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**African Ombudsman Research Centre**  
**Centre de Recherche des Ombudsmen Africains**  
**Centro de Investigação da Provedoria de Justiça Africana**

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## 16<sup>th</sup> AORC Board Meeting 6 September 2017

### AORC ACTIVITIES REPORT for the period February – August 2017

This report updates the AORC Board on Operations, Programs and Financial Spreadsheets since its 15<sup>th</sup> meeting on 14 February 2017 (“15<sup>th</sup> Board Meeting”).

#### **A. OPERATIONS**

##### ***1. DIRCO FUNDING PROPOSAL***

The Public Protector of South Africa has submitted a Proposal to DIRCO for funding for AORC. In mid-January, AORC gave input for a two year proposal. In May, the CEO of the PPSA requested input for a five-year proposal instead. The Director met in Pretoria for a day to assist. AORC was asked to attend a meeting with DIRCO in May but later informed that the meeting was postponed to 27 June 2017. The PPSA will update the Board further.

##### ***2. AUDIT***

- a) *Management Response to Auditor’s Management Letter:* The audits for 2013-14 and 2014-15 relate to the financial years when AORC’s daily operations and accounts were managed by the PPSA. The MOU between AOMA, through the PPSA and the UKZN (“MOU”) was signed in February 2015 but not implemented until 25 October 2015 – when actual daily management of operations and accounts transferred from the PPSA to the UKZN. The auditor’s Management Letter for the audit for 2015-16 should have been reviewed and responded to by AORC for those issues within the knowledge of AORC from 25 October 2015 to 31 March 2016.

AORC made several requests that both AORC and the Finance Manager for the College of Law and Management Studies be allowed to review and discuss any concerns arising out of the audit directly with the auditor. We were assured on 5 April that this would be done. This never happened. The Management Letter for the audit of the 2016-16 year was issued in error with four primary “Management responses” attributed to the Director. I never gave or consented to these responses and still have no idea how they were generated.

After a detailed discussion with the Finance Manager I sent a statement of concern with supporting evidence to the CEO of the PPSA on 27 July. (Attachment A). I have reiterated my concern “on the record” as the Management Letter is a legal document.

- b) *Audit Recommendations:* The most critical recommendation from the auditors that would have benefited from direct prior communication with the Finance Manager and the Director is that AORC should have a separate bank account, software and accountants. This appears to reflect a misunderstanding of the Cost Centre system and strict financial controls at the UKZN. The UKZN cannot - practically or under the terms of the MOU - transfer funds for operations and overhead accounting (salaries, rent, etc.) to a separate bank account. It would be unwieldy and unnecessary to transfer funds for programs (training, research, etc.) to a separate bank account. As noted in Attachment A, this could put AORC at significant enterprise risk.
- c) There were, however, two accounting challenges with the UKZN system that became apparent during the audit:
- 1) interest for the year and expenses accruals for the three months following the 31 March year end were not quickly accessed. This was due in part to the fact that the UKZN was undergoing its audit at the same time. Therefore AORC queries had to wait in the queue with other departments and entities that had submitted audit queries to the relevant officials. There were also delays due in part to the fact that, as our first audit within UKZN, the Finance Operations Officer has had to learn to whom certain queries should be directed (not always the same persons who processed the transaction).

The delay in obtaining interest accruals was largely due to the fact that the UKZN financial year-end is the calendar year: 31 December. Although interest is accrued on a monthly basis, it is paid into each Cost Centre annually, within three weeks of the year-end. Obtaining information for a 31 March year-end audit requires manual culling from the electronic system.

- 2) The second problem (that our Finance Operations Officer has been grappling with prior to and during the audit) is the reconciliation of travel invoices for each individual traveler with original quotes and with General Ledger posts. Although the quote process is straightforward, billing does not mirror quotes. Rather, bills by the UKZN's travel service provider accumulates on a monthly basis separate line items for VAT, fees, etc. in addition to the actual flight costs without easy reference to the traveler or the quote. Therefore, our Finance Operations Officer, (like all other departments of UKZN) must manually and laboriously reconcile the invoices with the quotes and the General Ledger posts. This is time-consuming. The UKZN is currently in a tender process to find different travel service providers as well as a new automated system that will ease accounting and reconciliations. This should be in place by end of year.
- d) *Financial year end:* as noted above, the UKZN accounts for AORC on a calendar year basis. In view of the fact that the management of AORC's daily operations, including accounting, is within the UKZN, it would be correct for AORC's financial year-end to be the same as the UKZN. Certainly, for audit purposes, the accounting and extraction of information would be much easier with a calendar year end. The FM's experience is that similar audit issues for other externally-funded centres at UKZN were readily resolved when they aligned their year-ends to UKZN.

