

AORC DIRECTOR'S REPORT

15th AORC Board Meeting 14th February 2017

This report updates the AORC Board on Operations and Programs since its 14th meeting on 6 July 2016 (“14th Board Meeting”).

A. OPERATIONS

1. DIRCO RELATIONSHIP

a. DIRCO Request for Information to disburse funds

By email of 15 June 2016, the PPSA informed Dr. Annie Devenish, then Acting AORC Director, of the documents required by DIRCO in order to disburse the remaining third tranche of the funds granted (“Committed Funds”) pursuant to the 2013-17 Strategic Plan of the AORC Project. These documents were:

- 2014/15 Audited Financial Statements
- 2015/16 Annual Report
- 2016/17 Activity Plan

Dr. Devenish submitted the 2015/16 Report to the PPSA on the 15 July 2016 but requested that the Activity Plan / Annual Performance Plan (essentially the budget for the next period) wait for the arrival of the new Director who would be responsible for implementing it. As noted below, the PPSA assumed responsibility to do the audit.

b. Invitation to Board Meeting

The email of 15 June 2016 also informed Dr. Devenish that DIRCO “*has had an interest over the years to take part in one of the projects [in order] to be exposed to the Centre’s work*”. The PPSA suggested that DIRCO’s liaison with the PPSA, Ms. Mathlako, be invited to the 14th Board Meeting. Dr. Devenish agreed and sent an invitation on 28th June. By email of 22 July, Ms. Mathlako indicated that the notice was too short for her to attend. She expressed her desire to meet when the new Director arrived in SA.

c. DIRCO Inspection of AORC

By correspondence of 22 August – mid September, Ms. Mathlako arranged to make a site inspection visit to AORC. Ms. Mathlako is the PPSA’s advocate within DIRCO for the AORC Project. She explained that, despite the requirement (in S.4 of the 20 October 2014 Agreement between DIRCO and the PPSA) that a joint DIRCO / PPSA Project Oversight Committee should meet quarterly, only one update meeting had been held in her eighteen months at DIRCO. Therefore, she needed to see that AORC actually exists at the University of KwaZulu Natal and to get a direct sense from the new Director of the vision and capacity to implement it.

Ms. Mathlako visited on 15th September. It was a timely and fruitful visit in which she gave invaluable guidance of how DIRCO would view the expenditure of the South African taxpayer’s money on the upcoming AOMA General Assembly, other meetings, projects and deliverables.

She warned that AORC funding was on “life support” and that there was a great risk that the Committed Funds would not be given to the PPSA for the AORC Project and, just as alarming, AORC might not be considered for new funding if she was not satisfied that the existing funds were applied appropriately. Accordingly, I immediately implemented the guidance from Ms. Mathlako that all expenditure must be in service of tangible deliverables such as research and training and that there can be no further spending on business class travel and executive hotel rooms. Attached for ease of reference is my Draft Report of her visit (dated 20 September 2016 that I sent to the former PP for comment and forwarding to the Board).

d. DIRCO Attendance: November AOMA General Assembly and AORC Training

In lieu of an invitation to the next AORC Board Meeting, I invited Ms. Mathlako to attend the above-noted meetings of Ombudsman and staff in Durban 2 – 5 November. She attended the Welcome Dinner (1 November), the Discussion/Training of Ombudsman facilitated by Dr. Ayeni (which she wanted to confirm constituted learning rather than a meeting disguised as training) and the Training in Complaints Management for staff (both 2 November). She also met informally on 2 November with the Board Members then present. This was invaluable for Board Members to hear directly from her of DIRCO’s concerns and expectations. This meeting also gave Ms. Mathlako insight and confidence in the Board’s commitment to the AORC Project.

e. DIRCO payment of Third Tranche of Committed Funds

It is my view that Ms. Mathlako’s inspection in September and personal interactions in November positively influenced DIRCO’s decision to release the Committed Funds to the PPSA on 21 December 2016. A meeting with the Finance Manager of the UKZN College of Law and Management Studies clarified that AORC may not establish a bank account separate from the UKZN. Our quest to confirm the proper funds transfer process revealed an “Agreement for the Transfer of Funds” signed 11 September 2015 between the PPSA and the UKZN to the effect that “once DIRCO makes the final disbursement in terms of the current funding agreement, the whole R7 million will immediately be transferred to UKZN”. Accordingly, AORC made a formal request on 25 January 2017 to the CEO of the PPSA that the Committed Funds be transferred. We received notification on 9 February 2017 of receipt of the funds in our UKZN cost center.

