



منظمة الموفقين والوسطاء والرقابيين الأفارقة  
 African Ombudsman and Mediators Association  
 Association des Ombudsman et Mediateurs Africains  
 Associação dos Ombudsman e Mediadores

# AFRICAN OMBUDSMAN



Today

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## Ombudsman Upholding the Fight Against COVID-19

The devastation it caused aside, COVID-19 was an eye-opener

There can be no doubt that the COVID-19 pandemic altered, in a manner nobody saw coming, the way in which we, as Ombudsman and Mediators, perform our functions and execute our responsibilities, just as there can be no question about whether life will ever be the same again.



advancements that, hitherto, we have not embraced enough.

Services were interrupted in a fundamental way in the scramble to protect both our respective workforces and the public whom we exist to serve. Not only were we affected as individual Ombudsman and Mediators, our collective work as a community of regional, continental and even global institutions was interrupted.

Thanks to the pandemic, our nerve centre, the African Ombudsman Research Centre (AORC), like other institutions, had to adapt and invoke business continuity measures. Accordingly, several impactful virtual training sessions were held. During all those

For instance, the four-yearly conference of the International Ombudsman Institute (IOI), which is provided for in the IOI by-laws, was extremely delayed. When it eventually took place, the proceedings were virtual, with delegates logging-in and participating from different parts of the world.

web-based sessions, invaluable knowledge was imparted, and best practices were exchanged.

The human cost of the pandemic is well documented. One way or the other, all of us have been affected. We have lost family, friends and colleagues. Many of us are fortunate to have survived the virus and should be thankful that our lives were spared. But we are not yet out of the woods and will do well to remain alert and take precautionary measures to stay safe.

For a body struggling with funding, the fact that all those impactful training sessions took place without the AORC having to spend a penny is a welcome relief. In the pre-Covid times, we would have had to dig deep into our pockets so that our Ombudsman and Mediators were able to travel to Durban, that they had a decent room in which to rest and freshen up, and that there was reliable transport to ferry them to and from the airport. This time around, we didn't have to worry about that, as all attendees participated from the comfort of their offices or homes.

The devastation which the pandemic continues to leave in its wake and the disruption of work as we knew it notwithstanding, we have got to appreciate the silver lining and be grateful that the pandemic has nudged us in the direction of technological

There are a lot of important lessons to draw from this experience. One of our historical overhead expenses as the AORC is travel and accommodation costs ahead of training sessions. COVID-19 has taught us that such sessions can be held virtually and remain just as effective as physical proceedings. The question that confronts us now is: "Do we need the physical training sessions?" This is food for thought. I would love to hear your views.

**Advocate Busisiwe Mkhwebane**  
 President: African Ombudsman and Mediators Association (AOMA)

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# Africa Day Message from the President of AOMA

As you all know, today we commemorate Africa Day in honour of the creation of the African Union's (AU) forerunner, the Organisation of African Unity, which was founded on this day, 57 years ago. The idea at the time was to establish guidelines for, and to facilitate strong relationships between independent African States.

“  
I dream of an Africa which is in peace with itself.  
– Nelson Mandela –



It was South African freedom hero and former president, the late, great Nelson Mandela, who once said: “*I dream of an Africa which is in peace with itself.*” As the Public Protector of South Africa and the President of the African Ombudsman and Mediators Association (AOMA), I feel the need to wish you a happy Africa Day, on this great day.

The day has since been repurposed into a Pan African Vision of working towards “an integrated, prosperous and peaceful Africa, driven by its own citizens, representing a dynamic force in the international arena”. As we are celebrating the day, we recognise the role that the African Union has played in making this continent a better place for all who live in it.

We must also acknowledge the contribution of the African Ombudsman towards this goal through the protection of people in each country against the violation of human rights, abuse of power, unfair decisions and maladministration.

Part of our duties as African Ombudsman is to ensure that all countries in the continent have an Ombudsman office, which will uphold the principle of a people-centred development, by holding governments accountable for their actions in relation to the effectiveness and efficiency of public service delivery. In so doing, we will gradually contribute to the AU's Agenda 2063: “The Africa We Want” vision, which prioritises the repositioning of Africa as a dominant player in the global arena, with inclusive social and economic development, continental and regional integration, amongst other issues.

As the African Ombudsman, we have our work cut out. One cannot overemphasise our role in respect of the Agenda 2063 aspirations, which focus on good governance, democracy, respect for human rights, justice and the rule of law, and peace and security.

The vision for AOMA, which now has 44 member institutions, including 4 sector-specific Ombudsman, is to advance the development of the Ombudsman institution

for the furtherance of good governance, the rule of law, and human rights in Africa.

We want to be a leading international Association of Ombudsman offices, practitioners and scholars dedicated to the promotion of open, accountable and people-centered democratic governance in Africa. This corresponds perfectly with the itinerary of both Agenda 2063 of the AU and the Pan African Vision, which are to be moved forward in order to boost Africa's economic growth and development and lead to the rapid transformation of the continent.

In Africa, we endorse the principle of an IsiZulu proverb, which says: “*Umntu ng'umuntu ng'abantu*”. Loosely translated, it means “I am because you are”. The development of our continent must be led by Africans in general without any discrimination along the lines of race, gender or social background.

Most importantly, this development must take place away from conflict and war, and with as much transparency as possible in the way that the African governments conduct themselves. These are some of the ways in which the African Ombudsman can contribute to a united Africa, alongside their fundamental commitment of restoring human rights and human dignity.

There is no Africa without its people, there is no development of Africa without the people of Africa, and there is no African transformation without its people.

As we commemorate this momentous day, let us remember that a silent and invisible killer known as COVID-19 is stalking the world and taking away thousands of lives. I implore you to adhere to the safety measures endorsed by the World Health Organisation. These include social distancing, sanitising our hands regularly, wearing face masks and getting tested as soon as we show suspicious symptoms.

Happy Africa Day!

# In Celebration of the Ombudsman Month

## Message from the Ombudsman of Nigeria

Nigeria's Ombudsman, Honourable Abimbola Ayo-Yusuf's message to mark the International Ombudsman Day

Today, October 14, 2021, marks the fourth annual International Ombudsman Day. The second Thursday of every October was first set aside by the American Bar Association in 2018 to recognize the Ombudsman institution which, over the years, has remained hidden and underutilized, despite being one of the oldest institutions in existence. The date has since been adopted by the International Ombudsman Association.



**Hon. Abimbola Ayo-Yusuf**  
Chief Commissioner (Ombudsman) Nigeria

Today the Nigerian Ombudsman Institution joins other countries of the world to mark this day with a message of peace and unity in line with this year's theme for the celebration: **Exploring Options to Resolve Conflicts Together**. The theme is apt and timely in view of current global happenings. Here in Nigeria, our country is faced with enormous challenges that threaten governance and our nascent democracy. Our existence is threatened daily by conflicts, and many of these conflicts have largely remained protracted.

The Ombudsman Institution is widely recognized as an effective device for curbing official abuse in public administration. It is a system which shows how the rule of law should be implemented to protect the rights of the people as enshrined in the Constitution and other laws and regulations. In performing its functions, the Ombudsman does not only check on the excesses of public officials but helps government to correct its errors that have been made involuntarily or otherwise, thereby ensuring good governance.

The Public Complaints Commission, the Nigeria's version of the Ombudsman, was established in 1975 and entrenched in the 1999 Constitution (as amended), specifically captured under S.315 (5) (b) of the Constitution - The Commission is empowered, by its enabling Act, to conduct proactive and reactive investigation into complaints lodged before it in

respect of administrative actions and inactions of the Federal, State, local Governments, public institutions and corporate companies.

The implication of these statutory provisions is that the Public Complaints Commission is vested with the responsibility of curbing and correcting all forms of unholy practices which, directly or indirectly, affects normal public administration in both private and public institutions. Through easy accessibility and simple conflict handling procedure, the Commission has, over the years, served as a veritable instrument that protects the citizens against abuse by those in power and helps the government to perform better by becoming accountable to the people.

Today, I call on all and sundry; government institutions, corporate organisation, non-governmental organisations, young and old, to put all hands-on deck and join in the country's search for resolutions to the many protracted conflicts that have plagued our peaceful co-existence as a nation.

I want to use this opportunity to urge all Nigerians to embrace peaceful means of resolving conflicts, such as those offered by the Public Complaints Commission, instead of resorting to violence. The Commission has Offices in all the States of the Federation and Local Government Areas and renders all its services free of charge.

Thank you.

# Countries Feedback on the Joint Effort with the Government to Fight Against COVID-19

The outbreak of COVID-19 has posed numerous challenges for Ombudsman offices and has made it extremely difficult to connect with vulnerable and marginalised citizens in society, in terms of access to public services. Thus, it was vital for the Ombudsman to work together with the government, not only to ensure that all measures put in place were monitored and executed by the entire population, but also that all services to less privileged and those impacted were delivered.

In a resolution adopted by the IOI Board of Directors on 18 May, 2020, the IOI speaks out on this issue and calls on all Ombudsman institutions to redouble their efforts and to play an active part in making sure fundamental rights are protected, the principles of a transparent and accountable public administration are upheld and individuals – especially

those from vulnerable groups – are not discriminated against. (Ref. IOI – <https://www.theioi.org/ioi-news/current-news/board-of-directors-adopts-resolution-on-covid-19>)

These are, among others, what African Ombudsman had to contribute to support the decisions of their governments in the fight against COVID-19:



## a. Niger

The Mediator of the Republic, in collaboration with Save the Children undertook national awareness campaigns in the Maradi region. The Sultanate of Gobir was the last stage of this campaign where Mr. Ali Sirfi Maiga, as he did in Tessaoua and Chadakori, asked the community leaders to work with their fellow citizens to ensure strict compliance with the preventive measures decreed by the Government, as the only immediate remedy to fight the Coronavirus pandemic. It is worth noting that hand washing demonstration sessions were held in the different sultanates as well as the distribution of hygiene kits to community leaders.



## b. Guinea

On April 19, 2020, the Mediator of the Republic invited all citizens to strictly respect hygiene measures to fight against the spread of COVID-19, following the deaths of Sékou Kourouma (Minister Secretary General of the Government) and Maître Salif Kébé (President of the CENI) due to this pandemic. While presenting his condolences to the president of the Republic for the loss of these high-profile personalities, His Excellency Mohamed Saïd Fofana, Mediator of the Republic of Guinea, presented his condolences to the President of the Republic, His Excellency Professor Alpha Conde, to the members of the Government and to the various bereaved families. At the same time, he wished a speedy recovery to all COVID-19 patients in the country and invited all citizens to strictly respect hygiene measures to fight against the spread of this pandemic.





## c. Zambia

In a public statement, the Public Protector, Hon. Caroline Sokoni joined the rest of the world in wishing all the workers a happy May Day (Labour Day), despite the COVID-19 pandemic. She expressed a great appreciation to all the workers at the frontline in the battle against COVID-19, in particular health care workers, for their sacrifice in ensuring that all citizens were protected, treated and cared for. She expressed a special recognition to the government for the commendable job in the coordination of the fight against the COVID-19 pandemic. She then urged all citizens to continue adhering to the guidelines provided by government, that is, social distancing, wearing face masks in public places and washing and sanitizing hands frequently, while expressing a great thanks to all individuals and organisations that have donated and continue to donate materials, including financial support, that is needed in the fight against this dangerous disease.



## d. Senegal

The Mediator of the Republic, the late Maître Alioune Badara Cisse, had resolutely committed himself to the fight against COVID-19, during an audience with the Head of State on March 27, 2020, within the framework of the consultation sessions between the institutions since the emergence and propagation of COVID-19. He had welcomed the first measures taken by President Macky SALL since March 14, 2020. He had also magnified the will and commitment shown by the Head of State in the fight for the eradication of this pandemic, with a rapid treatment of Senegalese suffering from the virus, inside and outside the national territory. The Mediator of the Republic welcomed the encouraging results obtained so far, before wishing that, in the end, the recurring calls from the first citizens to respect hygiene and cleanliness measures, would not be in vain.

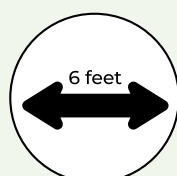


## e. Mozambique

In compliance with Presidential Decree No. 10/2020, of 25 March, the pardon, amnesty and pardon of sentences were granted by the President of the Republic, to minimize the rapid spread of COVID-19. From July to September 2020, within the scope of the Ombudsman's powers of Justice to inspect public institutions, staff from the Ombudsman's Office carried out working visits to the Provinces of Maputo, Gaza and Inhambane, specifically to the districts of Matola, Boane, Marracuene and Magude, Manjacaze, Chibuto, Guíja, Macia, Inhambane, Morrumbene, Massinga, Inharrime and Jangamo, with the support of the United Nations Children's Fund (UNICEF). These visits covered the District Governments, District Commands of the PRM (Police of the Republic of Mozambique), Registry and Notary Offices and Penitentiary Establishments, and aimed to inspect the compliance with Law No. 2/2020, of 06 April to evaluate the implementation of the preventive and protective measures against COVID-19. The character and role of the Ombudsman was disseminated so that the citizens were aware that they could use the services of this body, whenever they believed that their rights had been violated by the Public Administration, as well as checking the situation of any child which conflicted with the law. Specific messages were emphasized to Public Administration, employees and children in the context of the COVID-19 pandemic. Masks and hygiene products were also distributed to underprivileged children. As Isaac Chande - Provedor de Justiça de Moçambique said: *"We know where and when COVID-19 has started, but we don't know when it will end. Nor do we know how many people will be infected and how many more may die. We only live once. Hence, when we lose someone in our family, a friend or a person in our community, that person will never return to our fellowship. That is why, for the sake of cherishing each moment we have with our loved ones, we must all strictly observe the preventive measures taken by the competent authorities."*



Always use a mask



Social distancing



Wash your hands



Use hand sanitizer



Body temperature check

## Featuring Items

### a. Tribute

The years 2020-2022 were not easy. We have suffered the loss of many of our dear colleagues, more than ever before. We continue to offer our thoughts, prayers and best wishes to their families at this dark time. May they rest in peace. Our deepest sympathy goes out to the families of the following Honourable Ombudsman who passed away during the period 2020-2022:

- **Late Hon. Jacques Mbosso**, Mediator of the Central African Republic. He died on May 3, 2021. He was also the Coordinator of the Central African Region of AOMA.
- **Late Hon. General Facinè TOURE** former Mediator of the Republic (2011-2018). passed away on June 14 2021, at the Pasteur Clinic in Guinea due to illness. May he rest in peace.
- **Late Hon. General Günther Kräuter**: Former Secretary General passed on August 7, 2021 at 64 years of age. Deeply valued by his peers, he served admirably in the position of Secretary General from 2013 to 2019. Described by colleagues as calm and moderating, his leadership enabled the IOI to move ever closer to its ideals as a truly global, human rights-based organisation, ensuring justice and fairness for all. During his term as Secretary General, Mr Kräuter concurrently served as a member of the Austrian Ombudsman Board (AOB). In this role, he was responsible, among others, for social affairs, health care, youth and family.
- **Late Hon. Mrs. Fatou Njie-Jallow**, former Ombudsman passed away in August, 2021. A loss like this is heart-breaking. Our words cannot take away the pain of loss, but we hope the family and our colleagues in Gambia find solace knowing there are people who care about them. Deepest condolences.
- **Late Hon. Alioune Badara Cissé**, former Mediator of the Republic of Senegal, died on August 30, 2021. Mr Badara Cissé will remain known as a fervent defender of rights who set himself the goal of being an attentive ear for the people in the face of an Administration that is insensitive to the complaints of people.