AORC's statutory year-end is actually the end of February. To date, the accounting for AORC has been for the government year-end of 31 March. AORC had been

working on the complicated process to change the statutory year-end to 31 March (a complicated process). However, it is more appropriate to change it to 31 December.

**The Board is requested to approve changing the statutory year-end from February to December.**

- e) *Appointment of auditor for 2016-17:* The audits for the period April 2013 – October 2015 were challenged by the need to locate and reconstruct the files held at the PPSA, as certain relevant staff had left. The audit for the period October 2015 – March 2016 was complicated largely by the fact that the UKZN year end is 31 December whilst the audit was for a year end of 31 March.

The Finance Manager notes that all of the top five audit firms are fully acquainted with the UKZN accounting system. Other centres at UKZN use them successfully.

**The Board is requested to approve that AORC commence a competitive process to procure an auditor for the 2016-17 year in accordance with the UKZN procurement policy that complies with the Public Finance Management Act.**

### 3. STAFFING

This report reflects the work of three full-time and one part-time staff:

- Franky Lwelela was first engaged by AORC in 2013 as a translator, then intern, then IT and now Communications Officer. He held the fort as the sole staff member for approximately 18 months. As a consequence, his work did and still entails the tasks noted above as well as work beyond his job description, including travel logistics and French language research interviews for the IOI / AORC Africa-wide Study.
- Marion Adonis joined in September 2016 as the Finance Operations Officer. In addition to daily accounting, she handles audit preparation and queries and is collating files on relevant policies, personnel and resources of the UKZN accounting, Human Resources and other systems. She also conducts research interviews . for the IOI / AORC Africa-wide Study.
- Dr. Annie Devenish was the Acting Director from February - July 2016. She is now pursuing her post-doctoral studies. UKZN policy allows her to work only 12 hours per week. Accordingly, her tasks are restricted to managing research projects – specifically for periodic media articles and the IOI/AORC Africa-wide Study.

All staff are operating - with uncommon enthusiasm - at full capacity and must be commended for their steady output and multi-tasking. For the reasons already indicated in our last Board Report, AORC will not proceed with recruitment of the Researcher, Deputy Director or administrative support staff until after confirmation of further funding.

In the meantime, we are taking the opportunity to work with the UKZN Human Resources department to review and possibly amend the job descriptions that were drafted in 2014 in order to meet our actual needs. Specifically:

- we must change the job description for Interns that requires 3 years of relevant experience. It would likely be quite impossible to find interns with such experience to work with AORC for the low intern compensation rate allowed by UKZN
- we need to align and upgrade the job descriptions of the Communications Officer and Financial Operations Officer to the appropriate job descriptions allowed by UKZN that more accurately reflect their work.
- The original job description contemplated that the Deputy Director would be fully occupied with daily administration. Since September, the Director and Financial Operations Officer have been learning the UKZN systems and relevant persons who can assist with daily accounting and operations. Accordingly, daily accounting and record-keeping is beginning to flow in a systematic course. Therefore, as long as the job description for the Finance Operations Officer is upgraded, it may be possible to combine the duties of the Deputy Director and Researcher into one position – in the short term.
- This would save on the salary and office space expense of two persons whilst ensuring the capacity to do the work. However, in the longer term – by 2020 – if larger projects materialize (such as translation and re-design of the Peru E-Learning Platform and establishment of a Chair in Ombudsman Studies at UKZN), then there would certainly be a need for a full-time Deputy Director, a full-time Researcher, Interns as needed and at least one additional Administrative Support Staff.

#### ***4. STRATEGIC PLAN AND ANNUAL PERFORMANCE PLAN***

The Strategic Plan for the period 2016-19 is being aligned with the DIRCO Funding Proposal and finalized in the government template.

As set out in the February 2017 Report to the Board, the prior Annual Performance Plan (APP) was prepared in September 2016 after arrival of the Director and agreed by the Board on 26 September 2016. Unusually, the APP was drafted for the nine month period ended June 2017. This was due to:

- the fact that the first financial quarter (April – June 2016) had long ended and,
- the likelihood that there might not be enough time for AORC to secure new funding by 30 March 2017. Therefore, it seemed wise to stretch the existing funds and plans beyond the year-end of 31 March to 30 June 2017.

The proposed current Annual Performance Plan for approval by the AORC Board is for the period 1 April 2017 to 31 March in line with the DIRCO proposal. If the Board agrees to align AORC's year-end with the UKZN, this can be redrafted accordingly. (Attachment B).

