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## 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. 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.

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.

### *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.

### *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 J). 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 K 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 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 L.

## ***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.

Respectfully submitted,  
Adv. Arlene Brock  
Director, AORC.