f. Draft Funding Proposal for 2016-19

Ms. Mathlako had indicated that DIRCO would consider AORC’s request for new (not renewal) funding at its meeting of late January / early February. DIRCO does not dictate when existing funds must be expended but she agreed that the Emergency Budget / Annual Performance Plan that AORC was developing could be stretched beyond the Committed Fund’s fiscal year end of 31 March 2017 to 30 June 2017. This would allow for delay and the search for alternative funding should DIRCO decide not to award new funding. (DIRCO would be concerned if stretching the Budget much further would entail overhead outstripping programs.)

AORC submitted a Draft Funding Proposal to the PPSA on 18 January 2017. A number of key documents are appended to this Proposal because Ms. Mathlako noted during her inspection that DIRCO had not had sight of some of them. The PPSA is reviewing the Draft Funding Proposal for onward submission to DIRCO. Ms. Mathlako advised that the Funding Proposal cannot be considered until the audited financial statements for 2014-15 have been submitted.

Accordingly, I propose that we postpone the Central and North African training in the Annual Performance Plan from 30 June 2017 until at least 30 September 2017 in order to ensure that the funding for overhead is not depleted before new funding is secured.

Also, I request guidance and assistance from the Board about alternative sources of funds that we should be activating should DIRCO's decision in March be negative.

Note: Section 5.2 of the 23 February 2015 MOU between AOMA, through the PPSA, and the UKZN states: "AOMA, through the Public Protector South Africa shall support the AORC to raise funds and achieve sustainability".

2. STAFFING

a. Recruitment of new Director

The UKZN Selection Panel interviewed me on 11 December 2015 and offered the position in January 2016. I was responsible for securing the work permit visa from the South African Consul General in New York, USA. This process required gathering police records from the countries I have lived in (Bermuda, Canada and US) as well as other documentation that took some time. My work permit application to the SA General Counsel was submitted in March. Between then and July there was a series of bureaucratic delays requiring me to travel from Bermuda to NY (at my own expense) four times. I did not originally seek assistance from the PPSA as I was concerned about compromising the PPSA, even inadvertently. (As a general rule, Ombudsman must maintain arms-length relationships with governments and avoid seeking any special assistance from them.) Nevertheless, it became clear that only the intervention of the PPSA would cut through what had become a bureaucratic maelstrom. I am most grateful for the PPSA's assistance and was able to arrive in South Africa on 26 July 2016.

b. Pre-appointment assistance by the new Director

The Minutes of the 14th Board Meeting record concerns raised about my involvement with AORC staff and decisions prior to arrival in South Africa. In late February 2016, after recruitment by the UKZN, I contacted the staff to introduce myself in anticipation of an early arrival in South Africa. At that time, this small team of two people was a bit overwhelmed, having been asked to achieve some "quick wins" within a short time frame. They ambitiously undertook to complete several tasks in just one month: identifying what could be "quick win" activities; planning and executing training for Arabic participants (postponed three times since March 2015); and, producing annual reports and a 2016-17 Activity Plan for DIRCO. I volunteered to be a sounding board and provide advice particularly on identification and efficient execution of "quick wins". Dean Reddi of the UKZN approved of my assistance.

Dr. Devenish, Franky Lwelela and I conducted up to three (usually one-hour long) telephone meetings per week throughout March and April. My assistance was unpaid, but had the benefit of informing me of what was being done at AORC so that I could 'hit the ground running' upon arrival. We discussed only the tasks that had either been directed specifically by the AORC Board or were generally in the 2013-2017 Strategic Plan already approved by DIRCO and the AORC Board. In part, because of my involvement, AORC was able to produce a long-delayed Newsletter; navigate the liaison with the Arabic trainer and the logistics of holding the training in

Egypt; produce reports required for DIRCO, and draft a Best Practices Brief from the first publication of the Comparative Legal Analysis. The only new “decision” was my suggestion that AORC request feedback from AOMA members on how to improve the Newsletter (none received to date). I hasten to add that these achievements were due to the smart, dedicated, remarkable acumen, and long hours of hard work of Dr. Devenish and Mr. Franky Lwelela.