#### ***5. DIRECTOR'S PERFORMANCE AGREEMENT***

The UKZN Human Resources Department requires that the Director's Performance Agreement (requested by the PPSA for this Board meeting) be as close as possible to the

job profile. In addition to the job profile, the Agreement is also derived from (a) the key responsibilities set out in the advertisement and (b) the conditions of the Director's Work Permit. (Attachment C).

This Performance Agreement should have been entered into the UKZN's electronic performance management system within a month of my arrival. I admittedly dropped the ball and appreciate the reminder from the Chair to include this in the Agenda for this meeting. The lapse has been rectified. Acting Dean W. Freedman (current Line Manager) and Acting Deputy Vice Chancellor (Line Manager to February 2017) have completed the review just in time for the 31 August UKZN deadline to do so.

## **6. ADMINISTRATION**

### *a) Rent reimbursement*

The issue of AORC's overpayment for (a) two full months of August and September 2012 when there was no access to the space due to renovations and (b) the use of common spaces from October 2012 – April 2016 was detailed in the Director's February 2017 Report to the Board. The UKZN has agreed to reimburse the amount of R128 610.76 in the form of a credit. Accordingly, AORC will not be charged rent for June – November 2017 and will make a partial payment in December. (Attachment D)

### *b) New lease*

AORC will negotiate and execute a new lease, effective January 2018. We have noted that the Department of Maritime Law does not pay rent at all. However, discreet centres such as AORC do pay rent. AORC is making the argument that the rent rate should not be as an external tenant, but rather as an internal entity.

### *c) S.21 Registration*

At its 14 February 2017 meeting the AORC Board agreed not to proceed with de-registration as a S.21 Not-for-Gain company. Moreover, the Board agreed that this decision is for AOMA, not AORC. One question is whether AORC can validly be registered as a separate company from its parent organization which is registered in Kenya. Attachment E is a Memorandum to AOMA setting out the matters considered by the AORC Board that informs its recommendation to AOMA that AORC should retain its current registration.

## **B. PROGRAMS**

### **7. RESEARCH**

#### *a) IOI / AORC MOU*

At the 14 February 2017 Board Meeting, the Director presented the genesis of the IOI / AORC Africa-wide Study and plan for a IOI/AORC MOU to effect it, given that the MOU between the IOI and AOMA did not include research. The Director and IOI worked on a MOU that would also lay the ground for further research and training collaboration. The IOI Board ratified the MOU at its Annual Board meeting at the end of April and sent copies for signature in its three official languages – French, English and Spanish (**Attachment F**). The AORC Chair has since indicated that AOMA should first agree that AORC may proceed with the MOU with IOI. If it does so, then the MOU can be executed in Pretoria.

#### *b) IOI / AORC Africa-wide Study*

In anticipation of the MOU, the IOI gave AORC its Survey Template (used for its previous Asia Study). AORC also added two additional topics:

- a) questions about the “historical antecedents” of the Ombudsman / Mediator role in traditional African cultures. This will be summarized in the IOI / AORC Africa-wide Study. However, this will also form the groundwork for a further study and AORC publication on the subject after additional desktop research, telephone interview and anthropological / legal analysis.
- b) questions about the training needs of the countries interviewed. Instead of an expensive stand-alone study (the last was done by GIZ in 2011), the responses give AORC ongoing feedback on what ought to be prioritized in upcoming training. **Attachment G** shows preliminary responses.

AORC launched the use of the IOI Survey in Cote d’Ivoire at the end of February 2016. Eleven countries (Ombudsman and senior staff) were interviewed. Most provided AORC with requested documents. Six interviews were conducted in Zambia (late March) and three Burundi (early July). AORC has now completed full interviews with 20 Ombudsmen offices, as well as another four partial interviews, which were conducted originally for the Extension of Comparative Analysis of Legal Systems Study (during the AOMA GA, November 2016).

The research process, which includes in-depth interviews and significant follow ups, is yielding new insights and lessons for our research team revealing the diversity and adaptability of the Ombudsman institution on the Continent, and highlighting the ‘Africa difference’. Feedback from country offices about the interview process has also been positive, e.g.:

*“The AORC research interview was a very fruitful exercise for me. It made me focus on our journey so far as the ZHRC, the challenges faced and our response thereto, and possible areas of focus in improving our delivery on our mandate, particularly our Public Protector/Ombudsman mandate”* noted Dr. Ellen Sithole, Deputy

Chairperson of the Zimbabwe Human Rights Commission (a dual mandate institution that serves as a Human Rights Commission and Public Protector).