Late Hon. Jacques Mbosso



Late Hon. General Facinè Toure



Late Hon. General Günther Kräuter



Late Hon. Mrs. Fatou Njie-Jallow



Late Hon. Alioune Badara Cissé

## b. Ombudsman who took Office in 2020-2022

### 1. Rwanda Ombudsman – Madeleine Nirere

Hon. Madeleine Nirere was appointed as the fourth Ombudsman of Rwanda on November 11, 2020 to replace Anastase Murekezi, who had held the portfolio since 2017. President Paul Kagame officiated the swearing-in on December 2. Nirere's previous duties included being at the helm of the National Human Rights Commission for two four-year terms that ended in May, 2022. She also worked in the Parliament in both chambers; as Deputy Secretary-General of the Senate in Charge of Legislative and Parliamentary Affairs, and as a Senior Legal Advisor to the Parliament (Transitional National Assembly) between 2000 and 2003. The Office of the Ombudsman acts as a link between the citizen, public and private institutions in the prevention and fighting of injustice, corruption and other related offences. Nirere has



Hon. Madeleine Nirere

master's degrees in Public Administration and International Human Rights Law and Criminal Justice.

### 2. Mali Mediator Mme Sanogo Aminata Mallé

The President of the Transition and Head of State appointed Mrs. SANOGO Aminata Malle, Mediator of the Republic, on October 13, 2020. She replaced Baba Akhib Haidara, who had been head of this institution since 2013. As the Mediator of the Republic, an independent authority, she intervenes in settling disputes between the Administration and the citizens. Since its creation, six Mediators have succeeded each other. Sanogo Aminata Malle is the third woman to have headed this independent administrative structure since its creation. Until her appointment as Mediator of the Republic, she was the Secretary General of the Government with the rank of Minister from 2017.

Born in 1957 in M'Pèssoba, circle of Koutiala in the Region of Sikasso, Mrs Sanogo Aminata Malle is an exceptional magistrate and was former Minister of Justice between 2015 and 2016. From 1976, she studied at the University of Dakar, now Cheick Anta Diop, where she graduated at the top of her class with a master's degree in Legal Sciences, judicial option. Sanogo Aminata Malle has served her country at several levels of responsibility. Graduated from the National Training Centre for Magistrates in 1983, she began a rich career as a magistrate which led her to work in international institutions, including the Court of Justice of the Economic Community



Mme Sanogo Aminata Mallé

of West African States (ECOWAS) 2001-2009, of which she was President for two years. Previously, she had a brilliant judicial career at the national level as an investigating judge, deputy public prosecutor, court president, etc. Returning to Mali, Mrs. Sanogo Aminata Malle was appointed, in August, 2010, as Technical Advisor to the Cabinet of former Prime Minister Modibo Sidibe, where she held the position of Head of the Governance Unit, until her appointment as head of the Ministry of Justice in 2015.

### 3. Burkina Faso – Mme Fatimata Sanou, née Touré

The Mediator du Faso - Magistrate Fatimata Sanou, née Touré, was appointed Mediator of Burkina Faso by the President of Burkina Faso on November 26, 2021. She replaces Saran Sérémé who resigned on September 29, 2021, after four years as the head of the institution. A graduate in development law from the International Development Law Organisation (IDLO) in Italy (ROME) in 2007, Magistrate Fatimata studied for a bachelor's and a master's degree in legal sciences from the Faculty of Law and Political Science, University of Ouagadougou, with a Judicial Law option from 1997-1999. The theme of her thesis was "The individualization of criminal sanctions". From 1984 – 1988, she received a Baccalaureate in the literary series A4 from the Ouezzin Coulibaly High School (BOBO DIOULASSO) and completed several other training certificates.

She is a magistrate with proven expertise in Criminal Law, Criminal Procedure, International Criminal Law, International Humanitarian Law and Civil Law. Her other qualifications include, among others, President of the Association of Women Lawyers of Burkina Faso (2013 to 2017), founding member of the Network of African Women Leaders for the Promotion of Sexual and Reproductive Health and Family Planning, Representative of the Organisations for the Defence and Promotion of Human Rights at the Economic and Social Council (CES) of Burkina Faso from 2012 to 2021; Deputy Rapporteur of the Constitutional Commission in charge of drafting the constitution of the fifth republic of



Mme Fatimata Sanou

Burkina Faso in 2017, and participated in the review of the new penal code in 2018 and the new code of criminal procedure in 2019. Her professional experience at the national and international level includes, but is not limited to: President of the Chamber of the Court of Appeal of Ouagadougou (October 2015 to November 2021); President of the Tribunal de Grande Instance of Ouagadougou, the largest court of the first degree of the judiciary in Burkina Faso

(October 2012 to October 2015); Chief Instructing Judge with the rank of Vice President of the High Court of Ouagadougou (October, 2007 to July, 2012); Instructing Judge of the High Court of Ouagadougou (October, 2002 to July, 2007); Deputy Public Prosecutor of the Tribunal de Grande Instance of Ouagadougou (October, 2001 to June, 2002); Deputy Public Prosecutor of the Tribunal de Grande Instance of Ouahigouya (October, 1999 to June 2001); Judge accredited in the United Nations system; Representative of the African Group in the Women's Consultative Council of the Organisation of Islamic Cooperation (OIC) since 2019; Vice-President of the Foundation for the Study and Promotion of Human Rights in Africa (FEPDHA) from 2013 to 2017 ; and 2017 to 2019 : Participation in the International Conferences organized in New York by the United Nations on the status of women; 2014/2015: Participation in the International Conferences on Population and Development (ICPD) organized by the United Nations in New York.

### 4. Nigeria – Hon. Abimbola Ayo-Yusuf

New Public Complaints Commission of Nigeria - Chief Ombudsman, Hon. Abimbola Ayo-Yusuf assumed office on July 5, 2021 as the Chief Commissioner of the Public Complaints Commission Nigeria taking over from Hon. Chille W. Igbawua.

Hon. Abimbola Ayo-Yusuf was born in 1965. He studied from elementary to secondary education in Lagos State (1967-1982). He went to the University of Lagos where he graduated with a bachelor's degree (B.Sc.) in Mathematics in 1988. He proceeded to Oyo State for his National Youth Service Corps (NYSC) primary assignment at University Press, Ibadan, as a mathematics editor. Hon. Abimbola Ayo-Yusuf is a shrewd businessman and a key player in major sectors of the Nigerian economy. He is a consummate bridge builder



Hon. Abimbola Ayo-Yusuf

and a suave political figure in Surulere Federal Constituency in Lagos State. He is a great leader and philanthropist, and, as such, received an award for being an inspirational role model to the youth in Nigeria from a frontline NGO. He was a board member of Agriculture, Lagos State. He has been supporting the Nigerian Police Force as a Patron to the Police Community Relations Committee (PCRC) by contributing his part to the peace, security and safety of lives and properties in Nigeria. He was the immediate past Hon. Commissioner of the Public Complaints Commission, Lagos State Office, a position he held for three years. He is an accomplished Ombudsman renowned for his dedication to systemic investigation of complaints.



## 5. Uganda – Hon. Beti Kamy Turwomwe

Hon. Beti Kamy Turwomwe was appointed as the Inspector General of Government (IGG Uganda) in September 2021. As the head of the institution, the IGG provides guidance on the functioning of the office and therefore, authorises and supervises investigations of cases of corruption, issues reports of investigations, bank inspection orders, witness summons, warrants of arrest, authorises prosecutions, issues orders/directives in the course of, or as a consequence of, investigations and issues IG Parliamentary Reports among numerous other activities. She holds a Bachelor of Commerce Degree from Makerere University and numerous professional trainings in finance, business, marketing, management, accounting, human resource management, procurement and entrepreneurship. She has previously worked as Minister for Lands, Housing and Urban Development, Minister for Kampala Capital City and Metropolitan Affairs, Member of Parliament for Rubaga North Constituency, Executive Director, Uganda Wildlife Education Centre, Marketing and Promotions Manager, Uganda Breweries Ltd, Marketing



Hon. Beti Kamy Turwomwe

Research and Development Manager, NYTIL, Commercial Manager, Uganda Leather and Tanning Industries Ltd among others. She espouses strong Christian values of loving God, loving and caring about fellow people; patriotism, Pan-Africanism and humanism; honesty, justice, trustworthiness and dependability; constitutionalism and rule of law.

## 6. Malawi – Ms. Grace Tikambenji Malera

Hon. Grace Tikambenji Malera was appointed as Ombudsman of Malawi effective from September 1, 2021. She is a lawyer with expertise in human rights with 19 years' work experience, working with both state and non-state institutions. She has worked across the governance sector in Malawi, on a range of thematic areas including broad human rights, gender and women's rights, children's rights and access to justice. She holds a Bachelor of Law Degree (LLB Honours), from the University of Malawi, Chancellor College in 2002, and graduated from the University of the Free State, Republic of South Africa with a Masters of Laws Degree (LLM) in 2007. She was called to the Malawi Bar in 2002, to practice law in both the Supreme Court and High Court of Malawi, and courts subordinate thereto. She has vast experience working with regional and international human rights mechanisms at the African Commission and United Nations levels respectively. She served as a member of the Special Law Commission on the Review of Electoral Laws (2016/2017), as well as a member of the Special Law Commission on the development of the Trafficking in Persons Legislation. She is an exceptional human rights and gender advocate. She is an architect of some



Ms. Grace Tikambenji Malera

NGOs working in governance, as well as in the advancement of women's rights, and serves on several boards of Malawi NGOs for human rights. She is passionate about using the law as a tool for social change and attainment of social justice and gender equality and inclusion. In 2019, Grace was the Moderator of Malawi Presidential Debate ahead of the 2019 Malawi Tripartite Elections.

## 7. Benin – Pascal Essou

Appointed by the Council of Ministers on May 12, 2021, Pascal Essou, the Mediator of the Republic replacing Joseph Gnonlonfoun, took office on May 19, 2021. Former deputy at the National Assembly and former activist of the Renaissance of Benin, Pascal Essou, born on June 25, 1956, is a political leader from the town of Aplahoué in the department of Couffo. His academic training consists of a Master's Degree in Economics, Business Management Option, at the University of Abomey-Calavi, formerly the National University of Benin, where he obtained his Baccalaureate D series. His professional experience includes among others: Member of the National Assembly of Benin, 7th Parliament, President of



Pascal Essou

the parliamentary group on Taxation, Customs and Trade, Member of the Interparliamentary Committee of the West African Economic and Monetary Union (WAEMU) from 2015-2019; Member of the National Assembly of Benin, 6th Parliament from 2011-2015; Company Director and President of the National Importers of Construction Materials (INMAC) from 1993-2011; Director of Supplies of the Onigbolo Cement Company from 1983-1992; and Manager of the Stores and Boutiques of Barron Levesque Enterprises from 1982-1983. He is also the President of the Association of Importers of Construction Materials of Benin from 1993 to date.

## 8. The Gambia – Hon. Bakary K. Sanyang

Hon. Bakary K. Sanyang was appointed Ombudsman of The Gambia on April 1, 2020. He was Governor of the West Coast Region from January 1, 2018 to March 31, 2020 representing the President and the Central Government in the Local Government Area. In addition to coordinating the administration of central Government services, his duties also included accessing and reviewing records of District Tribunals and, where necessary, revising any proceedings and issuing orders for retrials. Hon. Sanyang was a Consultant on Domestic Taxes at the Customs Department of Economic Community of West African States (ECOWAS), Abuja from August 2013 to July 2017 assisting in the implementation of the Fiscal Transition Programme which included the harmonization of taxes and reform activities within Member States. He is a former Commissioner General of The Gambia Revenue Authority and served in that position from December 2010 to June 2012 and, before then, the Commissioner of Domestic Taxes from 2006. Hon. Sanyang served a total of 38 years in The Gambia Tax Administration



Hon. Bakary K. Sanyang

in different positions including heading, at the time, a newly created Large Taxpayers Unit as a Deputy Commissioner of Taxes. He played a leading role and effectively participated in the tax reform processes which led to the creation of The Gambia Revenue Authority in 2006 and implementing the ECOWAS Directive of establishing a Value Added Tax (VAT) in The Gambia.

He successfully completed numerous tax programmes in the U.K, Ghana, Malaysia, Taiwan and finally a Graduate in International Taxation (ITP) at Harvard University, USA in 2004. This was also followed by an Executive Education Certificate program from the Harvard Kennedy School of Government in 2006.

He also regularly represented The Gambia at several international tax seminars and technical conferences and served as Director of the Northern Region of The Commonwealth Association of Tax Administrators (CATA) from 1989 to 2001.

## 9. Madagascar – Me. Lala Ratsirahonana

Adv. Lala Ratsirahonana was appointed Ombudsman (Defender of the People) in May 2021. At 59 years of age, he is a lawyer and former Member of Parliament of Madagascar and is married and a father of 4 children. He holds Master's degrees in private and public law and has taught constitutional law and administrative law at various universities and at the National Gendarmerie Officers School. A



Me. Lala Ratsirahonana

former member of various boards of directors of state-owned companies, he was also a national legal consultant for international organisations including the UNDP and the European Union. Before his appointment to the Mediator's office, he was a technical advisor to the Minister of the Environment and a legal advisor to the President of the Senate of Madagascar.

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## 10. Djibouti – Hon. Monsieur Ahmed Cheick

The Mediator of the Republic of Djibouti, Mr. Moumin Ahmed Cheick, was appointed Mediator of the Republic, on May 27, 2021, to succeed Dr. Kassim Issak Osman, for the next five years. He obtained his Baccalaureate B Series at Saint-Étienne, France in 1986. He completed his university studies in Quebec, Canada, where he obtained a master's degree in Business Administration. He continued in another field and obtained a DESS in Finance. He was recruited by the District of Djibouti until 2000, as Chief of Cabinet of the Commissioner, in charge of the management of the Occupation of the Public Domain and the drafting of specifications of settlement sites.

In 2000 on creation of the Chamber of Accounts and Budgetary Discipline, he was appointed as a judge to this



Hon. Monsieur Ahmed Cheick

financial jurisdiction until January 2006. From 2006 to 2009, he was appointed General Manager of "Nouvelle de Commerce" (a factory for the production and sale of marble and synthetic stone). Then, from 2009 to February 2012, he held various responsibilities at the Ministry of Justice and Penitentiary Affairs, including that of Director of Communication and New Technologies, Information and Documentation. In 2012, he was appointed Prefect of the City of Djibouti (the capital) before

being appointed Minister of Justice on May 12, 2016. During his tenure, he developed the civil and procedural codes. In May 2019, he was appointed Minister of the Interior where, during his term, he developed the biometric passport and the national identification number.

## 11. Egypt – Ambassador Moushira Khattab

The Egyptian House of Representatives selected Ambassador Moushira Khattab as the new president of the National Council for Human Rights (NCHR). She has held several high-level diplomatic posts and was Egypt's candidate for Director General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2017, but was unsuccessful, losing to her French rival, Audrey Azoulay.

On the same day, Ambassador Mahmoud Karem was selected as vice president of the NCHR. Karem served as Egypt's ambassador to the European Union and was previously a member of the NCHR. Established in 2003, the NCHR is composed of twenty-seven members, including the president and vice president.

Nehad Lotfy Aboul Qomsan, an Egyptian activist in women's rights and widow of renowned politician Hafez Abu Saada, was selected as a member of the NCHR. Other new members selected were George Ishak Gerges, Hany Ibrahim Fahmy, Ghada Mahmoud Hamam, Noha Talaat Abdel Latif, Samira Luke Daniel, Mohamed Esmat El-Sadat, Dina Hisham Abbas, and Ismail Abdel Rahman Mohamed. Members included journalist Ezzat Youssef Ibrahim, doctors Mohamed



Ambassador Moushira Khattab

Anas Qassem, Mohamed Sameh Bandar, Hoda Ragheb Awad, Nevin Abdel Moneim Mosaad and Noha Ali Bakr, and lawyers Abdel Gawad Ahmed Ahmed, and Rabeha Fathy Shafik.