c. Staff levels

A staffing study conducted by the UKZN in 2014 approved job descriptions (recommended in 2011) for a full time staffing complement of five with an additional six interns. It is unclear how the UKZN’s job descriptions determined that interns should have three years of relevant experience. It is highly unlikely that persons with such experience would be attracted by the minimum compensation that AORC has budgeted. Changes to the job descriptions entails a considered justification and grading process. AORC is slated to begin this process early in March with the UKZN Human Resources Department.

Accordingly, we are utilizing the existing job descriptions in order to recruit needed staff. However, until we can be assured of funding beyond 30 June 2017, it will be a challenge and indeed unrealistic to attract quality candidates for a short contract for the Assistant Director and Administrative Assistant positions. It makes sense to wait until we are assured of longer-term funding. We are recruiting a Researcher until 30 June 2017 for our research collaboration with the International Ombudsman Institute’s (IOI) Africa-wide study (see Research note below).

Current staff include:

- a Public Relations Officer (Mr. Franky Lwelela) who has been at AORC for three years. In addition to a broad, needed and diverse skill-set (including administrative, IT and fluency in French), he offers invaluable institutional memory
- a part-time Research Intern (Dr. Annie Devenish) who was the Acting Director for seven months until arrival of the Director. She is now pursuing her post-Doc but continues to assist in managing the research project on a part-time basis
- a full-time Finance Operations Officer (temporary from October – December 2016; fixed-term as of January 2017) to who was hired initially to finalize the Strategic Plan and Annual Performance Plan and to monitor procurement and payments for the AOMA General Assembly / AORC Training in November 2016. She now conducts all finance functions including assisting with audit queries (three years of audits were done simultaneously); managing all operational and programmatic procurement and payments, processing of contracts and, preparing quarterly financial reports (per section 4 of the Agreement between DIRCO and the PPSA). She is also developing process binders to clarify AORC interface with various financial functions within the UKZN.

3. STRATEGIC PLAN AND ANNUAL PERFORMANCE PLAN

a. Strategic Plan and “Emergency Budget”

The 2014-17 Strategic Plan was funded by DIRCO. An unapproved Strategic Plan for 2015-18 was drafted. Apparently, the intent was to use this to request additional funding from DIRCO for an additional year. This was not completed. The 14th Board Meeting demanded that AORC prepare an Emergency Budget and a five-year strategic plan “with a funding model”. The Budget is an annual statutory requirement. Without such Budget, AORC could not pay for operations (other than salaries) or for programs without requests in each instance to the PPSA for approval (notwithstanding that all payments were within the UKZN processes as of October 2015).

The Board meeting also requested support from the PPSA to produce the Strategic Plan and Emergency Budget. Unfortunately, the resource person sent by the PPSA to guide this process was unable to delay her assistance for a week to allow the new Director to recuperate from jet-lag. She came to Durban and proceeded on 27 July 2017 – the morning after my arrival in South Africa. As I would be accountable for implementing both the Strategic Plan and the Emergency Budget, I had to plunge into two ten-hour days of an intensive planning process immediately upon arrival. This became a protracted process. I noted certain points of confusion and requested guidance in a 19 August 2016 memo to the PPSA for forwarding to the Board (no response).

The PPSA resource person was nevertheless very helpful and it would have been impossible to complete the regulatory Strategic Plan three-year template without her guidance. She instructed that the Strategic Plan needed to be for the financial years 2016-19.

b. Annual Performance Plan

The first year of a Strategic Plan is effectively the upcoming year’s Budget. Accordingly, upon approval of the Budget by the former Public Protector on 26 September 2016 it was renamed: Annual Performance Plan. As the first quarter of the year had already passed, this was essentially a nine-month plan ending 30 June 2017 (as agreed with DIRCO: note A.1.f above)

4. ADMINISTRATION

a. Section 21 Registration

The 14th Board Meeting directed that a report be prepared about the advantages of being a Section 21 registered entity and what would be lost if AORC ceased to be so registered. There was a view in Board discussion that AORC should be registered as an “international company”. Advice received 14 March 2016 from a law firm set out two ways that AORC could de-register: cease payments of annual returns or, with written consent of the directors, one director attend personally at the Companies and Intellectual Property Commission (CIPC) to de-register. There was no advice about an alternative registration option to ensure proper legal status.