AORC will continue to leverage as much as feasible all gatherings of Ombudsman for both training and simultaneous research for this IOI / AORC Africa-wide Study. This is less costly than the previous research approach (for the Comparative Analysis of Legal Systems of eight countries) when two researchers travelled to each country to conduct the interviews. Based on the use of the IOI Survey to date, the research team have also streamlined it for easier usage. Note that each interview consumes approximately two hours. Interviews are held with both the Ombudsman (especially for overall vision and strategy) and a senior staff person (especially for detailed operations and as point of contact for follow-up electronic questions).

## **8. INFORMATION**

### *a) Policy Brief update*

The AORC Board meeting of the 14<sup>th</sup> February 2017 discussed the matter of the Best Practices Policy Brief (“BPPB”). The Brief had been based on the 8-country Comparative Analysis of Legal Systems of Ombudsman Study. It was produced following the February 2016 Board directive that as many outputs as possible should be completed before 31 March 2016. However, at the Board’s 6<sup>th</sup> July 2016 meeting the Chair requested that the Brief be withdrawn, as the Comparative Study should be extended to a further eight countries.

Now that the Comparative Legal Study will be incorporated into the IOI / AORC Africa-wide Study, the Board decided at its meeting of 14 February 2017 that the BPPB could be re-circulated with the caveat that its recommendations for best practice is provisional and based only on analysis of eight countries. Eighty hard copies of the English language version of the BPPB had already been circulated prior to withdrawal.

An English and French version of the Brief are now available on the website. The Director does not suggest that resources be invested into hard copy publication in any other languages at this time as a more comprehensive BPPB will be produced in due time.

**The Board is requested to decide if it would like hard copies produced in French, Arabic and Portuguese at this time.**

### *b) Website*

The website is being updated continually and regularly with information received from AOMA Members. AORC has also managed to add links to the websites of 29 AOMA Members. AORC continues to depend on AOMA members to give feedback on the website and also to forward information and update on their activities and successful stories that they will like to see posted. The goal is to make the website a primary source of information for anyone who wants to learn more about African Ombudsman institutions.

The UKZN which hosts the website is currently working on a user-friendly platform that will allow AORC to report on the statistics of the visits to the website (the current design does not allow for easy culling of this statistic). <http://aoma.ukzn.ac.za>

*c) Social Media (Facebook and Twitter)*

AORC's Facebook and twitter pages are updated daily with information such as:

- Brief descriptions of an AOMA member including a short biography of its Ombudsman
- Update on a new Ombudsman in Africa and in the world, a brief biography, a brief description of the institution.
- Quotes from famous leaders or Ombudsman on Good governance, Democracy, and the rule of law.
- Successful stories and breaking news from Ombudsman institutions in Africa and in the world.

All picture of conferences, meetings, trainings, or events that involve the participation of AOMA and AORC can be retrieved from our Facebook page.

Facebook link: <https://www.facebook.com/aoma.aorc>

Twitter link: <https://twitter.com/AOMAOMBUDSMAN>

*d) Newsletter*

In 2016 AORC produced one Newsletter. This year, two will be produced. The Strategic Plan calls for three each year. The 8<sup>th</sup> Edition of the "African Ombudsman Today" (AOT 8) was produced in April 2017 and a draft of the next Newsletter (AOT 9) is near completion.

*e) AOMA/AORC Contact database update*

In order to effectively manage and organize information, and in the process of identifying whom to go to when needing information from AOMA members and AORC collaborators, AORC is in the process of creating a single source for contact information. While a contact database itself improves reliability and organizes a wealth of information, it is important to verify that the contact information is both accurate and up to date. AORC has requested all AOMA Members to nominate a contact person to ease exchange information and updates. This process is still underway because we have received very few responses from members.

*f) Online Resources*

AORC has managed to integrate a basic online resource library with AOMA member countries and their official documents (many of which were submitted for the research interviews). We have also created a basic online library that will be used as a Jurisprudence database for African Ombudsman. This will rely on healthy input from AOMA members of older and recent Court judgments about or that refer to the Ombudsman.



## 9. CAPACITY BUILDING

### Training

The current general approach to training is set out in Attachment H. AORC aims to rotate training in turn, depending on host availability, amongst the six regions of the Continent. Most often, the Indian Ocean countries will join the Central African training. The goal is to ensure that the regions receive basically the same subject matter. AORC's plan was to conduct Introduction to Mediation training amongst all of the regions with a view to offering an advanced mediation training plus Train-the-Trainer program during the AOMA General Assembly in November 2018. However, it is even more important to support the initiatives of AOMA members.

#### *a. West Africa region training: OPCAT (Ivory Coast)*

AORC supported the initiative of the Ombudsman for Côte d'Ivoire and deemed this as its West Africa training. From 27 February – 1 March, the Ombudsman for Cote d'Ivoire initiated and hosted 18 countries for a workshop on the UN Optional Protocol to the Convention Against Torture and designation of National Preventative Mechanisms (NPM). The Ombudsman for Cote d'Ivoire must be commended for this forward-looking initiative as no NPM has yet been officially designated in Africa.