Members on the NCHR include lawyers Essam El-Din Ahmed Taha, Saeed Abdel Hafez Darwish, Mohamed Mamdouh Galal, Alaa Sayed Shalabi and doctors Ayman Gaafar Ahmed, Walaa Gad El Karim, Mahmoud Mohamed Saad Metwally, and Wafaa Benjamin Mitri.

## 12. Tanzania – Hon. Mathew Pauwa Mhina Maemi



Hon. Mathew Pauwa Mhina Maemi

Hon. Mathew Pauwa Mhina Maemi is the Current Chairman of the Commission for Human Rights and Good Governance and the Ombudsman of the United Republic of Tanzania (URT). He is a retired High Court Judge. He worked in the Office of the Attorney General URT as Director of

Constitution and Human Rights; Member of the Secretariat to the Constitutional Review Commission; Member of the African Peer Review Mechanism. His education includes a Bachelor of Laws at the University of Dar es Salaam, Tanzania, a Diploma in Education, and some short courses; Training Course in Human Rights and the Administration of Justice, Dar es Salaam, Tanzania; Human Rights Reporting Seminar, Copenhagen Denmark; Short Course on Human Rights in Africa, University of Pretoria, South Africa; Training on Tanzania State Reporting Obligations under International Human Rights Treaties, organized by the then Ministry of Justice and Constitutional Affairs in collaboration with Raoul Wallenberg Institute of Human Rights and Humanitarian Law and UNDP – 2004; and Workshop on HIV/AIDS and Human Rights for Magistrates and State Attorneys – Dar es Salaam, Tanzania 2003.



## c. Angola and Cape Verde Sign Cooperation Agreement

Ombudsman of Angola and Cape Verde signed a cooperation agreement with the aim of strengthening the relationship between the two institutions and encourage the exchange of experiences for the defence of citizens' rights, freedom and guarantees. Under the terms of number 3 of article 2 of the Organic Law of the Statute of the Ombudsman of Angola, Law No. 29/20, July 28, the Ombudsman ensures cooperation with related institutions and international organisations within the scope of defending and promoting the rights, freedoms and guarantees of citizens. It was in this context that, considering the historical ties between Angola and Cape Verde and awareness that there are areas in which it is possible to develop cooperation and dialogue with homogenous institutions, the Ombudsman of the Republic of Angola, Hon. Antónia Florbela de Jesus Rocha Araújo, signed an agreement of cooperation with the Ombudsman of Cape Verde, Hon. Jose Carlos Delgado. This agreement intends to achieve the following objectives:

- a. Sharing of experiences and good practices of intervention procedures and strategies that have shown good results at the level of the Ombudsman of Angola and Cape Verde.
- b. Periodic exchange of publications, computerized educational materials, as well as studies on the Ombudsman's interventions.
- c. Exchange of information, legislation and documents relevant to each of the parties.
- d. Exchange of programmes and means that can best serve to promote and defend the rights, freedoms, guarantees and legitimate interests of citizens.
- e. Exchange of employees of its competent services for the study of administrative and procedural techniques used by each of the parties.
- f. Foster the link between the Ombudsman of Cape Verde and Angola with the Ombudsman of African countries.



Luanda, Angola Hon. Antónia Florbela de Jesus Rocha Araújo, Ombudsman of the Republic of Angola and Cidade da Praia, Cabo Verde, Hon. José Carlos Delgado, Ombudsman of the Republic of Cape Verde

- g. To facilitate access by the citizens of each of the parties to the respective Ombudsman; the agreement also calls for actions to be taken in order to respond to the demands of citizens, with the greatest possible speed and quality. The signing of the cooperation agreement was witnessed, by both parties, via virtual means, due to the restrictions imposed by the COVID-19 pandemic, the Angolan part being located on the 11th floor of the Palace of Justice building, Cidade Alta, in Luanda, and the Cape Verdean part located in the Santiago area, Avenida da China, Cidade da Praia, Cape Verde.

With the signing of the cooperation agreement, an act witnessed by the national press and the diplomatic community, a new stage was opened in the working relations between the two parties, whose common object is the protection of the fundamental rights of the citizens of the respective countries.

**Prepared for:** The International Ombudsman Institute (IOI) - African Ombudsman and Mediators Association (AOMA) African Ombudsman Research Centre (AORC). Institution of the Ombudsman of the Republic of Angola, Luanda, September 20, 2021.



## d. Burundi Observes Elections in Egypt

Report of the Electoral Observation Mission carried out by His Excellency the Ombudsman of the Republic of Burundi in Cairo, Egypt

Within the framework of the implementation of the African Charter on Democracy, Elections and Governance with a view to contributing to the Objectives of the African Union, the members of the African Ombudsman and Mediators Association (AOMA) participate in electoral observation missions.

Since elections play a major role in strengthening democratic principles and values and are the entry point for accountable governance, Ombudsman institutions take a keen interest in electoral processes and often participate in monitoring and observation missions in order to promote electoral integrity as a precursor to respect for the law.

In order to achieve this objective, as a continental cooperation organisation of Ombudsman institutions with a mission to advance good governance, human rights and the rule of law in Africa; AOMA mandated the Honourable Edouard Nduwimana, Ombudsman of the Republic of Burundi, to represent them in carrying out an electoral

observation mission in Cairo, Egypt from November 7 to 8, 2020. This will contribute to the promotion of good governance by following administrative practices, integrity, transparency and proper management of the electoral process.

During this visit, Honourable Edouard Nduwimana also had the opportunity to meet with different actors and partners:

### Interview with Mohamed Fayek, President of the Human Rights Council

The visit of His Excellency the Ombudsman of the Republic was initiated by a meeting with his host, Mohammed Fayek, President of the National Council for Human Rights. They

“Since elections play a major role in strengthening democratic principles and values and are the entry point for accountable governance, Ombudsman institutions take a keen interest in electoral processes and often participate in monitoring and observation missions in order to promote electoral integrity as a precursor to respect for the law.”

mainly focused on the crucial role of elections in the promotion of governance and democracy, and on the strengthening of long-standing bilateral cooperation between Burundi and the Arab Republic of Egypt. Mohamed Fayek welcomed the Ombudsman of the Republic in the Arab Republic of Egypt, especially for this important electoral observation activity. Mohamed Fayek asked the Honourable Edouard Nduwimana, to see the possibility of jointly organizing an activity which would bring together the Ombudsman of the East and those of the Horn of Africa. The two personalities also expressed their wish to see the Arab Republic of Egypt host the next General Assembly of the Association of African Ombudsmen and Mediators at the end of 2021, once there is a slowing down of the COVID-19 pandemic on a global scale. The Ombudsman of the Republic was delighted as the National Council in Egypt’s governing law gives it the power to monitor elections. The Ombudsman indicated that he would share this legal practice with his peers, and, if necessary, ask that the other Institutions, members of AOMA, insert it into their legislation.

### Exchanges with the President of the National Authority for Elections in Egypt

During this electoral observation mission, the Ombudsman of the Republic met the President of the National

Authority for Elections (ANE) in Egypt, Lachim Ibrahim. As representative of AOMA, the Ombudsman of the Republic of Burundi congratulated the President of the National Authority of Elections for the professional and technical organisation of the elections. He appreciated the gradual collection of provisional results as they reach the relevant authorities. Hon. Nduwimana also expressed his support and congratulated the Egyptian people for their wisdom and commitment shown during the electoral campaigns, particularly in safeguarding peace and security which are the prerequisites for a peaceful and credible electoral process. Lachim Ibrahim welcomed the AOMA’s presence in Egypt to observe the electoral process, and, in particular, the Ombudsman of Burundi, and the ties of friendship and close cooperation between the two countries. He said that their Authority manages, observes and follows the entire electoral process in Egypt, and added that 63 million voters were automatically registered in the databases of the National Elections Authority in Egypt from the age of 18. However, he deplored the low voter turnout shown.

### Audience at the Deputy Minister of Foreign Affairs

The Ombudsman of the Republic of Burundi, Hon. Edouard Nduwimana, met the Deputy Minister of External Relations, Hamdy Loza. During this interview, Hon. Nduwimana asked the Deputy Minister of Foreign Affairs in Egypt to propose that AOMA move from observer status to consultative member status with the African Union, given its role as a bridge between the administration and the citizens. The Ombudsman of the Republic indicated that relations between Burundi and Rwanda had deteriorated in 2015 and this country still hosts the leaders of the extremist opposition and the planners of the failed coup of May 13, 2015. Nevertheless, Burundi remains ready to resume cooperation with its neighbour on certain conditions, which is why the two ministers in charge of cooperation met recently on the common border.

### Visit to the Middle East News Agency

The Ombudsman’s stay in Egypt was marked by his visit to the Middle East News Agency. The Ombudsman of the Republic spoke with the president of this agency on the role of the media in promoting the electoral process and individual freedoms. The Ombudsman urged the media to make synergies during the election period and urged journalists to relay messages on citizenship education, inviting voters

to go to the polls in large numbers, to preserve peace, to avoid clashes at polling stations, etc. The Ombudsman rightly appreciated the work of the media in the electoral process, especially their immeasurable role in the promotion of democracy. He indicated that the Middle East News Agency is efficient and requested that it provide support to the Burundian media. This agency is doing a good job and can share its experience with other African media. Ali Hassan, President of the Middle East News Agency, welcomed the Ombudsman of the Republic of Burundi. He said that his country and Burundi have close and historical relations. Created in 1954, the agency has 700 employees, including 350 journalists and reporters, scattered throughout the country to cover all the various activities. Mr. Ali HASSAN said that the media in Egypt followed the electoral process from the beginning and pledged to work towards the promotion of the stability of the country.

### Meeting with Naela Gabr

Hon. Edouard Nduwimana, also met with the President of the Coordination Commission for the Fight against Clandestine Immigration, Naela Gabr. Together, they discussed work related to human rights principles. They lamented deaths that occur as migrants tried to cross African shores to Europe. They touched on the involvement of several stakeholders in human trafficking. It is not only the traffickers but also the investors, they pointed out. Hon. Nduwimana welcomed the initiatives of the Egyptian authorities who have put in place laws protecting vulnerable people. As part of the promotion of human rights, the two people expressed their

wish for a future meeting bringing together AOMA and the Coordination Commission for the Fight against Clandestine Immigration. The objective of the meeting will be to induce our facilitators to plead with and invite their governments to imitate Egyptian legislation. They are very influential and remain spokespersons for their citizens. Considering increasing global statistics of human trafficking, they pleaded for synergy and global solidarity, by organizing several meetings in order to put an end to this practice.

The Electoral Observation Mission carried out by Hon. Nduwimana was of paramount importance for AOMA, because, during the exchange sessions with various partners, the Ombudsman of Burundi had the opportunity to explain the missions of AOMA and its main desiderata; mainly the promotion of democratic values and good governance in Africa. It was also a good opportunity to renew ties between the Institution of the Ombudsman of Burundi and the National Human Rights Council, which accepted without delay the signing of a Memorandum of Understanding between the two institutions with a view to sustain this cooperation. The visit also allowed the Ombudsman of the Republic to initiate several useful contacts for Burundi and AOMA, which require follow-up. Nevertheless, it is to be deplored that the electoral observation mission led by the Ombudsman of Burundi was unable to visit several polling stations because the request was submitted late. Hon. Nduwimana has encouraged AOMA to continue its commitment to election observation. This allows both its visibility and the strengthening of the capacities of the members.



# AORC / AOMA Meetings

## a. 20<sup>th</sup> Board Meeting – Virtual

The AORC 20<sup>th</sup> Board meeting was held virtually on October 7, 2020 via Zoom. Board Members present were Adv. Busisiwe Mkhwebane (Chairperson) - Public Protector - South Africa; Prof. Managay Reddi - Dean (School of Law, UKZN) South Africa; Hon. Florence Kajuju Chairperson of the Commission of Administrative Justice, Kenya and General Secretary – AOMA; Professor Brian McArthur Deputy Vice-Chancellor and Head (Acting): College of Law and Management Studies; Ms Yalékile Lusibane – Acting CEO: Public Protector South Africa; Hon. Nduwimana Edouard – Ombudsman of Burundi and Adv. John Walters – Ombudsman of Namibia. An apology was received from Hon. Dr. Kassim Issak Ousman – Ombudsman of Djibouti.

The meeting commenced at 10am and the Chairperson welcomed all present to the Board meeting and stated that 2019 was a busy year. The Board was scheduled to meet in Nigeria in November 2019 but could not do so due to the lack of quorum. Earlier in 2020, the Board could not meet due to the challenges posed by the COVID-19 pandemic. It would have been ideal to meet before the AOMA EXCO but that was not possible. Issues requiring the Board's attention were resolved via a round robin process. Prof. Reddi and Prof. McArthur were thanked for providing leadership and overseeing the day-to-day activities of AORC when it was needed the most. The Board thanked the AORC team for all their hard work.

On matters arising from the previous meeting, the key focus was:

**Appointment of Project Manager:** The Project Manager's responsibilities had been finalised by the previous CEO of PPSA and the Secretariat in Kenya, from the Office of the Ombudsman in Kenya. The Project Manager would be an employee of AOMA based at AORC.

**Moving of AOMA secretariat to AORC:** Board members agreed on a proposal from AORC to allow the person, who is acting as a support to the Secretary General, to conduct the move, which possibly might be cheaper. The support person from Kenya would come to work with the AORC team for a limited time.

**AORC Staff Contracts:** the staff were advised that the Board had resolved that their contracts would be extended until April 30, 2021.



**AORC Funding:** Various letters requesting funding were written to various funders. None of these interventions have borne any fruit to date. PPSA was asked to write a letter to ascertain DIRCO's standpoint on the funding proposal.

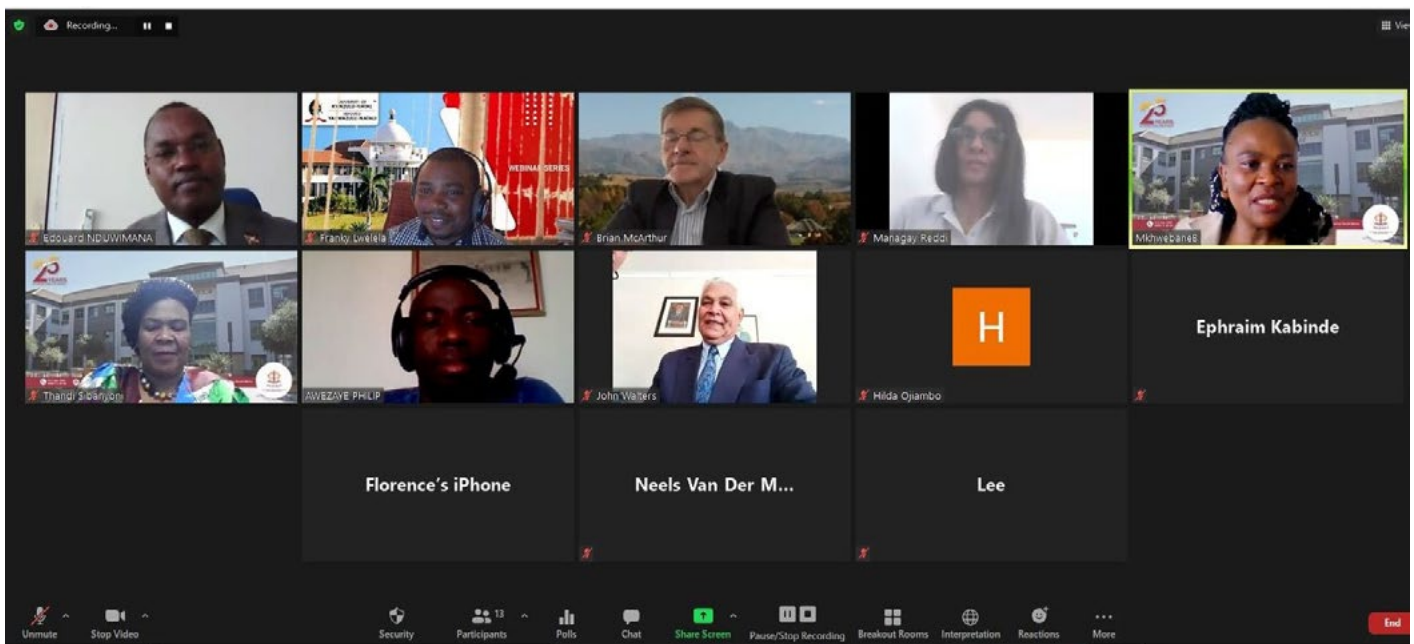
**CIPC changes (Directors):** The Board resolved that CIPC would be updated once permanent appointments were made.

