleaner, administrative officer, a complaints investigator, a senior complaints investigator, and a Chief complaints investigator.

In 2017, the Erongo regional office was also responsible for part of the Kunene South region and intake clinics were undertaken by our complaints investigators. The visits to the Swakopmund and Walvisbay correctional facilities were preceded by presentations on the topics of appeal, remission and parole. An exercise that proved to be successful in the sense that fewer complaints on these issues were received.

The Swakopmund regional office was invited to be part of a panel discussion on the 14th of July 2017; the discussion centered on the role of the community in the fight against corruption, maladministration and community policing. The discussion was part of a community based initiative by a local drama group.

Other panel members included an education officer from the ACC and the community liaison officer of the Namibian police. The event proved to be an opportunity for the Swakopmund office to educate the public on the functions of the office.

### Ongwediva

The Ongwediva regional office is responsible for the four northern and Kunene Regions. The Ongwediva office has a staff complement of six. These include a complaints investigator, a senior complaints investigator, chief complaints investigator, an administrative officer and a cleaner.

During 2017, the Ongwediva office continued with the school visits despite financial constraints which resulted in a shortage of educational material for the children. The Ongwediva team visited several schools and rural communities in the course of 2017. The Ongwediva office carried out their community and school visits as per their specific complaint intake and outreach programme.

Additionally, the Ongwediva office visited police holding cells and correctional facilities, they recorded complaints and provided inmates and staff alike with human rights education and informed them on the mandate of the Ombudsman.

### Keetmanshoop

Complaint intake clinics throughout Karas and Hardap region were conducted by the Keetmanshoop staff as per the programme for 2017, at which time different communities were visited. Community meetings were conducted to inform those residents about the roles and functions of the Ombudsman, and thereafter opportunities were granted to the people to lodge complaints. While in the area, investigators followed up on the complaints received.

Police holding cells and correctional facilities were also visited. Complaints received during these exercises were dealt with immediately. The Keetmanshoop regional office hosted public hearings on the National Inquiry into Racism, Racial and Other forms of Discrimination at Gibeon on 20 June 2017. The event was well attended and members of the community presented their concerns regarding the matter to the Ombudsman.



## COMPLAINT INTAKE SCHEDULE FOR 2017 COMMUNITIES/SCHOOLS/POLICE CELLS/CORRECTIONAL FACILITIES

### Windhoek Head Office

PLACE	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	VENUE
Rehoboth (Police)	10						Police e station
Rehoboth (Com)	10						Constituency Office
Groot Aub	11						Constituency Office
Dordabis ( Police)	12						Police Station
Dordabis (Com)	12						
Sees (Police)				10			Police Station
Hosea Kutako				11			Police Station
Omitara				12			
Okahandja (Police)				13			Police Station
Ovitoto				14			Constituency Office
Okakarara (Police)	24						Police Station
Okakarara (Com)	24						Constituency Office
Otavi (Police)	25						Police Station
Otavi (Community)	25						Constituency Office
Otjiwarongo	26						Police/community
Osire	27						Police Station
Farm Uitkoms	28						Constituency Office
Tsumkwe (Police)	03						Police station
Tsumkwe (Com)	03						Constituency Office
Nyai Nyai Border post	04						Community/ police
Dobe Border post	05						Police/Immigration
Mangeti (Police)	06						Police Station
Mangeti (Com)	06						Community
Kukurushe	07						Community
Omatako					21		Police Station
Roodag					22		Police
Swarttak					22		Community
Maroelaboom					23		Police Station
Otjituuo					23		Police Station
Grootfontein (Police & prison)					24		Police Station and Correctional facility
Kombat					25		Community
OMAHEKE REGION							
Transkalahari		08					Police station
Gobabis (Police)		09		08			Police Station, Prison
Gobabis (Com)		10					Constituency Office
Leonardville		11					Community hall
Plessisplaas		12					Community hall
Skoonheid		12					Community hall
Tallismanus				04			Community hall
Epikuro Post 3				05			Community hall

Otjinene				06			
Aminuis				07			
KAVANGO REGION							
Nkhurenkhuru			05		07		Constituency Office
Katwitwi			05				Border post
Kahenge (Police)			06		08		Police Station
Rupara			06		08		Constituency Office
Rundu (Police)			07		09		Police Station
Rundu			07		09		Constituency Office
Nepemba			08		10		Nepemba Correctional facility
Dlvundu			09		11		Police & Constituency
Diyona			12		14		Police & Constituency
Mashare			13		15		Constituency Office
Ncaute			14		16		Police Station
Mururani (Police)			15		17		Police station
ZAMBEZI REGION							
Divundu Prison		15				07	Divundu Prison
Omega		16				08	Police Station
Katima Mulilo		17				09	Police Station
Wenela		18					Immigration
Kongola		19				11	Constituency Office
Ngoma						14	Police Station
Impalila						15	Police Station
Bukalo						16	Constituency Office
Chichimani						17	Constituency Office
Katima Mulilo						18	Ministry of Labour Hall