When the Ombudsman for Burkina Faso, Mme. Traore requested that AORC support this initiative, only five countries had registered to attend. Most Ombudsman offices still do not have budgets for training. AORC sponsored travel, accommodation (one person each office), Welcome Dinner, AOMA regional meeting (venue and lunch) for: Benin, Burkina Faso, Burundi, Tchad, Cape Verde (accommodation only), Gabon, Gambia, Ghana, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Tanzania, Zambia, Zimbabwe. Non-sponsored attendees were the South Africa Military Ombudsman and host Cote d'Ivoire. Eleven countries were represented by the Ombudsman themselves and seven by senior staff such as General Secretaries or Heads of the Human Rights divisions.

The training which was conducted by the Geneva-based Association for the Prevention of Torture (APT) was sponsored by the International Ombudsman Institute (which also supported translation and other logistics). APT facilitated an excellent program of dissemination and exchange of information and inquiry. As reported back to APT, overall satisfaction on a scale of 1 – 100 (high satisfaction) ranged from 85 to 95% regarding: technical content on OPCAT; relevance and responses to questions; opportunity to share existing situations and challenges; and consultation on developing strategies going forward.

The participants committed to five broad, escalating categories of actions and strategies going forward ranging from informing their governments of the principles discussed in the training to negotiating for formal designation as an NPM. (Attachment I). These firm, actionable commitments were likely possible because the Ombudsman themselves were present to make the commitments. Generally, following such training, senior staff would be able only to recommend actions to their Ombudsman but would not have the authority to make commitments on the spot at the end of the training.

AORC urged all countries to report any progress on their commitments by end of September. Two offices have reported to date:

- Ivory Coast
  - Followed up the OPCAT training with a visit to the Vice-President
  - Pledges for ratification were handed over to the Head of State

- A platform for Civil Society / NGOs has been set up for the Prevention of Torture under the auspices of the former President of the Côte d'Ivoire branch of the International Federation of Christian Action for the Abolition of Torture.
- Nigeria
  - Prepared a report
  - Held a strategy meeting
  - Planning a meeting with stakeholders
  - Looking for ways to collaborate with the National Standing Commission on Torture

The OPCAT training was an exciting development.

- First, it is clear that the training not merely imparted information, but also has contributed to the capacity of Ombudsman offices by inspiring action in an arena for democracy and good governance that they had not previously engaged in.
- Second, the OPCAT commitments and follow-up have assisted AORC to think of new ways to measure our impact. Since inception, the main metric for AORC's capacity building has been quantitative: that is – the number of persons trained. By measuring actions taken as a result of training, AORC is able to add a qualitative measure of the impact of training.

AORC will similarly follow-up on whether participant offices applied the learning from the below-noted strategic planning training in Zambia. Although less clear-cut than the OPCAT commitments, we hope that there will be notable impacts.

The Ombudsman for Cote d'Ivoire must be thanked for thoughtful and seamless hosting of Francophone, Anglophone, Lusophone and Arabic speakers. This was an opportunity for Ombudsman from the West African region and a few from elsewhere to consider the visions and capacity of the Ombudsman institution.

#### ***b. Southern Africa training: strategic planning (Zambia)***

AORC supported the initiative of the Public Protector for Zambia who planned an IOI Africa Region meeting along with a strategic planning session for AOMA. The AORC Board meeting of 6 July 2016 had agreed to pay for the facilitator costs for AOMA's strategic planning. combined the previously committed assistance to AOMA for its strategic plan with training in strategic planning. At its 14 February 2017 meeting the AORC Board chair suggested that AORC offer strategic planning training (in accordance with the management and leadership need identified by the 2011 Needs Assessment) during this gathering of Ombudsman. The training was held in in Lusaka Zambia from the 26<sup>th</sup> to the 30<sup>th</sup> March 2017 Zambia. Hosted by the Public Protector of Zambia, attended by some 35 Ombudsman and/or senior staff.

Dr. Victor Ayeni, global expert on oversight institutions, facilitated a full-day of training: "Creating the Strategy-Driven Ombudsman Process". He used vivid scenarios and penetrating questions to explore assumptions about strategy and how organizations operate. The participants reflected on principles, methods and processes to develop and execute strategies. As always, Dr. Ayeni's understanding of the Ombudsman institution and evolution

(especially in Africa) helped participants to think deeply and broadly about their own strategic plans (which they brought with them) as living aids to achieve high performance.