**Tax Application:** The Board appointed a Public Officer via a round-robin process. The Public Officer would apply for tax exemption on behalf of the entity. The appointment of the Public Officer was ratified by the Board.

**Researcher Consultant:** The AORC Board resolved that the centre, at this point, was not in a position to make a permanent appointment for the Research Manager position. It was further resolved consultants be appointed, as and when the need arose, to assist with future research projects and academics from within the university could possibly be appointed to manage different research projects at the prescribed rates of the University.

**Next AORC Research (Antecedents):** AORC commenced with the desktop research on the antecedents. The research on Burundi has been completed and has been sent to the Burundi Ombudsman Office for their feedback. The plan is to feature a country or two at a time in the newsletters. Once all the antecedents have been completed, AORC will present them, as a booklet, in the newsletter format.

Starting at 10am, Meeting closed at 13.30.



## b. 21<sup>st</sup> Board Meeting

The AORC 21st Board meeting was held virtually on May 14, 2021 via Zoom. Board Members present at the meeting were Adv. Busisiwe Mkhwebane (Chairperson) - Public Protector - South Africa; Prof. Managay Reddi - Dean (School of Law, UKZN) South Africa; Hon. Florence Kajuju Chairperson of the Commission of Administrative Justice, Kenya and General Secretary – AOMA; Professor Brian McArthur, Deputy Vice-Chancellor and Head (Acting): College of Law and Management Studies; Ms Thandi Sibanyoni – CEO, Public Protector South Africa; Hon. Nduwimana Edouard – Ombudsman of Burundi and Adv. John Walters - Ombudsman of Namibia. An apology was received from Hon. Dr. Kassim Issak Ousman – Ombudsman of Djibouti who resigned from office on May 10, 2021.

The Chairperson commenced the meeting at 10am by thanking everyone for attending during these trying COVID-19 times. She advised that the Board would continue observing the COVID-19 protocols and that this Zoom platform had made it innovative and to think out of the box because meetings could now take place without having to travel to other countries, thereby saving on the very minimal budgets which organisations had. She also thanked UKZN representatives for taking time to meet, and for always being there to support the AORC team. She thanked the Secretary General of AOMA for travelling all the way from Kenya to South Africa, especially to deal with the merger of the Secretariat and the handover plan so that the AOMA Secretariat could be based within the AORC Centre. This would also assist with streamlining processes, saving on costs

and all documents being kept at one centre, which would be the repository going forward. The minutes, the financials and all relevant documents would be kept at AORC per the AOMA Constitution. She thanked the AORC team for good and timeous preparations and for documents being sent on time for perusal by board members.

From the matters arising from the previous meeting minutes, the key discussions were around:

**The merger of AOMA secretariat with AORC:** It was advised that there is an AOMA meeting on May 17, 2021, which would confirm what approach would be taken as far as the Secretariat was concerned. The Secretary General also confirmed that the legal teams had been working on the MOU to establish what amendments would be necessary for purposes of the merger. She advised that a technical team was working on that and that they would forward it, for input from UKZN.

**The AORC Funding:** Members were informed that the response from DIRCO was not very positive. DIRCO raised concerns about the sustainability of the AORC. PPSA referred the DIRCO response back to the AORC for assistance with the business plan or business case that was presented to DIRCO. It was advised that PPSA would meet with AORC staff in the week following the board meeting to look at the revision of the MOA and the impact of it being a single body with a dual mandate. Thereafter, PPSA would resubmit the business case to the Chairperson, or through the board, to DIRCO for reconsideration.

**The Publishing of AORC Annual Report:** Approved in April, 2021 for ratification. Round-robin decision ratified the report.

**The SAMO Symposium collaboration:** Members were advised that SAMO had approached AORC for assistance with their symposium by providing technical expertise which they had had from hosting webinars. The Board resolved that AORC staff will assist with the SAMO symposium.

The AORC activity report was read giving updates on research, information, capacity building, and advocacy. Reacting to the report, members concluded that “Conflict Resolution” training be done virtually, considering the success of the webinars. Prof. Reddi advised that UKZN would be able to support AORC in setting up e-learning because it had been working really well at UKZN for a while now, in respect of all the teaching and learning, which has been moved to online platforms and to remote methodologies.

Board members also concurred to a suggestion from the Ombudsman of Burundi who was in the process of organising a training session on how to resolve the conflicts of women leaders. He advised that they already had the support of the secretariat from the office of the UN in the Great Lakes regions and would like to collaborate with AORC to organise the training, either virtually or physically.

Board members were informed about the departure of some members. Adv. Walter’s term of office would come to an end in June and Dr. Kassim Isaak’s term came to an end on May 10. The Chairperson proposed a 30-minute session with them to celebrate them and to give them messages or gifts as a reminder that they were part of the AORC Board. She advised that she did not mind it coming from her pocket. A certificate, or something similar, could be designed which would be a reminder to them for their service. She also advised that their leaving should also be placed as an item at AOMA EXCO so that it could be decided which other Ombudsman could replace the two on the AORC Board.

Starting at 10am, meeting closed at 13.30

## c. 19<sup>th</sup> AOMA EXCO

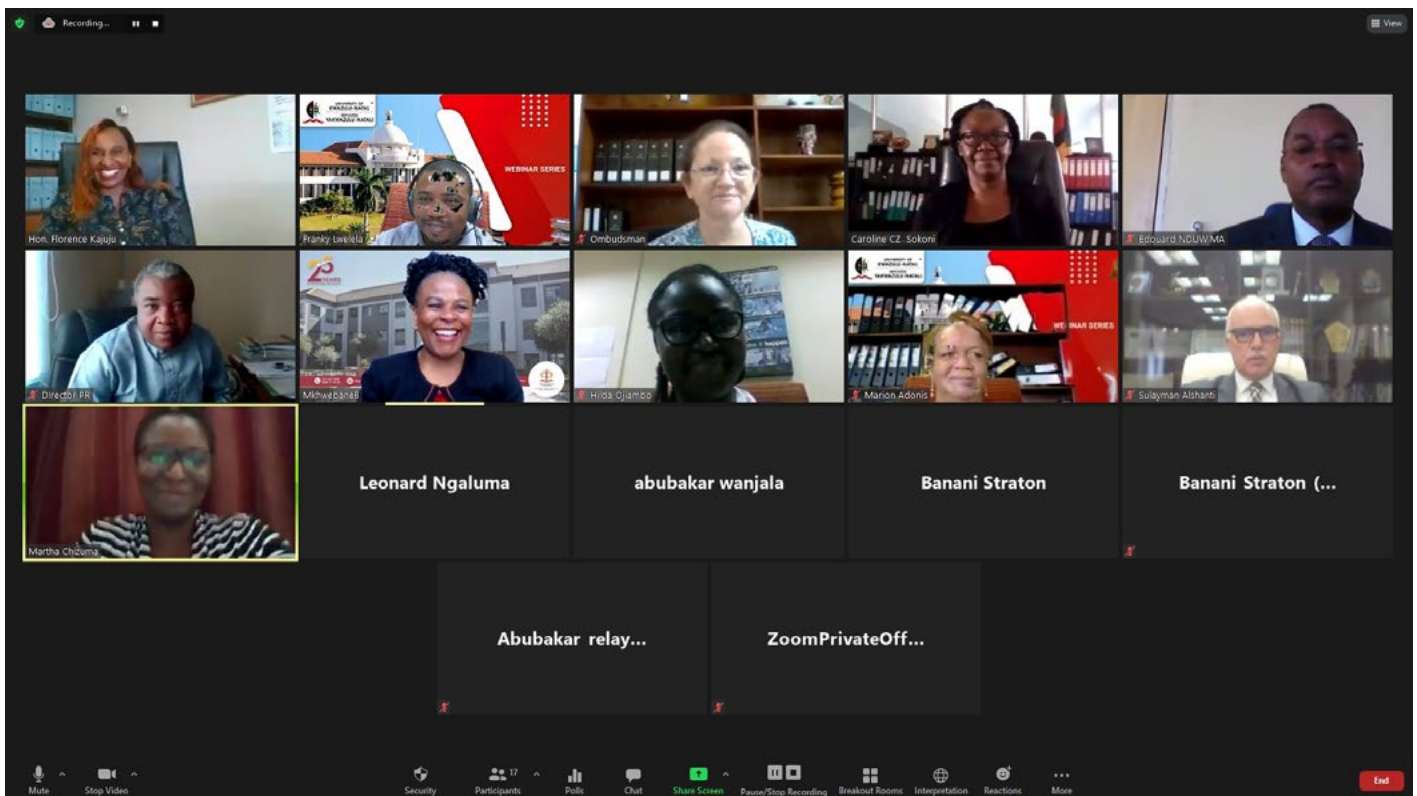
The 19th AOMA EXCO was held virtually on May 17, 2021. EXCO Members present at the meeting were Hon. Adv. Busisiwe Mkhwebane – President, South Africa; Hon. Sulayman Alshanti – 2nd Vice President, Libya; Hon. Florence Kajuju-Secretary General; Kenya; Hon. Nichole Tirant-Gherardi – Deputy Secretary General, Seychelles; Hon. Martha Chizuma – Treasurer, Malawi; Hon. Edouard Nduwimana – Deputy Treasurer, Burundi; and Hon. Caroline Sokoni – IOI Africa President, Zambia. Special representative at the meeting was Mr. Ewa Udu for West Africa Regional Coordinator, Nigeria. Apologies were received from Hon. Chille Igbawua – West Africa Coordinator, Nigeria; and Hon. Augustine Makgonasotlhe – Southern Africa Coordinator, Botswana.

The Secretary General started the meeting by welcoming members, followed with the confirmation of the quorum and a virtual group photo. A moment of silence was then observed for the late member, Hon. Dr. Jacques M’bosso, Ombudsman of Central African Republic and Regional Coordinator of AOMA Central Africa.

The Secretary General led members in the perusal of minutes of the 18th Executive Committee meeting which were adopted as a true record of proceedings. A decision register of matters arising from the minutes was thereafter tabled for consideration.

Discussion of matters arising: among others, the process to be followed when reclaiming monies of AOMA held at the secretariat in Libya before the fall of Muammar Gaddafi; the transfer of AOMA secretariat to AORC in accordance with the Constitution, was on course; the convening of regional meetings by the Central Africa Region. On this, members received an update from the Ombudsman of Burundi that the AOMA Central Africa Regional Coordinator had unfortunately passed on. The Ombudsman of Burundi was requested to mobilize the region to fill the vacancy.

The President reported on her follow up on AORC funding with DIRCO, engagement with the Banking Ombudsman of South Africa to re-join AOMA and exploring the possibility of AOMA becoming an agency of the African Union (AU). Members were informed that the President had requested advice on the process of how AOMA could pursue AU agency status and received step-by-step guidance. Other duties that had been undertaken by the President included presenting a paper on Ombudsman and COVID-19 preparedness at the International Ombudsman institute (IOI) Conference.



In her report, the Secretary General began by informing members that all AOMA documents had been transferred to AORC in digital or physical form, except for the Association's monies. The Secretary General also informed members of the vacancies in EXCO and that the Office of the Ombudsman of Chad, which had been abolished in 2018, had been re-established but a substantive Ombudsman is yet to be appointed.

The report of the Chairperson of AORC highlighted that the core mandate of AORC was research, information sharing, capacity building and advocacy (RICA) and enumerated activities that had been undertaken in this regard since October 2020. On the research front, members were informed that Prof. Ayeni's write up on *"African Ombudsman Institutions – Designs, Operations and Performance"* was ongoing. As regards capacity building, in the financial year 2020/2021 (Apr 2020 - Mar 2021), 1788 Ombudsman and staff participated in webinars/facilitated discussions and, in the month of April 2021, 153 Ombudsman and staff participated in these. A training session on Conflict Resolution and Management was being planned next. Members were informed that the training, which had been originally scheduled for Madagascar, would be held virtually because of COVID-19 restrictions. On the merger of AOMA Secretariat and AORC, the Chairperson highlighted that operations and records of the AOMA Secretariat would now be based at AORC, and that AORC would be the engine of AOMA for all its operations.

The report was concluded by highlighting that there was an ongoing application for tax exemption by AORC in terms of section 30 of the South African Income Tax Act.

There were no regional reports for presentation, partly due to vacancies in the position of Regional Coordinators for East Africa and Indian Ocean, and an apology from the Coordinator of Southern Africa, who could not attend the meeting. The President exhorted members to hold regional meetings virtually, even via WhatsApp Groups, in order to enable collection of regional reports, communication, and support for members. Members of EXCO were further informed that the East Africa Region had settled on the Chief Ombudsman of Rwanda, Hon. Madeleine Nirere, to complete the term of her predecessor as Regional Coordinator.

The Secretary General reported on the various vacancies that had arisen in the regions. She informed members that more changes to the composition of EXCO were expected later in the month with the forthcoming IOI General Assembly and elections, as directors of IOI Africa Region would also sit on EXCO. Three vacancies had arisen in the positions of regional coordinators of East Africa, Central Africa region and Indian Ocean. The secretariat was tasked with following up on the regions filling the vacancies. The Secretary General informed members that the Health Ombud of South Africa's application for AOMA membership was supported by the Southern Africa Regional Coordinator and recommended admission to associate membership. EXCO admitted the new



member subject to payment of the requisite fees.

The Secretary General alerted members to the situation of internal displacement of people in Northern Mozambique, following instances of recurring violence meted on civilians by terrorist groups. A statement of support for the efforts taken by the Ombudsman of Mozambique to remedy the situation was issued by AOMA, on the request of the Ombudsman of Mozambique.

On the General Assembly, the Ombudsman of Seychelles confirmed that the proposal for her office to host still stands but, considering the pandemic, urged members to also have an alternative plan. The President suggested that an alternative plan would be to convene the General Assembly virtually. She added that a virtual General Assembly would be a good opportunity to learn from the experience of conducting conferences virtually and save on travel costs. The Ombudsman of Seychelles undertook to revert substantively on whether she would be able to host or not, after checking on her cost plan. There being no other business, the meeting was adjourned at 13h30.

## d. 20th AOMA EXCO

The 20th AOMA EXCO was held virtually on January 13, 2022. Members present were Hon. Adv. Busisiwe Mkhwebane - President, South Africa; Hon. Florence Kajuju-Secretary General; Kenya; Hon. Nichole Tirant-Gherardi - Deputy Secretary General, Seychelles; Hon. Edouard Nduwimana – Deputy Treasurer, Burundi; Hon. Augustine Mkgonasothle – Southern Africa Coordinator, Botswana; Hon. Madeleine Nirere – East African Coordinator, Rwanda; Hon. Laurent Ngon-Baba – Central African Coordinator – Central African Republic(CAR) and Hon. Hon. Antonia Florbela – IOI Director, Angola. Special representative to the meeting was Mr. Victor Siulanda for IOI Director, Zambia and Hon. Fatimata Sanou – New Ombudsman, Burkina Faso observed. Apologies were received from Hon. Sulayman Alshanti - 2nd Vice President, Libya; and Hon. Caroline Sokoni – IOI Africa Director, Zambia.