AORC has spoken with the Finance Director of the UKZN College of Law and Management Studies (a former auditor with one of the leading firms). She recommended that AORC seek both legal and accounting advice in order to clarify the legal implications vis-à-vis the UKZN as well as any tax implications before de-registering. She was not aware of a category of registration as

an “international company”. Under s.23 of the Companies Act it is possible to register an “external company” which is doing business in South Africa, but AORC does not appear to be eligible. In order to make considered legal and accounting enquiries the Director has begun to review documentation on section 21 and 23 companies and Public Benefit Organizations. The Board will be update as soon as available.

In the meantime, AORC received a notice from the CIPC that our registration had lapsed due to non-payment of annual fees for two years. This was quickly remedied by payment of R300 (R100 for each of the two years of non-payment and a R100 penalty). AORC is now properly registered and annual payments will be made until we take positive steps to de-register. De-registering is not recommended until we determine the appropriate alternative legal status.

b. Audit

AORC had not been audited since the 2012-13 financial year. In order to inform the DIRCO decision about whether to disburse the Committed Funds and whether to consider a new request for funding, DIRCO requested the audited Financial Statements for the 2014-15 year. By email of 23 June 2016 the PPSA undertook for its Internal Auditors to prepare the financials for the outstanding years (2013-14; 2014-2015; and 2015-2016) and to source an independent auditing firm to do the audit. This was logical, particularly for the 2014-15 Audited Financial Statements requested by DIRCO given the fact that until October 2015 the funds and records were within the responsibility and control of the PPSA.

There has been some delay in the completion of the audit because some of the information was held in files of staff no longer with PPSA. The information for October 2015 through March 2016 is at the UKZN. AORC staff have had a learning curve to mine through various UKZN departments to gather information by the PPSA’s internal auditor. Going forward, the Finance Operations Officer will maintain our own electronic records of all financial transactions.

c. Rent Overpayment

There is one outstanding AORC / UKZN matter for the audit. In the course of gathering information about the expired Lease (for both audit and renewal purposes) it became clear that AORC has overpaid rent from July 2012 to April 2016. From commencement of the Lease in April 2011 until July 2012, AORC was the sole occupant of our portion of the fifth floor of the Shepstone building. The Lease therefore included rent for the exclusive use of two bathrooms and the kitchen. From July – September 2012 the UKZN renovated the floor and AORC’s rental space was wholly inaccessible. The then Acting Director, Adv. I. Bodasingh, was provided an office in July at the Law School but then was hosted within the Durban office of the PPSA for August and September. Accordingly, AORC overpaid the full rent for two unoccupied months.

Since the Maritime Law Department began occupancy in October 2012, its 5 – 6 staff plus students have had immediate and full use of the bathrooms and kitchens (hereinafter, “Common Areas”). The UKZN ceased charging rent for the Common Areas as of May 2016. However, from October 2012 until April 2016 AORC paid the full rental rate for the full space of the Common Areas. This was clearly unfair to AORC that no longer had exclusive use of these spaces. Moreover, the shared use was disproportionate. For much of that period, there were only

two AORC staff. (Indeed, for the 16-month period of October 2014 – January 2016 there was only one male AORC staff – yet we paid rent for the female bathroom.)

The Director has calculated that the overpayment for (a) the full space for two months plus (b) the Common Areas from October 2012 – April 2016 totals **R128 610.76**. AORC raised this issue with the Campus Management Service (CMS) mid-December 2016. A recalculation was submitted mid-January (after clarification by Adv. I. Bodasingh of actual occupancy). AORC and the auditors await CMS acknowledgement of the overpayment.

d. Vendors

AORC is learning to navigate the UKZN's strict procurement processes. For example, when we tried to pay the invoice for the November AOMA GA / AORC Training we learned that the simultaneous translation company previously used for Board meetings is not listed on the UKZN Supplier Database. The payment entailed complicated paperwork to effect. AORC is reviewing its procurement to ensure that only listed suppliers are used. We are now using the professional, less expensive translation services of the UKZN's Department of Applied Languages.