This gathering concluded with a small inscribed\*<sup>1</sup> gift of Zambian copper (contributed by Director) to congratulate Dr. Ayeni on his appointment as **Honorary Research Fellow in the Democracy, Governance and Service Delivery Programme of the Human Sciences Research Council of South Africa.**

The Public Protector for Zambia must be congratulated for excellent hosting of the multiple meetings and outputs tackled in this very short period. This was an opportunity – as recent collective – to think through the opportunities afforded by membership in the IOI, to brainstorm the vision for AOMA and to strengthen strategic planning techniques.

Note: At the IOI Africa meeting, the notion was mooted that AORC could become the Secretariat for IOI Africa. The coordinating function for AOMA previously undertaken by AORC was transferred to the AOMA Secretariat in Kenya. There is no capacity for AORC to engage in coordination / Secretariat functions. (Attachment J)

### *c) Central Africa Training: Introduction to Mediation (Burundi)*

Sixteen Ombudsman and senior staff from Central Africa attended this training in Burundi 2-8<sup>th</sup> July. Although subsequent to this Report date of 30 June 2017, this training provides a template for upcoming training in the regions. AORC sourced a local mediation trainer in Burundi. Professor Abekyamwale Abi of Universite Espoir in Burundi became oriented enough in the Ombudsman institution, principles and practice that he was able to provide credible training and insight into relevant mediation principles and techniques. His thorough report is attached (Attachment K). The Ombudsman for Burundi then asked Professor Abi to make a keynote presentation at the Conference on the Role of Mediation Institutions in Consolidating Peace on the day following the training.

The Ombudsman for Burundi is perhaps the only Ombudsman in the world with the statutory mandate to make peace. He is committed to a vision of creating a pool of trained mediators within AOMA who could be called upon by the AU and others as resources to intervene in or prevent inflammatory situations. This training launched the exploration of this vision and the ways in which Ombudsman without a statutory mandate can still contribute to peace-making and prevention.

## **Attachment Program**

The pilot attachment program entailed bringing two persons from different regions to the AORC offices in order to achieve a cross-fertilization of learning and skills. Attachment L details the Agenda. The purpose was to allow two persons from different regions to share and learn in an intense one month experience. They would learn from each other, from the program offered by AORC and, in turn, contribute to the projects of AORC. Specifically, the

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<sup>1</sup> *Keep me away from the wisdom which does not cry, the philosophy which does not laugh and the greatness which does not bow before children.* Khalil Gibran

Attachees assisted with (a) summarizing some of the research interviews for the IOI / AORC Africa-wide Study and (b) research for and drafts of articles for the next Newsletter.

The program was offered in the first instance to Hilda Ojiambo as AOMA's legal officer and point of contact. It was also offered to Chipi Mangulama of Malawi. The Ombudsman for Malawi had expressed enthusiastic interest and encouragement in September 2016 (when the idea was still a mere wish – during the four days of all-office investigation training there that she sponsored at no expense to AORC).

Most dynamic were the sessions at which we analyzed and brainstormed approached to ongoing challenging investigations in their offices. We have subsequently been informed that these sessions provided essential information for Malawi's recent Court Appeal argument and for Kenya to tackle a case that had seemed intractable.

In an attempt to fulfill the language training needs identified in the 2011 Needs Assessment and repeatedly requested over the years, AORC arranged for French language classes for the Attachees (AORC's Director and Finance Operations Officer also attended classes when possible). This was the most questionable expense in terms of value for money. Such a short program does not provide a durable result unless students continue classes when they return to their own countries. AORC itself is not a language training institution. The UKZN Department of Applied Languages could not offer training more than once a week. Therefore, we engage Alliance Francaise to do so. Except for translation of documents and providing translation at regional trainings, we have to rethink the practical ways that AORC can support language capacity as has been so often requested. If the Attachment Program is continued, it would be fair for the next two Attachees to be non-Anglophone.

The Attachment Program also provided opportunities for each AORC staff member to expand their own skills by making a presentation or supervising a task. (In a very small office, staff have to learn something about other competencies to ensure coverage and redundancy when colleagues are on leave. This also enlarges internal resources.) AORC staff must be thanked for their enthusiasm and personal investments in providing local transport, hosting our guests at homes, arranging for other courtesies and orientation to Durban. We were all happy to do so as our guests were delightful, curious and added a wonderful energy to our offices as well as new ways of thinking about what we do.

Although an invaluable experience for all, the pilot proved that the Attachment Program cannot be sustainable more than once per year at current staff levels. It is very expensive – in terms of planning, execution, time and funds. Costs are set out in Attachment M.