The meeting started at 0800h GMT. The President of AOMA, Adv. Busisiwe Mkhwebane opened the meeting by welcoming everyone and complimented them for the new 2022 season before handing over to the Secretary General of AOMA to deal with the agenda.

Among the key issues discussed on the matters arising from the previous meeting were the AOMA monies held at the secretariat in Libya before the fall of Muammar Gaddafi, the transfers of AOMA secretariat to AORC in accordance with the Constitution, the regional meetings by the Central Africa Region, and the possibility of AOMA becoming an agency of the African Union (AU). The Secretary General informed members that she wrote to the Libyan foreign bank to request the release of the monies and the Libyan Ombudsman undertook to facilitate the process of submitting the letter to the foreign bank. On the convening of regional meetings by the Central Africa Region, the Secretary General reported on the progress and informed members that it was doing very well.

Other key matters discussed in this meeting were:

**AOMA Presidents report:** Included the achievements relating to the previous quarter which incorporated webinars as documented in the report of AORC; AOMA engagement, which was chaired by the President; the elections of the Africa International Ombudsman Institute (IOI) Directors and President; the Merger of AOMA and AORC; and the resources challenges.

**Secretary General report:** Included, among others, the transitioning of AOMA to the permanent secretariat in Durban; the AOMA funds transferred to an account in South Africa held by the Office of the Public Protector and a handover meeting to be held in South Africa for submission of an exit report in this respect, culminating in a discussion to iron out reporting structures for the funds.

**Coordination of Central Africa region and a meeting of the region:** The Secretary General informed members that the new Ombudsman of CAR took up the role of coordinator and that the Ombudsman of Burundi reported on follow up with the coordinator for convening a regional meeting which is scheduled for January 27 and 28.

**General Assembly:** Members were alerted to the fact that communication with Egypt, who agreed to host in March, is underway. In January 2022, Egypt reported a change in office bearers.

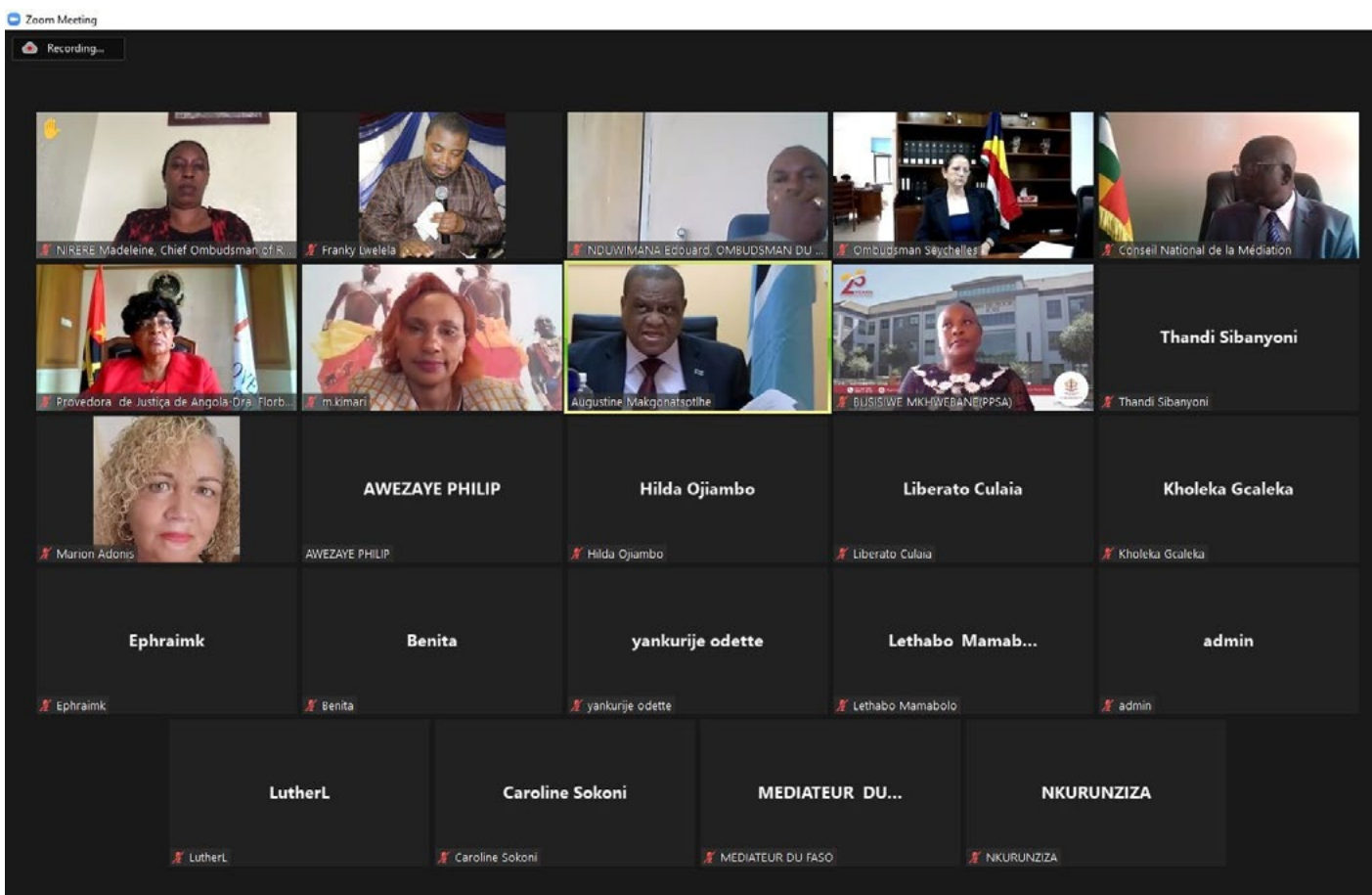
**Report of the Chairperson of AORC:** The report highlighted the core mandate of AORC as research, information sharing, capacity building and advocacy (RICA) and enumerated activities that had been undertaken in this regard since May 2021.

**Vacancies in the executive committee:** The Ombudsman of Rwanda, Hon. Madeleine Nirere, who is also the Regional Coordinator for East Africa agreed to fill the role of the 1st Vice-President; Hon. Edward Nduwimana, Ombudsman of Burundi, who was the Deputy Treasurer, agreed to become the Treasurer; and Mediator of CAR, Hon. Laurent Ngon-Baba, who is the Regional Coordinator for the Central Africa region took up the position of the Deputy Treasurer. The coordinators of the regions of West Africa and Indian Ocean that are still vacant, the Secretary General will write to them to

encourage them meeting to choose the coordinators for their respective regions The Secretary General will also establish whether the Ombudsman of Burkina Faso is willing to be the coordinator of the West African region.

Members also discussed various themes for the General Assembly. It was decided that the Secretary General will look at a way to synergize the suggested topics in order to come up with the theme for the General Assembly.

The meeting was adjourned at 13h30.



# Research

## a. Burundi – *Bashingantahe*

**A**ORC expanded the IOI/AORC Africa study to include questions about the “historical antecedents” of the Ombudsman/Mediator role in traditional African cultures. This formed the groundwork for a further study and AORC publication on the subject.

In this article, we look at the “historical antecedent” of the Ombudsman/Mediator role in traditional Burundi, that of the *Bashingantahe* institution.

The concept of “*Ubushingantahe*” comes from the verb “*gushinga*” (to plant, to fix, to establish) and the noun “*intahe*” (rod of wisdom). This noun “*Intahe*” is used to signify equity and justice (*ingingo*). In this case, “*Umushingantahe*” means the man of justice and equity (*Umuntu wingingo*). In clear terms, the concept of *Ubushingantahe* means an action of testimony, mediation and arbitration in order to restore truthfulness and conciliatory justice. No society can claim to have values when there is no one to embody them. Burundian society is still proud to count “*Ubushingantahe*” among its essential values. This means that the “*Bashingantahe*” have always been on their feet, busy protecting, through direct action, this pride of a whole people. They really embody the concept, the value of “*ubushingantahe*” that is being discussed here. The “*Bashingantahe*” are people targeted by the community to serve as referential poles and protectors of the ecology of morality.<sup>1</sup>

The institution of the *Bashingantahe* fulfilled a similar function to the Ombudsman.<sup>2</sup> The *Bashingantahe* councils were a traditional mechanism of conflict resolution.<sup>3</sup>

Joseph Kizerbo describes the *Bashingantahe* council as



a sophisticated and hierarchical system of judges, of men chosen for their knowledge of customs and their integrity, who exercised the polyvalent and extraordinary power of judge, notary and Ombudsman.<sup>4</sup> This would be the equivalent of the modern-day Ombudsman that has multiple mandates. C.S’Espinay concluded that the *Bashingantahe* council

acted as an intermediary between the people and the state.<sup>5</sup> The *Bashingantahe* council had such a power that even the king submitted to it.<sup>6</sup> The term ‘*mushingantahe*’ refers to the individual as a member of the *Bashingantahe* council.<sup>7</sup>

The institution is as old as the Burundian monarchy.<sup>8</sup> One account explains that according to legend, the institution goes back to the late 17th century. It presided over the judicial organisation of the country at all levels and played the role of check and balance on power. In a sense, the *Bashingantahe* constituted a peaceful and independent authority that contained, limited and controlled the power of the king and chiefs, while also ensuring that arbitrary judgement and lack of justice were curbed.<sup>9</sup> As elders, the *bashingantahe* played a primary role in the administration of justice. The introduction of indigenous courts and written law justice under colonization challenged this preponderance.<sup>10</sup>

Another account states a palace comic, or court buffoon, called Samandari suggested the creation of the *Bashingantahe* institution. One day he was cooking vegetables in the palace and asked the king to keep an eye on his pot for a short while. He went away and when he came back, he found that the volume of the vegetables had been greatly reduced. He then accused the king of having eaten his vegetables. Confused

1 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

2 IOI/AORC Africa study: Interview with the Burundi Ombudsman 15 February 2017.

3 Burt Ingelaere & Dominik Kohlhagen *Social Imaginaries and the Bashingantahe in Burundi*, International Journal of Transitional Justice Vol 6 2012, 40

4 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 12.

5 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 12.

6 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 13.

7 Burt Ingelaere & Dominik Kohlhagen *Social Imaginaries and the Bashingantahe in Burundi*, International Journal of Transitional Justice Vol 6 2012, 48-49

8 Bernard Karerwa Thesis: *Rethinking peace in Burundi through the two standards meditation and the institution of the Bashingantahe*, May 2016 Boston College Electronic Thesis or Dissertation 2016, 16.

9 Luc Huyse and Mark Salter *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, Stockholm: International Institute for Democracy and Electoral Assistance. 154.

10 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

and ashamed, the king asked him to keep silent and promised him whatever he wanted. Samandari laughed and told the king that he was trying to show that sometimes people could lie and accuse others in an unjustified way, Samandari's message was that the country needed an institution to avoid injustice and unfairness.<sup>11</sup>

The *Bashingantahe* were called upon to reconcile people, advise rulers and help the country to keep its traditions.<sup>12</sup> Some examples of the work that they did was to reconcile individuals and families, authenticate contracts (inheritance, marriage, sale of cattle etc.); ensure security of life and property; provide guidance to politicians in the exercise of their mandates; promote respect for human rights and the common good.<sup>13</sup> The council of *Bashingantahe* undertook three levels of power, namely: moral, social and political. On the moral level, serves as models of traditional values and pass them on to the next generation. On the social level they played key roles in dispute resolution, being the people to whom others bring complaints, and who stood for order and peace in the community. On the political level, they acted as representatives of the local community and also through a system of messengers, advised the king on important matters, for example in the declaration of war. They helped to maintain peace, order and security.<sup>14</sup>

They worked with other leaders in the country and consulted before making decisions.<sup>15</sup> Procedures for judging cases were accusatory, contradictory, oral and public. There was no charge for their services. In the council, decisions were made by consensus. Consensus was expected to favour the

common interest, the interest of family over the individual, and the interest of the community over any particular family.<sup>16</sup>

They were not limited to particular jurisdictions.<sup>17</sup> The institution was assigned three essential missions namely that of mediation, reconciliation, and arbitration.<sup>18</sup>

Positions in the *bashingantahe* council were not hereditary and had to be earned through behaviour and learning' the council was non-ethnic in its composition.<sup>19</sup>

To become a member of the *bashingantahe* council, one had first to be committed to peace and order.<sup>20</sup> Villagers had to give their consent and once he had earned the consent of the elders and the people, he was legitimate. He would then swear publicly that he would respect the customs, obey the rules and serve as a role model, a peacekeeper and a judge. Swearing the oath in the face of the community, he sealed a kind of moral contract not only with the people but also with the country. The investment ceremony consisted of an oath and the people's expression of the consent through a ritual both grounded in the traditional beliefs and political culture.<sup>21</sup>

As to why there were no women in the council, legend has it that women were allowed to be members of the *Bashingantahe* until at some point, the king decided to forbid their taking place in the deliberations. At that point, they were excluded because they "were not able to keep a secret".

According to the legend that recounts this moment, the king put his subjects to a test to determine who could sit in the *Bashingantahe* council to regulate conflicts, hold deliberations and give justice. The desired qualities were "keeping promises

11 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 15.

12 Bernard Karerwa Thesis: *Rethinking peace in Burundi through the two standards meditation and the institution of the Bashingantahe*, May 2016 Boston College Electronic Thesis or Dissertation 2016, 23.

13 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 151.

14 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 152.

15 Bernard Karerwa Thesis: *Rethinking peace in Burundi through the two standards meditation and the institution of the Bashingantahe*, May 2016 Boston College Electronic Thesis or Dissertation 2016, 22.

16 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 24.

17 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 155.

18 Luc Huyse and Mark Salter *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, Stockholm: International Institute for Democracy and Electoral Assistance, 156.

19 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 158.

20 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 22.

21 Agnes Nindondera *Ubushingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 22.



or secrets” in the case of women and “common sense” in the case of the *Batwa* (Pygmies). In this legend, an old woman betrayed a secret that the king had told her and violated her promise to say nothing.<sup>22</sup> As a consequence, tradition did not accept the investiture of women and did not set out the procedures for women to be prepared for this function.<sup>23</sup> With the process of rehabilitation of the institution, some women have been elected to the National Council of *Bashingantahe*. However, to increase their representation to 50 per cent, in line with the complexity of the challenges of modern society and the proven efficiency of women in the field of conflict transformation, the conservative social climate will first have to be overcome.<sup>24</sup>

When the colonizers arrived, the role of the *Bashingantahe* was weakened in some places. Their role was no longer recognised.<sup>25</sup> The social order in which the *Bashingantahe* had played several roles gradually disintegrated, and the colonial power instituted administrative authorities that took over tasks normally done by the *Bashingantahe*. They appointed courts directly and missionaries introduced Christian counsellors for dispute resolution.<sup>26</sup> Belgian colonizers set up a dual system of law, including written law that regulated Europeans and Burundians, and the customary law, which regulated only Burundians in all civil matters and limited criminal matters unless the customary law was contrary to public order. Eventually, by the time of independence, criminal matters as well as both civil and criminal procedure became the unique domain of the written law.<sup>27</sup> Practices that were deemed to

be incompatible with the ideals of ‘civilization’ were simply banned.<sup>28</sup>

Today, it can be said that the *Bashingantahe* compliment the role of government in some spheres of life in Burundi; therefore, there cannot be contestation of authority between the institutions of community traditional leaders and formal government institutions.<sup>29</sup> A law on judicial procedures, passed in 2005, formally put an end to the role of the *Bashingantahe* as an institution auxiliary to the courts of law.<sup>30</sup>

After independence, the *bashingantahe* were integrated into the political apparatus of the state, whereas traditionally their function was exercised outside of any political control. The institution has been progressively politicized and even denaturalized, but it continues to play an important role in resolving daily conflicts in Burundi. Political criteria rather than virtue as advocated by the *Bashingantahe* institution became dominant and the government would confer the title and function of *mushingantahe* on its own territorial administrators and local party leaders who were appointed massively.<sup>31</sup> Despite their exclusion from the national legal system and the historical changes they have undergone, the *Bashingantahe* still play a fundamental role in social cohesion and conflict mitigation.<sup>32</sup>

It has been assumed that the absence of ethnic conflict before independence may well have been due to the existence of *Bashingantahe* councils throughout the area that mixed three of the four groups in Burundi (*viz. Batutsi, Bahutu, Banganwa*).<sup>33</sup>

22 Luc Huyse and Mark Salter *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, Stockholm: International Institute for Democracy and Electoral Assistance, 173.