Similarly, and in keeping with prior AORC Board directives, AORC has commenced discussions with the UKZN's Extended Learning Department and Institute for Professional Legal Training (IPLT) to source trainers. Training in Ombudsman functions is optimally conducted only by facilitators who are fully familiar with Ombudsman work. However, certain training can be conducted by others. Accordingly, AORC is contracting the IPLT to conduct a one-day training in Leadership and Management at the Africa regional IOI meeting in Zambia at the end of March. Note: this topic area was identified by the 2011 Needs Assessment as a priority.

AORC will also continue to source researchers from the School of Law and will commence discussions with the UNZN Research Office. The use of UKZN suppliers whenever possible has the added benefit of entrenching AORC relationships within the UKZN.

e. MOU with the Commission on Administrative Justice

AORC terminated a 24 March 2014 Memorandum of Understanding between AORC and the Commission on Administrative Justice of Kenya as there was no record of Board approval or signature by the Board Chair (signed on behalf of AORC by the then Acting Director). Although never exercised, this MOU committed AORC to providing financial and technical support to the African Colloquium. Such an open-ended commitment is of concern to the UKZN, especially as it was neither reviewed by the UKZN's legal department nor approved by the School of Law.

- **The Objective of AORC under Article 12.2(b) of AOMA's Constitution (organize training, seminars and short courses on special issues) implies AORC collaboration with AOMA member initiatives. Accordingly, a MOU with one member – with an open-ended commitment – is unnecessary. AORC undertakes to develop working criteria for collaboration with AOMA member initiatives.**

B. PROGRAMS (completed or started)

Programmatic strategies are framed as **RICA**: **R**esearch, **I**nformation, **C**apacity and **A**dvocacy.

5. AOMA GENERAL ASSEMBLY (GA) (1-5 November 2016)

AOMA will produce a report of its one-day biennial General Assembly. This event combined with AORC training and research spanned the **RICA** strategies. The GA was a great opportunity for 29 Ombudsmen from across the Continent to review strategies, share challenges and consider initiatives. This was also an opportunity for Ombudsmen and staff to network, make new acquaintances and deepen established relationships. In brief:

- The Welcome Dinner was addressed by Dr. Victor Ayeni on “*Africa’s Ombudsman at 50: Looking Back, Looking Forward*” in which he enjoined the Ombudsman institutions to celebrate what had been accomplished and to march forward with renewed energy. Dr. Ayeni (former Director of the Commonwealth Secretariat’s Governance and Institutional Development Division; now Principal of Governance and Management Services International: GMSI) is not merely a leading global expert on Ombudsmanship but has been instrumental in the establishment of many Ombudsman offices throughout the British Commonwealth and of AOMA itself.
 - **I recommend that the AORC Board consider options to honour both Dr. Ayeni (possibly a UKZN Honorary doctorate?) and Adv. John Walters whose tenure as Director and then President of the IOI entailed robust advocacy for Africa.**
- The two days of frank discussions and training are reported below.
- The Gala Dinner was kindly hosted by the Public Protector for South Africa. She invited Hon. Ravi Pillay, Member of the Executive Council for the Province of KwaZulu-Natal who offered a resounding message of support for Chapter 9 institutions.
- Other presenters included:
 - President of AOMA, Mme. Foziya Amin who presided over a ceremony commending and recognizing several former Ombudsmen;
 - then AOMA General-Secretary, Dr. Otiende Amollo who emphasized the richness of the variety of remits amongst Africa Ombudsmen;
 - the Chairperson of the Commission of Human Rights and Good Governance of Tanzania in honour of the 51st year of the first Ombudsman in Africa
 - Prof. John Mubangizi, Deputy Vice Chancellor of the UKZN who confirmed the university’s support for AORC
 - Host of the Gala, Public Protector Busisiwe, challenged Ombudsmen to promote the principles of the OR Tambo Declaration in furtherance of the AU’s Agenda 2063 and ultimately of a “promised land of a prosperous and united continent”.
- The dinner featured a sumptuous buffet by the extremely accommodating Garden Court Marine Parade hotel staff and an impressive band of current and recent UKZN students. The PPSA organized security, protocol and airport transfers. Participants were particularly thankful for the welcome that eased their entry into OR Tambo airport.