**The Board is requested to decide whether this program should be continued.**

## ***10. ADVOCACY***

***Orientation Visit:*** after attending to observe the AORC Board meeting on 14 February 2017, the Ombudsman of Burundi and three colleagues visited AORC the next morning. He detailed his passionate vision for the role of African Ombudsman throughout the Continent to develop the mediation expertise to be “on call” as needed. AORC appreciated his visit.

***Media:*** Thanks to Dr. Annie Devenish for suggesting the idea, research and first draft of an article published in the South Africa-wide Sunday Tribune on 26 March 2017 in honour of Human Rights Day. The article: “Africa Could Lead the Way on Rights” was circulated to

the AORC Board, all AOMA members, the Law School Board and other interested persons and organizations. It is on the website. A second article on women Ombudsman throughout the Continent is being finalized for publication. AORC hopes that Ombudsman will circulate such output widely.

***Presentations:***

a) 15 May 2017: to the UKZN Law School Academic Staff Meeting about the Ombudsman institution and work of AORC. The Director will also make brief presentations to the Graduate School of Business and Leadership, the School of Accounting, Economics and Finance and the School of Management, IT and Governance.

b) 30 August 2017: as a consequence of above presentation, the Director was asked to present a guest lecture at a graduate law seminar on the impact of Ombudsman for the protection of children. She and Dr. Devenish researched a range of cases from the SA PPSA, Mauritius, Iowa, Minnesota, Ireland and Bermuda. The cases will be posted to the database.

c) Director was sponsored to make a presentation to the Biennial Conference of the Caribbean Ombudsman Association (CAROA) in Bonaire, 11 – 14 June). Her paper: “The Value of Networking for Ombudsman” has been posted to the website. The Director, former member of the CAROA Council and (then Vice) President for IOI Caribbean and Latin America region, was inducted as an Honorary Life Member of CAROA.

A few of the Caribbean Ombudsman expressed interest in attending the next AOMA General Assembly in 2018. This would continue the relationship between the Continent and the Diaspora started by Adv. L. Mushwana who attended the 2008 CAROA Biennial in Bermuda and Adv. T. Madonsela who attended the 2010 Biennial in Curacao.

***Promotion of Ombudsman Institution:*** August 2017 – the UKZN Council had completed a stakeholder consultative review of the UKZN Ombudsman. Prof. Reddi recommended that AORC assist with drafting the new Terms of Reference. The process has quickly moved to the recruitment phase. AORC is anonymizing the TOR and sharing it with the Durban University of Technology which is beginning discussions about establishing an Ombudsman.

If AORC is able to recruit a Deputy Director / Researcher, one early task will be to align the TOR with 3 documents to create a general template for governments to use when establishing or reviewing Ombudsman mandates. Those documents are: the Oliver Tambo Declaration, the UN Paris Principles and the Essential Characteristics of a Classical Ombudsman (a primer by D. Gottherer, former President of the US Ombudsman Association).

***11. ANY OTHER BUSINESS and GOING FORWARD***

***a) Programming with current available funds***

Without new funding, AORC has on hand R5 585 428. At current staff levels, AORC will be able to stretch its operations and programming to approximately 30 June 2018. This will accomplish: completion of the first round of regional training (in investigation, introductory mediation or courses per regional initiatives); completion of the IOI / AORC Africa-wide Study interviews; a one-month Attachment Visit; and, a pilot collaboration in advanced negotiation/mediation training with the Business Unit of the School of Law.

*b) Regional training*

From April 2016 through July 2017, AORC has facilitated training for: North Africa (Ombudsman Principles and Investigations), West Africa (OPCAT), Southern Africa (Strategic Planning) and Central Africa (Mediation). This leaves the Indian Ocean and East Africa.

*Indian Ocean:* in the past, Madagascar and Mauritius were included in the Central African training. Originally, the EXCO meeting (now held in September in Pretoria) was tentatively being planned to be held in Madagascar in October. Accordingly, AORC planned to conduct training there in order to provide training to a larger group of participants from the Indian Ocean than would ordinarily be able to attend. Therefore Indian Ocean participants were not included in the Central African training held in the first week of July 2017 in Burundi.

Madagascar is still keen to host the training. In addition to providing training to a larger group of Indian Ocean participants, this would encourage the participation of the Seychelles Ombudsman (inactive in AOMA for several years) and promote the Ombudsman concept to officials from the Comoros Islands. It should be noted that one of the key benefits (not only in Africa but also throughout the world) of different countries hosting Ombudsman meetings and conferences is that this provides opportunities to raise the profile, understanding and international context of the Ombudsman institution amongst governments and the public.

AORC can conduct this training as well as relevant research interviews. This will also be an opportunity to begin the Director's train-the-trainer plan for Franky Lwelela so that he will learn to deliver introductory training modules, especially in French.