23 Luc Huyse and Mark Salter *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, Stockholm: International Institute for Democracy and Electoral Assistance, 167.

24 Luc Huyse and Mark Salter *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, Stockholm: International Institute for Democracy and Electoral Assistance, 168.

25 Bernard Karerwa Thesis: *Rethinking peace in Burundi through the two standards meditation and the institution of the Bashingantahe*, May 2016 Boston College Electronic Thesis or Dissertation 2016, iv.

26 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 153.

27 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 158.

28 Burt Ingelaere & Dominik Kohlhagen *Social Imaginaries and the Bashingantahe in Burundi*, International Journal of Transitional Justice Vol 6 2012, 43.

29 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 152-153.

30 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 154.

31 Dolive Gretta Kwizera; *The role of the Institution of Bashingantahe in nurturing good governance and socio-economic development in Burundi*: International Journal for Innovation, Education and Research Vol: 5 No-05, 2017; 159.

32 Burt Ingelaere & Dominik Kohlhagen *Social Imaginaries and the Bashingantahe in Burundi*, International Journal of Transitional Justice Vol 6 2012, 46.

33 Agnes Nindondera *Ubashingantahe as a base for Political Transformation in Burundi*, Working paper 102/2003; Consortium on Gender, Security and Human Rights, 2.

In an article entitled *"Keepers of the Peace: Reviving the tradition of Bashingantahe in Burundi"*<sup>34</sup>, and against the backdrop of permanent conflict and sub-conflicts in Burundi, a new debate had begun on the reinstatement of the institution of *Bashingantahe*. Invited in plenary at the Lower Chamber of the Parliament to answer the questions of the deputies on 17/12/2020, the Minister having the justice in his attributions exposed the motives of analysis and adoption of the bill bearing complement of the provisions of the code of civil procedure relative to the reinstatement of the council of the notables of the Hillside.<sup>35</sup>

The minister said that in all human societies, social life is always punctuated by various conflicts. To resolve disputes arising from social relations, each society has developed appropriate mechanisms to settle misunderstandings according to their traditions. Burundi had developed its own method of conflict resolution. The aim was to reconcile the parties and restore the social harmony broken by the dispute, considering what was good and fair. Aware of the importance of the traditional method of conflict resolution, the legislator, through law number 1/004 of January 14, 1987, instituted the council of the notables of the Hillside in order to promote reconciliation rather than the strict application of a rule of law.<sup>36</sup>

By the law number 1/08 of March 17, 2005, on the code of organisation and judicial competence, the procedure of conciliation by the council of notables of the Hillside was abandoned, mainly because of the deficit of its organisation which hindered the easy access to this traditional and alternative mode of conflict resolution. Three decades later, the need to return to this traditional institution based essentially on the conciliation of the parties in conflict is felt more acutely, due particularly to the importance of the volume of disputes that the courts and tribunals experience, the cost and slowness of the judicial procedures as well as the geographical distance.<sup>37</sup>

As conciliation is a means of improving access to justice for all, the role that the council of elders of the Hillside should play in the Burundian procedural system is clear. Thus, the institution of the council of notables is in line with the requirements of the 2018-2027 national development

plan, which gives pride of place to local justice. The Minister having justice in his attributions made it known that from all these considerations, it proves to be essential to reorganize the council of notables of the Hillside so that it deserves the confidence of the citizens and contributes to face the challenges in terms of access to justice as well as the consolidation of social peace and the development of the country. She also spoke about the quality of the men and women who will compose this council of the notables of the Hillside because any enterprise will succeed with those who will implement it, in this case we will speak about women and men worthy of trust.<sup>38</sup>

After analysis, this bill was passed with 92 in favor, 24 against and one abstention. On January 23, 2021, the President of the Republic signed Decree No. 1/03 supplementing the provisions of the Code of Civil Procedure concerning the re-establishment of the Council of Notables of the Hill. The Council of Notables has as a general mission the conciliation of parties in dispute. The Council will be particularly in charge of:

1. to receive the complaints of the parties in dispute and to advise on all civil matters of the competence of the district courts.
2. to proceed to the conciliation of the parties in conflict when the dispute is not of public order and does not fall to the good morals.

It can also settle a conflict resulting from an offence by pronouncing on the granting of damages resulting therefrom, provided that the civil action relating thereto is within the competence of the district court.<sup>39</sup>

With regards to their interaction with the current Ombudsman Office, the Bashingantahe have not had any influence on the way the current Ombudsman office operates today, nor does the Ombudsman office have any contact with them.<sup>40</sup>

34 LM Nindorera - 1998: <https://journals.co.za/doi/pdf/10.10520/EJC111703> accessed 2 June 2022.

35 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

36 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

37 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

38 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

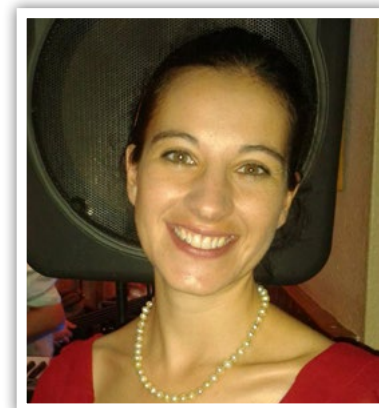
39 Information provided by the Ombudsman of the Republic of Burundi 6 February 2022.

40 IOI/AORC Africa study: Interview with the Burundi Ombudsman 15 February 2017.

## b. The Ombudsman and the Challenge of Enforceable Recommendations

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Two years ago, the first-ever International Ombud Expo was held in Abuja, Nigeria ([www.internationalombudexpo.com](http://www.internationalombudexpo.com)). One of the high points of the Expo was a dedicated workshop on the role of binding or enforcement powers in the operations of the Ombudsman. Recent developments across the African continent have further highlighted the significance of that discussion and the often-difficult issues that Ombudsman offices have to contend with getting their recommendations implemented. Amongst many African ombuds institutions, the Public Protector of South Africa (PPSA) has come to be viewed as a sort of role model in this regard. The PPSA has been hailed as an example of an Ombudsman office that is developing to its full potential, and one that has been able to grow 'teeth'. However, this apparent emboldening of the institution is not all smooth sailing but has been associated with real challenges as well.

The Public Protector of South Africa's ability to bite was clarified in the 2016 Constitutional Court's ruling on the controversial upgrades at then President Jacob Zuma's private residence in Nkandla. In her 2014 Report *Secure in comfort* which investigated claims of improper State expenditure at Nkandla, Advocate Thuli Madonsela, then Public Protector, found that Zuma had improperly benefitted from the security upgrades at his private home. Her remedial action included that the President should repay part of the R246 million (USD 15.7 million) of public money that had been spent on the upgrades. The Public Protector's report was submitted to the Presidency and to the National Assembly. For over a year, neither body fulfilled its obligations in terms of the prescribed remedial action. Parliament instead decided to endorse a report by the Minister of Police stemming from a parallel investigation to that of the Public Protector which essentially absolved the President of all liability as well as a report to the same effect by its last Ad Hoc Committee. It was this absolution that ultimately prompted the President to not comply with the remedial action taken by the Public

Protector. In response, some of the political opposition parties launched simultaneous court applications asking for an order: (i) affirming the legally binding effect of the Public Protector's remedial action; (ii) directing the President to comply with such remedial action and (iii) declaring that both the President and the National Assembly acted in breach of their constitutional obligations.

In *Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* (March 31, 2016) Chief Justice Mogoeng Mogoeng ruled that the President's failure to comply with the remedial action of the Public Protector amounted to a failure "to uphold, defend and respect the Constitution". The Constitutional Court concluded that the taking of remedial action connotes providing a proper, fitting, suitable and effective remedy for whatever complaint and against whomsoever the Public Protector is called upon to investigate. The Court distinguished between 'recommendations' that are non-binding and 'remedial action' that is binding. It averred that remedial action can only be effective if it is binding. The court further ruled that where binding remedial action is appropriately taken, compliance is not optional, whatever reservations the affected party might have about its fairness, appropriateness or lawfulness.

The Constitutional Court ruling that the Public Protector's remedial action is binding unless successfully challenged in court, was ground-breaking and set a new precedent. It meant that there was now some form of legal recourse when government departments, officials or ministers decided to ignore the remedial action taken by the Public Protector. This development also propelled Advocate Madonsela to celebrity status as a warrior for justice and a champion in the fight against corruption. Besides this South African experience, similar suits have been brought to the courts in Kenya, Malawi and Zambia to test the nature of the Ombudsman recommendations, however the outcome of these has not been as unambiguous as in South Africa.

“...if you can make government officials and ministers feel that you are not out to get them, but rather that your role is to assist them to run their ministries and administer their policies transparently, efficiently, and in the interests of promoting human rights and upholding good governance, your chances of securing cooperation can be far greater...”

Many Ombudsmen and their offices have aspired for some form of teeth to bite. “For years Ombudsmen across the African continent and in many other parts of the world have been pushing in this direction”, says African Ombudsman expert, Professor Victor Ayeni and Director of GMSI-UK. “Often, Ombudsmen feel powerless in the face of agencies’ indifference or obstinacy to their findings and recommendations. Naturally, they think the problem can be easily resolved if they are conferred with enforcement powers, but the issues here are far more complex and multifaceted”. When African Ombudsmen and their colleagues were asked by the African Ombudsman Research Centre (AORC) about their most serious challenge in a recent survey, “getting recommendations implemented” was commonly cited as a leading concern. Again, when asked how they felt their institution could be strengthened to better carry out its mandate “making our recommendations legally binding, like those of the Public Protector in South Africa” was frequently emphasised as a solution.

But is this really the best way for the institution to evolve in the face of growing responsibility, popularity and scrutiny? According to the *OR Tambo Declaration on Minimum Standards for an Effective Ombudsman Institution*, developed by the African Ombudsman and Mediators Association (AOMA), an Ombudsman must have independence and autonomy, which ‘must be guaranteed in the Constitution’. This means that the ‘institution should not be subject to the direction or control of any person or authority in the discharge of its duties’ and that ‘The Ombudsman/Mediator shall be immune from being sued or prosecuted in his or her

personal capacity’. However, as the PPSA’s experience has shown, the practical implications of binding enforcement powers present a real risk to these protections, including an Ombudsman’s immunity.

The inevitable increase in litigation emanating from a movement towards enforceable recommendations renders the institution vulnerable in many ways by making it subordinate to the courts. Once an Ombudsman’s recommendations are made binding or enforceable, they can of course be challenged in court drawing the institution into legal battles that can divert attention and resources away from the core mandate of the Ombudsman’s work of investigating, exposing and preventing maladministration and corruption. This is exactly what has happened in South Africa under the current Public Protector, Advocate Busisiwe Mkhwebane. As her remedial action is binding, they have been increasingly challenged in the court by the institutions they were directed at. Some of the ensuing rulings have been scathing judgements on the operations of the office. The Public Protector has also faced personal criticism and even liability for the work performed in the execution of her mandate. On the other hand, some of Advocate Mkhwebane’s critics have suggested that she used the powers of the institution to pursue a political vendetta against then President Zuma’s opponents by selectively targeting them for investigation. Advocate Mkhwebane’s counter-position is that not only are such criticisms unfounded, but they also amount to doing exactly what she is being wrongly accused of - fighting political battles in the guise of initiating complaints that seek to take advantage of the enhanced powers that come with enforceable recommendations.

However, viewed, binding power makes the PPSA’s process vulnerable to being caught up in political bickering. That in turn exposes the leadership to ready criticisms when others disapprove of her recommendations. Because of the increasing litigious responses from state institutions, and legalistic approach of the courts in adjudicating the work of the Public Protector, the Ombudsman has limited room to manoeuvre here. One major court ruling questioning the competence of the Public Protector was all that it took to inflict grave wounds on the integrity of the institution. The pronouncements of the courts, as opposed to parliamentary accountability processes, have also become the prima facie yardstick against which the standard of the work of the Public Protector and even her competency is viewed and measured. There is no gainsaying that the blessing of binding power has not been unmitigated for the Public Protector. In spite of



the high regards with which she is apparently held outside of South Africa as President of AOMA, Advocate Mkhwebane is currently battling a motion in Parliament for her removal from office.

When recommendations become binding the Ombudsman's relationship with the State is fundamentally altered. One of the very strengths of the institution lies in its ability to wield soft power. This is the power to persuade, use mediation and negotiation, and to build relationships, what Advocate Madonsela refers to as 'whispering truth to power', where the pen is indeed mightier than the sword. Making recommendations binding, on the other hand, sets up an adversarial relationship where the hard power of the law becomes the primary means by which to create influence and change. "When we take an approach that makes it seem compulsory – when public officials feel that they do not have the chance to contribute to constructive recommendations, public officials are being asked to implement without taking ownership", emphasises Professor Ayeni. Moreover, "when you go to court you are merely creating a way for the government to push back by trying to implement measures to change the character of the institution. In contrast, if you can make government officials and ministers feel that you are not out to get them, but rather that your role is to assist them to run their ministries and administer their policies transparently, efficiently, and in the interests of promoting human rights and upholding good governance, your chances of securing cooperation can be far greater".

The aspiration towards enforceable recommendations is closely connected with the evolution and development of the institution. When the Ombudsman first came into being it was never intended to become another arm of the court. In fact, much of the appeal of the institution lay in the fact that it offers an alternative to litigation, one that is more affordable, quicker and less acrimonious and therefore more accessible for the voiceless and marginalised - those without ready access to formal structures of power like the courts. Over time, however, the mandate and jurisdiction of the institution has expanded. Today Ombudsmen do not only tackle maladministration, but many are also mandated to investigate corruption and monitor adherence to government ethics codes. Some are responsible for the investigation of human rights abuses and adherence to international Human Rights conventions, or for monitoring Access to Information or even, as the case of Namibia, for oversight of environmental protection legislation.

These developments, Professor Ayeni points out, have fueled the desire for enforcement powers, and probably rightly so, regarding anti-corruption and public integrity matters, for example. "You cannot take an institutional form with a certain logic, turn it into something else and expect it to work the same way with the same outputs expected of the original version" emphasises Professor Ayeni. At the same time, he adds "we can no longer accept the classical model of Ombudsmanship as the ideal for the simple reason that the introduction of new mandates and enforcement powers have become part of the evolution of the institution. This institution is hugely popular, there is no way you are going to stop government and the public from putting more things into it. The question now is how best to handle this development, recognising that there are several competing models for setting it up". Going forward, we need to accept that the definition of what an Ombudsman is, may require reworking and, perhaps even more, begin to seriously address how the changing nature of the Ombudsman affects the strategies it uses for getting recommendations implemented.