- The DIRCO representative was delighted to meet the African Ombudsman family and gain insight into our potential and challenges. Personal interaction is critical. Unlike many DIRCO projects, “good governance” is not a measurable product. Therefore DIRCO funding depends on the confidence that the representative has in AORC’s ability to implement its goals. Note that she stressed that support for the AU is a critical priority for South Africa and therefore a consideration in funding decisions.

6. RESEARCH

a. *Leverage of Resources*

Research in the past entailed electronic surveys and research teams traveling to subject countries. The UKZN questioned this expenditure in an orientation meeting with the Director. AORC does not have the funding to sustain such expenditure. Accordingly, the Strategic Plan 2016-19 and the Annual Performance Plan / Budget for the period ending 30 June 2017 provides for research to be conducted during the regional and Africa-wide trainings sponsored by AORC. At these trainings, AOMA is also invited to organize its regional meetings. In addition, AORC will take the opportunity to update the Needs Assessment.

b. *Comparative Legal Analysis*

“A Comparative Analysis of Legal Systems Governing Ombudsman Offices in Africa” for eight countries was presented at an interactive session at the February 2014 African Ombudsman (OR Tambo) Summit. The feedback was that the evolution and diversity of the African Ombudsman institution was not adequately captured. As a consequence, the Chair of the AORC Board instructed AORC (by letter dated 29/5/14) that the research should be extended to an additional eight countries. The methodology used in the first instance to choose subject countries representing the four language groups, structural diversity and age of Ombudsman offices throughout the Continent identified the following countries for further research: Angola; Djibouti; Gabon; Ghana; Libya; Madagascar; Nigeria; and, Rwanda.

This extended comparative legal study was provided for in the Strategic Plan 2016-19 and the Annual Performance Plan / Budget for the period ending 30 June 2017. Dr. Devenish and a short-term intern conducted desktop research in the final quarter of 2016. A team of four researchers (in pairs) interviewed five of the eight countries represented by Ombudsman and legal officers in November 2016 during the AOMA GA. Final research was planned for upcoming regional trainings. However, this will now be incorporated into a larger, longer-term, comprehensive Africa-wide study in collaboration with the IOI (see below).

c. *Best Practices Brief (BPB)*

Dr. Devenish and Mr. Lwelela had prepared a BPB based on the 2014 Comparative Legal Analysis. However, the 14th Board Meeting directed that this BPB not be circulated to AOMA members until final publication of the Extended Legal Analysis.

- Given that the Extended Legal Analysis will be incorporated into the IOI study yet there is value in the draft BPB, I recommend that the decision of the Board be reversed and that the BPB be finalized and circulated (with the caveat that additional best practices will be culled from the comprehensive study).

d. IOI Africa Study collaboration

The IOI is the only global association of public sector Ombudsman. Since its reorganization in 2009, the IOI has published a Europe-wide Ombudsman study and conducted comprehensive studies of the Australian /Pacific and Asian regions. It is now Africa's turn. AORC will be the lead collaborator in the IOI's study. Therefore, instead of the more piecemeal Extended Legal and Enforcement Studies that were originally planned in the 2016-19 Strategic Plan, AORC will be able to canvass each Ombudsman office in Africa with more a comprehensive range of subject matter – including the originally planned legal and enforcement research.

Preliminary discussions with the IOI agree that:

- AORC will transfer its current research budget into the collaboration with the IOI. Accordingly, AORC will conduct research interviews through leveraged travel from February 2017 – June 2017. AORC will also be responsible for drafting the report.
- The IOI will finance peer review by an international renowned academic, translation and limited printing (as electronic circulation is expected).

Terms of Reference in the form of a Memorandum of Understanding will be drafted shortly. This research, analysis and publication will benefit from the IOI's research process, standards and lessons learned from the previous regional studies. The Africa study will likely be unique amongst the regional studies, as it will benefit from in-depth in-person interviews and significant follow-up (the IOI's previous studies were based on electronic surveys and telephone interviews). Successful collaboration for this study will likely put AORC in good stead to apply for future IOI funding for development of training workshops and other projects.