### Swakopmund Regional Office

PLACE	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	VENUE
Swakopmund (Prison)	12						Swakopmund Prison
Swakopmund (Police)	16						Police station (cells)
Henties Bay (Police)	18						Police station (cells)
Henties Bay	18						Town Council Venue
Terrace Bay	23						Police station
Uis (Police)			10			02	Police station
Uis (Community)			10			02	Council's office
Okombahe			11			03	Constituency office
Tubuses			11			03	Community Hall
Omungambu			12			04	Craft Center
Omaruru (Police)			13			05	Police station
Omaruru (Community)			13			05	Town Council Venue
Omaruru (Prison)			14			06	Omaruru Prison
Walvisbay (Prison)				08			Walvisbay Prison
Walvisbay (Police)				09			Walvisbay Police station

Narraville (Police)			10			Narraville Police station
Okaukuejo		24			16	Constituency Office
Outjo (Police)		24			16	Police station
Outjo (Community)		25			17	Constituency Office
Kalkfeld (Community)		25			17	Council's Office
Khorixas (Police)		26			18	Police station
Khorixas (Community)		26			18	Constituency office
Fransfontein		27			19	Gathering point
Kamanyab (Police)		28			20	Police station
Kamanyab		28			20	Constituency office
Newswaben	26			11		Gathering point
Otjimbingwe	26			11		Constituency office
Karibib (Police)	27			12		Police station
Karibib (Community)	28			12		Magistrate Court
Usakos (Police)	28			13		Police station
Usakos (Community)	29			13		Community hall
Spitzkoppe	29			14		Gathering point

#### Ongwediva Regional Office

PLACE	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	VENUE
Werde	15						Police Station
Opuwo	16					09	Police/ Const. Office
Epupa	17					10	Ohaiua Com. Center
Epupa	18					11	Otjikoyo Com. Center
Epupa	19					12	Otjomuro Com. Center
Okangwati						13	Police/ Otjazazema
Oshakati		07					Police Station
Ondagwa		08					Police Station
Oluno		09					Correctional Facility
Omuthiya		19					Constituency Office
Oshivelo		20			04		Police Station
Tsintsabis		21			05		Community Hall
Tsumeb		22			06		Correctional Facility
Tsumeb		23			07		Police /Const. Office
Omungwelume			10				Police Station
Oshikango			11				Police / Const. Office
Ohangwena			12				Police /Const. Office
Eenhana			13				Police /Magistrate Ct
Okongo			14				Police / Ekoka C. Center
Okalongo				07			Police/ Const. Office
Outapi				08			Police/Const. Office
Ruacana				09			Police/ Const. Office
Tsadi				10			Police/ community Hall
Okahao				11			Police Station

## Keetmanshoop Regional Office

PLACE	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	VENUE
Oranjemund	24							Constituency Office
Rosh Pinah	25							Roshkor /Pol Station
Lüderitz	26							Constituency Office
Lüderitz Prison	27							Luderitz Prison
Aus	28							Court room Pol. Station(
Aroab		08						Constituency Office
Koes		09						Constituency
Vaalgras		10						School Hall
Tses		11						Constituency Office
Berseba		12						Village Council
Gainachas		16						School Hall
Sactco			19					School Hall
Karasburg			20					Constituency Office
Ariamsvlei			21					Court room/ Pol. Station
Warmbad			22					Settlement Office
Noordoewer & Ausenkerr			23					Constituency Office
Hardap				03-04				Correctional Facility
Hoachanas				05				Constituency Office
Schlip				06				Schlip-Pol station
Kalkrand				07				Constituency Office
Mariental					21			Min of Land building
Stampriet					22			Constituency Office
Aranos					23			Constituency Office
Maltahöhe					24			Constituency Office
Gibeon					25			Constituency Office
Snyfontein						12		School hall
Bethanie						13		Settlement Office
Mariental							10-11	Hardap Correctional Facility &Pol station
Derm							12	Constituency Office
Gochas							13	Constituency Office
Luderitz							24-25	Luderitz Correctional Facility &Pol station