The Ombudsman has to find ways to get compliance with their recommendations but should not seek to do so in a way that damages the fundamental attributes of the institution. These attributes include engaging public opinion through naming and shaming, using mediation and negotiation, and collaborating with other governmental oversight bodies, NGOs and civil society movements. Critics are quick to add that the powers of persuasion do not always work. So, what then? Even if the Ombudsman has enforcement powers, setting itself up for a court ruling should be the last resort. Professor Ayeni underlines the significance of the fact that the Constitutional Court of South Africa recognised that every recommendation made by the Ombudsman should not be made binding, hence not the only implementation route that should be used by the Ombudsman. As the Chairman of the Commission on Human Rights and Administrative Justice of Ghana, Joseph Whittal, confirmed at the International Ombud Expo Workshop in 2019, mediation or alternative dispute resolution remain the main means by which the Commission resolves cases even though it is able to initiate court action to compel the enforcement of its recommendations. Moreover, by being sensitive to context, the institution has to learn to draw on the range of different tools at its disposal. To conclude with the words of Professor Ayeni "The Ombudsman was never meant to be a lone ranger. Its ability to work with others and to build relationships is what ultimately makes it triumph".

# Capacity Building / Webinars

Traditionally, that is, prior to COVID-19, face-to-face training was conducted in the different regions in Africa. Very few people benefitted from each training session in comparison to what is currently being achieved in terms of numbers trained.

COVID-19 restrictions have made AORC innovative in the method of providing training. Webinars and facilitated discussions have become the method of training and will do so for the near future. The Zoom platform has enabled AORC to broaden its reach, as it is not only African countries that are benefitting from the training, but also whoever registers on the platform. The benefit of virtual training is that AORC is now reaching a much larger audience

at a much lower cost, making it a cost-effective solution in the context of the lack of donor funding.

What follows is a list of all the webinars and facilitated discussions conducted since the COVID-19 restrictions were imposed. Recording, presentations & related documents of the webinars are available on the AOMA/AORC website <http://aoma.ukzn.ac.za>.

## a) Report Writing Skills - Webinar – English – Aug-20

Report Writing was the first in a series of planned webinars aimed at enhancing the capacity of African Ombudsman across the continent to prepare persuasive reports and contribute to the development of skilled resources within Ombudsman institutions.

The first two webinars on **Report Writing** were held in English and French on August 14, 2020. The speakers were Prof Thuli Madonsela (English) and Mrs Alima Traore (French). The facilitators were Advocate Busisiwe Mkhwebane (English) and Hon Edouard Nduwimana (French). Over 751 people from 33 countries participated.

The second two webinars on Report Writing were held in Portuguese and Arabic on September 3, 2020. The speakers were Hon. Carlos Alberto Ferreira Pinto (Portuguese), Hon. José Abudo (Portuguese) and Hon. Suleiman Muhammad Al-Shanti (Arabic). The facilitators were Hon. Isaque Chande (Portuguese) and Dr. Ahmed Abu Al-Wafa (Arabic). Over 74 people from 14 countries participated.

The key highlight of these webinars on Report Writing was the importance of drawing on the art of storytelling to present a report that clearly communicates its findings.

## b) Celebrating Women Webinar - English/Portuguese – Aug-20

The topic was centered on the discussion of the challenges faced by women Ombudsman in a patriarchal African society and how they can make a difference in the lives of the poor and marginalized. The webinar was an excellent opportunity to discuss these challenges and how they can be overcome by the unique strengths that women Ombudsman can offer. This is not because women Ombudsman think that they are better than men, but because they have a different approach to finding solutions to problems.

The first webinar on **“Celebrating Women – The challenges faced by women Ombudsman in a patriarchal African society”** was held in English & Portuguese on August 24, 2020. The speakers were Hon. Martha Chizuma (English) and Antonia Florbela Rocha (Portuguese). The facilitator was Adv. Kholeka Gcaleka. Over 130 people from 19 countries participated.

The second webinar on “Celebrating Women – The challenges faced by women Ombudsman in a patriarchal African society” was held in French and Arabic on August 31, 2020. The speaker was Hon. Nichole Tirant (with Ms Ingy El Shanouby acting as interpreter for Arabic). The facilitator was Hon Monique Esoavelomandroso. Over 30 people from 10 countries participated.

## c) Ombudsman Under Threat – Who Protects the Protector? Oct-20

On **October 27, 2020**, in commemoration of Ombudsman Month and to raise awareness of the Ombudsman institution, AORC hosted a two-hour facilitated discussion around the threats facing the Ombudsman institution under the title **“Ombudsman Under Threat”**.

This webinar discussed the threats and challenges facing the Ombudsman institution in Africa, how these threats and challenges are overcome and unpacked the strategy of the International Ombudsman Institute (IOI) for Ombudsman under threat.

The speakers were Advocate John Walters, the Ombudsman of Namibia; Hon. Florence Kajuju, the Ombudsman of Kenya and Mr. Werner Amon, the Secretary General of the International Ombudsman Institute and Ombudsman of Austria. The facilitator was Hon. Chille Wagner Igbawua, the Ombudsman of Nigeria. Over 305 people from 39 countries participated.

Some of the appreciative comments were as follows:

- *“Congratulations, this was a very well put-together webinar with an interesting exchange”* – Karin Wagenbauer, International Ombudsman Institute.
- *“Thank you for organizing such an informative and interesting discussion on such an important issue”* – The Secretariat of Ukrainian Parliamentary Commissioner for human rights.

## d) Dealing with the media – Nov-20

On **November 26, 2020**, following on from the ‘Report Writing Skills’ webinars which were held in August and September 2020, a facilitated discussion entitled **“Dealing with the Media”** was held. This discussion focused on the best methods/tools Ombudsman institutions in Africa can use to conduct press releases, press conferences and interviews with the media to be transparent and accountable and also as a way of making government departments and institutions accountable to the citizens.

The speakers were Dr Isaac Annan - Director Human Rights Department, Commission on Human Rights and Administrative Justice (CHRAJ), Ghana, Mr Chidi Martin from Nigeria and Ms Pippa Green, the South African Press Ombudsman. The facilitator was Hon. Augustine N.

Makgonatsotlhe, the Ombudsman of Botswana. Over 125 participants attended.

This was also a perfect opportunity to inform citizens about the work of the Ombudsman institution and to discuss successful press releases and briefings, when to hold press briefings, and how best to communicate with the media and the public at press briefings.

## e) COVID-19 Challenges – Jan-21

COVID-19 has posed numerous challenges for Ombudsman offices and has made it extremely difficult to connect with vulnerable and marginalised citizens of the country.

In response to this, on **January 19, 2021**, AORC hosted a facilitated discussion entitled **“COVID-19 Challenges”**, dealing specifically with how to remain accessible to the most vulnerable citizens, how to protect their rights in a timely and efficient manner, as well as finding meaningful solutions that are flexible enough to meet the changes brought about by the COVID-19 challenge.

The speakers were Hon. Ts’eliso Mokoko, the Ombudsman of Lesotho; Hon. Commissioner Elasto Mugwadi, Chairman of the Human Rights Commission, Zimbabwe and Mr. Douda Tanon, Executive Director, Médiateur de la République - Cote d’Ivoire. The facilitator was Hon. Hon Caroline Sokoni, Public Protector of Zambia. Over 109 participants attended.

## f) UN Resolution for Ombudsman and Mediators – Feb-21

On **February 23, 2021**, following on from the facilitated discussion around the threats facing the Ombudsman institution, AORC collaborated with the International Ombudsman Institute (IOI) to conduct a webinar on the UN Resolution and the Venice Principles and their great significance to the Ombudsman and Mediator institutions in Africa and the world. The webinar was entitled **“UN Resolution on Ombudsman and Mediators”**.

The speakers were Mr. Peter Tyndall, IOI President and Ombudsman of Ireland; Judge Mohamed Benalilou, Ombudsman of Morocco and Mr. Werner Amon, IOI Secretary General and Ombudsman of Austria. The facilitator was Advocate John Walters, Ombudsman of Namibia. Over 142 participants from 47 countries attended.

This webinar enhanced the knowledge of Ombudsman and their staff throughout the continent on the significance of the United Nations Resolution on the Ombudsman and the Venice Principles as the first global standard for the protection and promotion of Ombudsman institutions.

## g) Concept of the Ombudsman – Mar-21

On **March 30, 2021**, a facilitated discussion entitled **“Concept of the Ombudsman”** was held. The webinar focused on understanding the concept of the Ombudsman and how the Ombudsman institution can be used as a tool to strengthen government institutions to be an efficient service that is responsible and responsive to the needs of the citizens.

The speakers were Ms. Victoria R.M. Pearman, JP, Ombudsman of Bermuda; Mr Paul Dubé, Ombudsman of Ontario, Canada; Hon. Chille Wagner Igbawua, Chief Commissioner of the Public Complaints Commission and Ombudsman of the Federal Republic of Nigeria. The facilitator was Hon Florence Kajuju, Ombudsman of Kenya and General Secretary of AOMA. Over 122 participants from 37 countries attended.

Some of the comments were as follows:

- *“It is important to share experiences from other Ombudsmen.”* Dr Isaac Annan (Director: Human Rights Department - Commission on Human Rights and Administrative Justice (CHRAJ) Ghana.
- *“Thank you frankly for the invitation. I learn the concept of the Ombudsman from other foreign jurisdictions. Thank you, panelists, for your sharing.”* Eduardo Kangleon - Ombudsman-Visayas, Philippines.
- *“Thank you so much for the opportunity to be considered as one of the participants. That was very informative, and it made us realize the role and challenges that the Office of the Ombudsman have in order to protect the rights of the people and preserve good governance.”* Dr. Emily Cabatuan-Rosal, Office of the Ombudsman-Philippines.

## h) Visiting places of Detention – Apr-21

On **April 20, 2021**, a webinar entitled **‘Visiting Places of Detention’** was held. The webinar focused on the Optional Protocol to The Convention Against Torture (OPCAT) and

what it means in relation to the Ombudsman; the purpose of visiting places of detention; designing a programme for monitoring conditions of detention; implementing the programme for monitoring conditions of detention; what conditions of detention to examine; recommendations where necessary to improve the conditions of detention and detainee treatment.

The speakers were Mr. Ben Buckland, Senior Advisor, Association for the Prevention of Torture (APT); Mr. Peter Boshier, Chief Ombudsman of New Zealand; Mr Tom Lord, OPCAT Inspector, New Zealand and Ms. Thembelihle Nhlanzi-Ngema, Director: Legal Services, Judicial Inspectorate for Correctional Services (JICS), (South Africa). The facilitator was Hon. Madeleine Nirere, Ombudsman of Rwanda. Over 153 participants from 48 countries attended.

Some of the feedback was as follows:

- *“...It was a pleasure as always to be able to take part in such an interesting event. It is always extraordinary to me to see how many institutions from around the world IOI and AOMA can bring together. I'd be more than happy to participate in future events and activities.”* Mr. Ben Buckland, Senior Advisor, Association for the Prevention of Torture (APT).
- *“Thank you very much indeed. Learned a lot in a short while”* Mr. Nelson Dhita.

## i) Systemic Investigations – Jun-21

On **8 June 2021**, a webinar entitled **‘Systemic Investigations’** was held. The webinar focused on the following:

- What is a systemic investigation?
- What is the purpose of conducting systemic or own initiative investigations?
- What does a systemic investigation entail?
- A discussion on systemic investigation methodology.
- Planning and conducting a systemic investigation.

The speakers were Adv. Arlene Brock, former Director of AORC and former Ombudsman of Bermuda; Hon. Martha Chizuma, former Ombudsman of Malawi and Ms Barbara Finlay, Deputy Ombudsman of Ontario. The facilitator was Advocate Busisiwe Mkhwebane, Public Protector, South Africa, President of AOMA and Chairperson of the AORC Board. There were 754 registrations for the webinar and over 441 participants from 54 countries attended.



Some of the feedback was as follows:

- *“Appreciate the insightful and informative presentations. Thank you”* from Vaiao Eteuati from the Office of the Ombudsman, Samoa.
- *“Thank you to the session organizers and to the panelists. All of the presentations were informative and thought provoking.”* Jamie Morse, Office of the Veterans Ombud - Canada.
- *“Thank you for a most informative presentation. This has been a particularly interesting session from which I have drawn a lot of invaluable information.”* Nichole Tirant Gherardi, Ombudsman of Seychelles.
- *“Honourable President and respectable members thank you for organizing an informative conference and introducing essential aspects of investigation.”* Justice Shahnawaz Tariq - Pakistan.
- *“Congratulations for organising this event! It was very interesting and helpful for our daily activity!”* Andreea Băicoianu, Head of Bureau, Legal Affairs, External Relations.

- *“The Webinar will sharpen and enhance our knowledge and skills as investigators in terms of dealing with recalcitrant respondents.”* Vusumzi Ngamlana: Public Protector South Africa.
- *“Thank you for addressing the question. This platform is really very informative. Thank you for initiating this laudable activity.”* Emily Rosal: Office of the Ombudsman Philippines.
- *“A big thank you to the organisers and speakers. More light has been shed on the techniques of dealing with a recalcitrant respondent. Most appreciated.”* Eugenia Anyanwu: Public Complaints Commission, Nigeria.

## j) Recalcitrant Respondents – Jun-21

On **June 29, 2021**, a webinar entitled **‘Recalcitrant Respondents’** was held. In certain instances, the investigator is faced with recalcitrant or difficult respondents who can hamper the progress of the investigation. These recalcitrant witnesses can also have a negative impact on the investigation by discouraging others from cooperating in the investigation.

The speakers were Hon. Augustine N. Makgonatsotlhe, Ombudsman of Botswana & AOMA EXCO - Regional Coordinator (Southern Africa) who focused on why respondents refuse to cooperate; Ms Deborah Glass, Victorian Ombudsman (Australia), who discussed how to productively deal with recalcitrant or difficult respondents; Dr Ahmed Aboul Wafa, Member of the National Council for Human Rights of Egypt who focused on techniques to encourage recalcitrant witnesses to cooperate in the investigation. The facilitator was Adv. Kholeka Gcaleka, Deputy Public Protector, South Africa. There were 371 registrations for the webinar and over 210 participants from 27 countries attended.

Some of the feedback was as follows:

- *“Participating in this meeting is an opportunity for me as an investigation officer to train on the job. I am therefore saying a big thank you to the organizers.”* Ignatius Oche Public Complaints Commission (The Nigerian Ombudsman).

## k) Quality Assurance Mechanisms – Aug-21

On **August 24, 2021**, a webinar entitled **‘Quality Assurance Mechanisms’** was held. The webinar deliberated on practical quality assurance mechanisms that Ombudsman and their staff can use, with the aim of ensuring that their investigation reports are able to withstand scrutiny.

The speakers were, Hon. Chille Igbawua, former Chief Commissioner Public Complaints Commission, Nigeria who focused on “What is quality assurance?”, Hon. Adv. Busisiwe Mkhwebane, Public Protector, South Africa, President of AOMA, Chairperson of AORC Board who focused on “The importance of quality assurance” and Hon. Nichole Tirant-Gherardi, Ombudsman, Seychelles who focused on “What quality assurance process entails and the quality assurance checklist”. The facilitator was Hon. Mathew Pauwa Mhina Mwaimu, Chairperson Commission of Human Rights and Good Governance (CHRAGG), Tanzania. There were 686 registrations for the webinar and over 380 participants from 27 countries attended.