*East Africa:* Uganda had offered to host this training (Investigations Techniques) as early as May, but it had to be postponed. AORC can execute in November 2017 if the host is still available. This will ensure that AORC does not lose the training and research momentum.

Thereafter, funds permitting, AORC can begin a second round of regional training in 2018. Djibouti has offered to host for the North African region in February. Botswana has offered to host the next training for Southern Africa.

*c) Non-AOMA South Africa training*

The eThekweni Municipal Ombudsman is still hoping to schedule an introductory course for up to 20 staff. The Director does not propose to charge for a two or three day workshop as the municipality effectively hosts the Centre. This would be a service within the Advocacy function of AORC.

The South Africa Health Ombudsman has made enquiries about a workshop in Pretoria. Given that the current DIRCO funding is through the African Renaissance Fund with a focus outside of South Africa, AORC does not have a policy for responding to such requests. There is a mandate to advocate for the Ombudsman institution, principles and best practice

In December 2016, AORC conducted training for the South Africa Military Ombudsman – at cost but with no fee. The SAMO is an affiliate member of AOMA. The South Africa Health Ombudsman is not.

**The Board is requested to give guidance to the Director on whether or not AORC may offer training for non-AOMA South African entities (at cost or for a fee).**

*d) Donation of materials:*

William Angrick, former Ombudsman for the State of Iowa, US (for more than 30 years; former President of the International Ombudsman Institute) offered to donate a treasure trove of his Ombudsman books and files to AORC. Many of these materials are not available in electronic form. The materials would be useful as AORC develops into a robust center for Ombudsman studies. The only condition is that AORC pays for transport from Florida. I have asked him to obtain quotes for sea transport.

*e) Collaboration with Business Unit of The School Of Law*

The Head of the Business Law Unit, Dr. Donrich Jordaan, of the School of Law is eager to start a negotiation course at UKZN. We contacted one of my prior colleagues whose training company is licensed to use the Harvard Negotiation Program methodology and cases. She will also explore a possible Law School to Law School relationship in order to cut costs that are now quite expensive. The methodology is equally applicable for negotiators and mediators. The plan would be for two persons from Cambridge, Massachusetts to provide a four-day training in the basic methodology for up to 24 persons followed by a four-day Train-the-Trainer program for up to 12 persons the following week. The latter program is contingent upon the AORC Director being able to coach new trainers after the workshop.

Dr. Jordaan is exploring how to get the workshops accredited by the UKZN in order to source adequate funding. The collaboration with AORC would allow for sponsorship of the participation of eight Ombudsman in the first week and four in the second. The Law School would sponsor eight persons in the first week and four in the second. In addition to eight each Law School and AORC participants, another eight persons can participate in the first week as paying or invited participants. These can include key current and potential collaborators (perhaps the UKZN Ombudsman; UKZN student leader; DIRCO, AU).

From AORC's perspective, this could set in motion the vision of the Ombudsman for Burundi to establish a pool of expert mediators with impeccable training who would then develop and deliver mediation training modules and manuals tailored to the work of the Ombudsman.

**The Board is requested to suggest four non-Ombudsman collaborators to participate in the first week of training, should this initiative be funded to go forward.**

*f) Chair in Ombudsman Studies*

With the change of the DIRCO funding proposal from two to five years, AORC's vista and prospects were expanded about how to achieve its vision of becoming a Continent wide and indeed international centre of excellence in the study and development of the Ombudsman institution. Professor Reddi suggested that some consideration be given to a high-profile project with permanence such as a Chair in Ombudsman Studies at UKZN. This is a long-

term project. The Director has had a very brief discussion with the Maritime Law department that has been working on a Chair for the past three years as well as the UKZN Foundation that would be amenable to assisting AORC to raise partial funds. This is merely an idea at this time! AORC will gather additional information for the Board to consider.

*g) AORC staff training*

During the past year, AORC has not invested in internal staff training. Staff did have a one-hour orientation in fraud prevention and discovery by the Head of Forensic Services at UKZN. We will continue opportunistically to take advantage of such offerings.

**C. FINANCIAL SPREADSHEETS**

***12. Total Income and Expenditure October 2015 – June 2017*** (the period that the actual daily management of operations and accounts were managed by UKZN.)

***13. Comparative Budgets for 2016-17 and 2017-18 and Actual Expenditures for the year 2016-17 and 1<sup>st</sup> Quarter 2017***

***14. Summary and details for:***

- a. Annual Performance Plan for 1 April 2017 – 31 March 2018 (highlighted in green) and***
- b. Budgets for the following four years to 2021-22 (in accordance with the Funding Proposal to DIRCO***

Respectfully submitted,  
Adv. Arlene Brock  
Director, AORC.