7. INFORMATION

a. Newsletter

AORC produced a Newsletter in April 2016 and a draft of the next Newsletter is almost complete. The plan is to produce at least three per year.

b. Electronic Media

Franky Lwelela continues to update the AOMA/AORC website and social media through information received from AOMA members and gleaned from media. (<http://aoma.ukzn.ac.za>). Each member's website is in the process of being linked to the AORC website. AORC aims to improve our ICT and manual systems for storing collected information. This will mean storing information in both our library and Google Drive in a way that is easier to retrieve (i.e. storage by country and/or by topic or sender).

c. Publication

The Ombudsman for Cape Verde has requested permission to translate into Portuguese the AOMA Constitution and the 2013 AORC book: "An African Journey Towards Good Governance: The History of the AOMA". This will augment awareness of Ombudsman principles amongst government and the public. Both AOMA and AORC readily approved this important initiative. AORC sent a prior draft of a Portuguese translation of the AOMA Constitution and a word version of the publication in order to ease Cape Verde's task.

8. CAPACITY-BUILDING

a. Training

Capacity-building has largely been through training and ‘just-in-time’ consulting. Some 269 persons have received AORC training from inception to date, 115 of whom were trained in 2016:

May 2016: an Egyptian facilitator, guided by Dr. Devenish and Mr. Lwelela, conducted AORC’s first ever course in Arabic: a four and 1/2 day course in “Award in Ombudsman Practice – the Ways by Which The Ombudsman Works” was hosted by the National Council of Human Rights of Egypt. There were 26 participants from Chad, Egypt, Mauritania, Sudan and Tunisia.

September 2016: the Director and Mr. Franky Lwelela trained 35 investigations and analysis staff of the office of the Ombudsman for Malawi in a four-day workshop on “Basic Investigations Techniques” (*no cost to AORC*).

September 2016: the Director consulted for one-half day with the Ombudsman for Malawi and her team working of her first systemic report (re irregularities in procurement and disposal). AORC also attended an event to launch the Strategic Plan of the Malawi Ombudsman. This was sponsored by the United Nations Development Program and addressed by Members of the Government’s Legal Affairs Parliamentary Committee. The UNDP representative highlighted the Ombudsman’s role in sustaining democracy and called on Parliament to create a “culture of adherence”.

November 2016: 29 Ombudsman attended a one-half day confidential discussion: “African Ombudsman – Facing the Future” facilitated by Dr. Victor Ayeni of GMSI. By all accounts, this was invaluable. The feedback from Ombudsman is that this should be replicated.

- **Accordingly, AORC is supporting opportunities for Ombudsman to dialogue in the Ivory Coast (end of February) and Zambia (end of March) – see Going Forward below.**

November 2016: Another GMSI trainer conducted a two-day workshop in “Complaints Management” (identified as a priority in the 2011 Needs Assessment) for 34 staff from across Africa during the AOMA GA. This was invaluable in sharing approaches to the challenges of resources, independence, office effectiveness and the human rights landscape.

December 2016: The Director and Dr. Devenish conducted a workshop on “Introduction to the Ombudsman Concept and Basic Investigations Techniques” for 20 staff of the South African Military Ombudsman (*no cost to AORC*).

b. Study Visits

Notwithstanding budget and time pressures, AORC is still planning to pilot month-long study visits. In each month-long sojourn at AORC, two staff from different countries will learn from, exchange and contribute to the daily work of AORC. We are arranging for intensive language instruction in accordance with the long-desired vision of the Board. AORC is also consulting with the UKZN’s IPLT regarding their model and logistics for study visits.

9. *ADVOCACY*

a. Conferences

The Director attended the 20th Anniversary Celebration of the Office of the Public Protector of South Africa in August 2016. She has also made presentations to other conferences:

September 2016: AORC co-sponsored and the Director presented at a conference of the Ombudsman for Burundi on “Cooperation in Preventing Identity and Religious Conflict”. Burundi may be the only Ombudsman institution in the world mandated by statute to contribute to reconciliation and peace-making. At the AOMA EXCO meeting (30 August 2016 in Namibia) the former AORC Board Chair committed to Burundi’s request for co-sponsorship.