Feedback received from Mauritius is reflected below:

*“In relation to webinars/facilitated discussions, we appreciate the initiative of the AORC to organise such capacity building in collaboration with Ombudsman Offices during this unprecedented time of crisis. These webinars have been facilitating a systematic exchange of ideas and exposure to lessons learned in other countries where Ombudsman Institutions have gone through similar stages to further an enhanced service delivery to the public. The Ombudsman Institutions are facing more and more challenges and the sharing of experience and best practices enables them to become more efficient and responsive in their operations.”* G. Kissoon-Sungsam, Investigations Officer, Office of the Ombudsman, Mauritius.

## l) Strengthening the mandate of the Ombudsman – Sep-21

On **September 21, 2021**, in celebration of Ombudsman Month which is normally held in October each year and to raise awareness of the Ombudsman institution, AORC hosted a facilitated discussion dealing with effective tools to **strengthen the mandate of the Ombudsman institution**. This topic built on the discussion held in October 2020 entitled “Ombudsman Under Threat.”

This facilitated discussion focused on practical and effective ways the mandate of the Ombudsman can be strengthened to enhance good governance and accountability in the context of formidable challenges and rapid developments in issues such as human rights, health, communications, conflict and the environment.

The speakers were Hon. Caroline Sokoni (Public Protector, Zambia) who discussed “*Why there is a need to strengthen the mandate of the Ombudsman*”; Adv John Walters (Acting Ombudsman, Namibia) who discussed “*The most practical and effective tools to empower the Ombudsman to execute their mandate optimally*” and a recorded video from Mr. Werner Amon (General Secretary of the IOI and Ombudsman, Austria) who discussed the “*Venice Principles and the UN Resolution as international standards informing strong, independent offices*”. The facilitator was Hon. Grace Tikambenji Malera, the new Ombudsman of Malawi. There were 670 registrations for the facilitated discussion and over 412 participants from 33 countries attended.

Feedback received from Phillipines is reflected below:

*“Your initiatives are commendable indeed. AORC is doing very great in its effort to cultivate a culture of excellence in public governance by idea sharing and collaboration. You are providing us a venue where we can get valuable insights to help us improve in our work as public servants. THANK YOU. More power to AORC! My respects.”* Leny Manolong, Phillipines.

## m) The Role of Military Ombud Institutions in Enhancing Democratic Oversight in the Civil-Military Relations: Its Use, Challenges and Implications – Sep-21

On **September 30, 2021**, AORC collaborated with the South African Military Ombud to conduct a webinar for the Annual Military Symposium.

Prof Victor Ayeni - Director: GMSI UK focused on ‘Scene setting: Role of Ombudsman institutions – *Functional role of the Ombudsman institutions as instruments of government and democratic oversight over civil-military relations*’; Prof Lindy Heinecken - Associate Professor Sociology, Stellenbosch University focused on ‘*Navigating the role of oversight over civil-military relations – Gaps, challenges and opportunities*’; R ADM Bubele K Mhlana - Chief of Staff Joint Operations, SANDF focused on ‘*Force deployment in the face of oversight – Lessons learnt and perspectives on civilian-military interface*’; Mr Paul Dubé - Ombudsman Ontario focused on ‘*The transparency-recommendations nexus – Exploring pathways to ensuring effective and sustainable oversight over civil-military relations and implications*’; Hon Florence Kajuju - Ombudsman Kenya focused on ‘*Challenges facing Ombudsman Institutions in Africa – Emerging trends and the viability of enhancing accountability and professionalism in civil-military relations through effective democratic oversight*’.

There were 414 registrations and over 273 participants from 15 countries attended.

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## n) Conflict Resolution and Management – Nov-21

On **November 2, 2021**, AORC hosted its 9th webinar session for 2021 entitled “**Conflict Resolution and Management**”.

Due to the nature of their work, Ombudsman institution staff are forced to deal with a broad range of conflicts, either in the workplace or as part of their investigations. Regardless of whether conflict is internal or external, the main aim of the Ombudsman is to resolve such conflict in the most cost effective and timeous manner to limit any negative impact on the individuals and organisations concerned.

This “Conflict Resolution and Management” webinar focused on addressing the conflict situation to diffuse the potential conflict. The speakers discussed facilitators and inhibitors of communication; how to deal with resistance and difficult people and how to deal with volatile interviews.

Adv. Arlene Brock, Former Ombudsman of Bermuda, Former Director of AORC, Senior Fellow (2019 Fellow) of the Advanced Leadership Initiative at Harvard University, USA, focused on *‘Facilitators and inhibitors of communication’*; Hon. Abimbola Ayo-Yusuf, Ombudsman of Nigeria, focused on *‘Dealing with resistance and difficult people’*; Dr. Roger Oppong Koranteng, Head, Public Sector Governance, Commonwealth Secretariat, London, UK focused on *‘Dealing with volatile interviews’*. There were 785 registrations and over 436 participants from 44 countries attended.

## o) Effective Leadership Skills - Ethical, Transparent and Accountable Leadership – Dec-21

On **December 14, 2021**, AORC hosted its 10th webinar session for 2021 entitled ***‘Effective Leadership Skills - Ethical, Transparent and Accountable Leadership’***.

The Ombudsman conducts inquiries and investigations in an impartial manner that is free from bias and conflicts of interest. The office of the Ombudsman is involved in a wide range of activities, including ensuring integrity and ethics in the performance of public service. Accountability, in turn, is essential for the effective functioning of administrative institutions and the delivery of public services. Part of the objectives of the Ombudsman institution is to promote and monitor high ethical standards in public administration.

Ms Emily O’Reilly, the European Ombudsman, focused on *‘Why Ombudsmen must lead by example on ethics and transparency’*; Mr Rob Behrens, Parliamentary and Health Service Ombudsman, United Kingdom sent a video recording in which he focused on *‘The 2018 OECD Report on The Role of Ombudsmen in Open Government; and the role*

*that Ombudsman Institutions can play in delivering openness and transparency’* and Hon. Judge Florence Mumba, former Ombudsman of Zambia focused on *‘Promoting ethics and accountability in government and Ombudsman Institutions’*. The facilitator was Hon. Soleman M. Hatteea, the Ombudsman of Mauritius.

There were 606 registrations and over 261 participants from 44 countries attended.

## p) AOMA and the IOI - the role that they play in Africa - their function, how they operate and the value of being a member. Jan-22

On **January 25, 2022**, AORC hosted its first webinar for 2022 entitled, *‘AOMA, the IOI and the value of being a member’*.

Hon. Caroline Sokoni, Public Protector of Zambia discussed *‘The value of being a member of AOMA’*; Hon. Chris Field, President of the IOI and Western Australian Ombudsman discussed *‘The function of the IOI and how it operates’*; Hon. Werner Amon, IOI Secretary General and Ombudsman of Austria sent a video recording wherein he discussed *‘the value of being a member of the IOI and how the institution is a tool to strengthen the capacity of Ombudsman institutions’*; Advocate John Walters, former Ombudsman of Namibia discussed *‘why it is important to belong to both organisations (AOMA and IOI)’*. The facilitator was Hon. Florence Kajuju, Ombudsman, Kenya, Secretary General of AOMA and President of IOI-Africa region. There were 359 registrations and over 161 participants from 56 countries attended

In conclusion, it must be noted that the demand of Ombudsman for AORC’s work demonstrates both need and value. As the only Ombudsman regional research and training centre of its kind in the world, AORC has tremendous potential. Multi-year funding would significantly enable AORC to execute its purpose in helping African Ombudsman to be effective voices for the voiceless and change agents for good governance, human rights and the rule of law.

You can access records and presentations of all AORC webinars at  
<http://aoma.ukzn.ac.za>

# IOI Update

## Elections of the IOI Africa Region President and Directors

In accordance with Article 22 (3) of the International Ombudsman Institute (IOI) by-laws, which states that the President shall be chosen from among the Directors of the Board for the Region, the African region conducted elections for the office of IOI Africa Regional President. This was necessitated by the premature departure of Nigeria (who held the position of IOI African Region President) from the IOI Board of Directors.



Further, in line with Article 11 (3) of the IOI by-laws, elections to fill the vacant positions on the IOI Board of Directors representing the African region were successfully held and the results were duly announced on October 22, 2021.

Hon. Florence Kajuju - Chairperson of the Commission on Administrative Justice (Kenyan Ombudsman) and Adv. Antonia Florbela de Jesus Rocha Araujo-Ombudsman of the Republic of Angola were duly elected IOI Africa Regional Directors of the IOI Board. The two joined Adv. Busisiwe Mkhwebane, Public Protector South Africa and Hon Caroline C.Z Sokoni, Public Protector of Zambia bringing the total number of African Directors on the IOI Board of Directors to four.

All the eligible candidates were sent a notice requesting that they express their interest in the position of Regional President. Adv. Antonia Florbela de Jesus Rocha Araujo -Ombudsman of the Republic of Angola and Hon. Florence Kajuju, Chairperson of the Commission on Administrative Justice, Kenya successfully submitted their applications.

In accordance with Article 9 (3) of the IOI by-laws, fully paid-up members (in good standing) were advised to vote for their preferred candidate by sending their electronic ballot to the Office of the Public Protector, Zambia.

In order to enhance transparency and promote credible elections, the International Ombudsman (IOI) Secretariat and African Ombudsman Research Centre (AORC) continued to monitor the elections throughout the process. Hence, all

voters were required to copy their electronic ballot to both AORC and IOI Secretariat.

Voting and campaigning commenced on October 28, 2021 and closed on November 3, 2021 at 16:00 (GMT +2).

On November 9, 2021, through a virtual meeting via Zoom, the returning officer for the election of the IOI Africa Regional President, Hon. Caroline C.Z Sokoni, and Public Protector of Zambia and Treasurer IOI Board of Directors had the honor and privilege to announce the results of the elections.

A total number of 13 votes were cast as follows.

No.	Name and Country	No. of votes received
1	Advocate Antonia Florbela de Jesus Rocha Araujo - Ombudsman of the Republic of Angola	4
2	Hon. Florence Kajuju- Chairperson of the Commission on Administrative Justice (Kenyan Ombudsman)	9
<b>Total Number of Votes Cast</b>		<b>13</b>

Based on the above results, **Hon. Sokoni declared Hon. Florence Kajuju - Chairperson of the Commission on Administrative Justice** (Kenyan Ombudsman) as duly elected IOI Africa Regional President. While presenting her congratulations to Hon. Florence Kajuju for a well-deserved victory, she also thanked Advocate Antonia Florbela for participating in the elections and promoting the spirit of democracy.



## IOI Conference – Best Practice Paper on “Giving Voice to Mental Health Patients”

Consistent with the theme of the 12th IOI World Conference (“Giving Voice to the Voiceless”), this paper describes how Ombudsman institutions can design investigations that protect the rights and interests of disadvantaged groups, in the case of this paper, mental health patients.

While the paper itself is based on Canadian experiences, it is anticipated that many countries share similar experiences in this field and that the topic is therefore of broader interest for the IOI community. In order to reflect practices and experiences from other Ombudsman offices around the world, sidebar stories have been annexed to the paper.

The IOI would like to thank the author of the paper, the Office of the Ombudsman of Alberta (Canada), Ms Marianne Ryan, and her competent team for providing IOI members with a paper on yet another timely topic. We also thank the British Columbia Ombudsperson Jay Chalke for sharing experience and best practices from his office.

The IOI introduced the Best Practice Paper series with a view to providing guidance material on key features which inform strong and independent control mechanisms and to present and share best practices from Ombudsman offices around the world. Other papers in the IOI’s Best Practice Paper series include:



INTERNATIONAL  
OMBUDSMAN  
INSTITUTE

- Issue 1 - Developing and Reforming Ombudsman Institutions
- Issue 2 - Securing effective change
- Issue 3 - Own initiative investigations
- Issue 4 - Peer review guidance

This paper and all Best Practice Papers are available on the IOI website. If your institution would be interested in developing a Best Practice Paper for this IOI publication series, please feel free to contact the IOI General Secretariat; who are looking forward to receiving your proposals for topics.

The IOI introduced the Best Practice Paper series with a view to providing guidance material on key features which inform strong and independent control mechanisms and to present and share best practices from Ombudsman offices around the world.

## AOMF Update

# African Ombudsman Elected in the Leadership

We sincerely congratulate the following Honorable Members of AOMA, elected to the new Steering Committee of the Association of Ombudsmen and Mediators of the Francophonie (AOMF) at the conclusion of the virtual General Assembly of November 25, 2021 where a new Bureau, Board of Directors and Membership Committee was elected: *Hon. Pascal Essou, Mediator of the Republic of Benin elected Treasurer of AOMF; Hon. Adama Toungara, Le Mediateur of Cote d'Ivoire, Hon. Demba Kandji, Mediator of the Republic of Senegal, and Hon. Lala Ratsirahonana, Mediator of the Republic of Madagascar* elected to the Board of Directors respectively for Africa and Indian Ocean; and *Hon. Moumin Ahmed Cheik, Ombudsman of the Republic of Djibouti, and Hon. Nichole Eugénie Tirant-Gherardi, Ombudsman of Seychelles* elected to the Membership Committee in the African and Indian Ocean categories respectively. Our congratulations also go to *Quebec Ombudsman, Mrs. Marie Rinfret*, who was elected President of AOMF. Their mandate will be for a period of three years.

The General Assembly used this occasion to thank the former President, Mr. Mohamed Benalilou, Ombudsman of the Kingdom of Morocco and now Second Vice-President, for the work done during his mandate.

Reflected below is the composition of the new Board of Directors and Membership Committee. Congratulations to the elected members.

### Office:

President: Mrs. Marie Rinfret, Protector of the Citizen of Quebec (Canada)

First Vice-President: Mr. Marc Bertrand, Mediator of Wallonia and the Wallonia-Brussels Federation (Belgium)

Second Vice-President: Mr. Mohamed Benalilou, Mediator of the Kingdom of Morocco

Treasurer: Mr. Pascal Essou, Mediator of the Republic of Benin

General Secretary: Mrs Claire Hedon, French Human Rights Defender



### Board of Directors:

For Africa: Mr. Adama Toungara, Mediator of the Republic of Côte d'Ivoire

For Africa: Mr. Demba Kandji, Mediator of the Republic of Senegal

For America and the Caribbean: Ms Kelly BURKE, French Language Services Commissioner and Deputy Ombudsman of Ontario (Canada)

For Europe: Mrs Anne Eastwood, High Commissioner for the protection of rights, freedoms and mediation of the Principality of Monaco

For Europe: Mrs Erinda Ballanca, People's Advocate of Albania

For the Indian Ocean: Mr. Lala Ratsirahonana, Mediator of the Republic of Madagascar

### Membership Committee:

Chairman: Mr. Marc Bertrand, 1st Vice-Chairman

For Africa: Mr. Moumin Ahmed Cheik, Ombudsman of the Republic of Djibouti

For America and the Caribbean: Mrs. Nadine Mailloux, Ombudsman of Montreal (Canada)

For Europe: Mrs Claudia Monti, Ombudsman of the Grand Duchy of Luxembourg

For the Indian Ocean: Mrs. Nichole Eugénie Tirant-Gherardi, Ombudsman of the Seychelles

# Upcoming Events

The next series of webinars/facilitated discussions are proposed as follows:

- a) **March 8, 2022** - Complaint Handling
- b) **April 19, 2022** - Techniques for processing and managing evidence, best approach for collection of evidence to support good quality investigative reports.
- c) **May 31, 2022** - Effective Investigation strategies – building blocks, methods/tools
- d) **July 12, 2022** - Storing/archiving of documentation (retention periods of applicants' files).
- e) **August 23, 2022** - Values and Ethics of Ombudsman.
- f) **October 4, 2022** - Venice/Paris Principles
- g) **November 15, 2022** - Dealing with Challenging behaviour
- h) **December 27, 2022** - Mediation/ Alternative Dispute resolution



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