- AORC will announce that all requests for AORC support for projects must be made in April when the Annual Performance Plan / Budget year is being developed. Otherwise, AORC is unlikely to be able to accommodate last minute requests during the year.

October 2016: The Director presented at the opening of the PPSA’s Good Governance Week in Pretoria (5 October 2017). She noted that South Africa has actualized the theory (in evolving global Ombudsman scholarship) that the function of the Public Protector and other Chapter 9 institutions comprise a “Fourth: Accountability” branch of Constitutions (in addition to the Legislature, Judiciary and Executive branches).

November 2016: IOI President, Adv. John Walters, Ombudsman for Namibia presided over the IOI quadrennial World Conference in Thailand themed: “Evolution of Ombudsmanship”. Four presenters represented Africa:

- Adv. Thuli Madonsela (former PPSA): “*Evolution of the Ombudsman*” (plenary session)
- Leshele Abel Thoalane (Ombudsman for Lesotho): “*Innovative Ideas in the Ombudsworld*” (breakout session)
- Dr. Otiende Amollo (then Ombudsman for Kenya): “*Challenges for Ombudsman Work resulting from Multiple Mandates*” (breakout session)
- Adv. Arlene Brock (AORC Director / IOI Honorary Life Member): “*AORC’s Work and the Comparative Legal Analysis*” and “*Confluence of Ombudsman and Human Rights*” (two breakout sessions). Discussions with the IOI during this conference resulted in an agreement that AORC will be the research partner for the IOI’s imminent comprehensive study of Ombudsman in Africa.

b. International Relations

The AOMA EXCO meeting at the end of August in Namibia agreed that Adv. John Walters, then IOI President/ Ombudsman of Namibia, will join the efforts to accredit AOMA (since IOI already has UN accreditation). However, at the GA in Durban, concerns were raised about the pursuit for accreditation with the UN in view of AOMA's limited resources. AOMA’s report will clarify next steps.

AORC’s Finance Operations Officer has identified the possibility of NGO affiliation with the UN. The Director has contacted a colleague who enjoys a consultative / NGO role at the UN. He has agreed to research possible affiliation models for AORC.

C. GOING FORWARD:

Generally, AORC will consolidate training and research as well as seek to implement the vision of AOMA's MOU with the African Union. Critically, such plans and the very existence of AORC depends on ongoing and new funding.

Specifically, in the short-term, AORC must focus on:

Operations: securing funding, clarifying appropriate legal registration, developing relations within the UKZN and potential international partners; and adequate staffing.

Programs: conducting the IOI / AORC Africa-wide study, training, piloting the study visit exchange; and newsletters.

Upcoming training: AORC has decided to postpone the regional training in mediation in order to support Ombudsman travel and accommodation in two upcoming training initiatives by the Ombudsman for Ivory Coast and Zambia. We are able to adjust the training plan – at short notice this year – because the scheduled trainer for the Harvard Mediation Methodology and the Human Rights Investigations for Ombudsman is the AORC Director. Accordingly, such adjustments do not breach contracts or inconvenience external trainers.

Both meet the following criteria:

- Will provide a valuable training opportunity for Ombudsman in Africa (thus achieving the feedback from November for more substantive exchange amongst Ombudsman)
- Involves the IOI and other international partners (accordingly, we have a keen interest in ensuring broad participation and that these are well-executed training / meetings. In particular, Africa's reputation with the IOI must be positive in order to ease future requests for project funding)
- Is of value not only to a single region, but also to Ombudsman throughout the Continent (thus furthering the overall goals of developing strong Ombudsman institutions and promoting good governance and priorities of both DIRCO and the AU)

These training initiatives are:

- 27 February – 1 March: Mediateur for Cote d'Ivoire: AOMA/IOI training on OPCAT and National Preventative Mechanism, facilitated by the Association for the Prevention of Torture that conducted a special session at the IOI Conference in November;
- 26 – 30 March: Public Protector of Zambia: Africa IOI meeting – training on Leadership and Management (identified by the 2011 Needs Assessment), facilitated by IPLT.

AORC will leverage attendance of Ombudsman at these training events by commending the IOI / AORC research interviews. AOMA Regional Coordinators may also take advantage of these training opportunities to hold their meetings.

This Report is respectfully submitted to the AORC Board by Adv. Arlene Brock, Director.