

REMARKS BY THE HON. JUSTICE DR. EMMANUEL UGIRASHEBUJA, THE PRESIDENT OF THE EAST AFRICAN COURT OF JUSTICE, DURING THE OPENING CEREMONY OF THE REGIONAL COLLOQUIUM OF AFRICAN OMBUDSMAN INSTITUTIONS AT THE SAFARI PARK HOTEL ON 19TH FEBRUARY 2015

- Hon. Anne Waiguru, Cabinet Secretary for Devolution and Planning, Republic of Kenya,
- Hon. Prof. Githu Muigai, Attorney General of the Republic of Kenya,
- H.E. Nardos Bekele-Thomas, Resident Co-ordinator of the United Nations & Resident Representative of UNDP,
- Hon. Adv. John Walters, President of the International Ombudsman Institute & Ombudsman of Namibia,
- Hon. Dr. Fozia Amin, President of the African Ombudsman and Mediators Association & Chief Ombudsman of Ethiopia,
- Hon. Dr. Otiende Amollo, Secretary General of the African Ombudsman and Mediators Association & Chief Ombudsman of Kenya,
- Honourable Ombudsmen Present,
- Distinguished Delegates,

Ladies and Gentlemen:

It gives me great pleasure to join you today on this occasion of the opening ceremony of the Second Regional Colloquium of African Ombudsman Institutions at the Safari Park in Nairobi, Kenya. I am greatly honoured to be part of you today on this truly auspicious occasion which is a testament of our resolve for the institutionalization of good governance in Africa. I wish commend the Chairperson of the Commission on Administrative Justice, Dr. Otiende Amollo who is also the Secretary General of the African Ombudsman

and Mediators Association, for the invitation and stewardship in matters of administrative justice in Kenya.

I am happy to note the broad representation of the Ombudsman institutions within and outside Africa, as well as the other distinguished guests in this Colloquium. I believe that the wide representation at the Colloquium will undoubtedly make the discussions stimulating and invaluable to the growth of ombudsmanship in Africa.

Ladies and Gentlemen:

In the quest to turn my thoughts to what I will speak on today with which I will usefully engage your attention for the next ten minutes, the question not unnaturally presented itself, what is the purpose of these annual gatherings? Why do you put aside your customary employment? A close scrutiny of the objectives of this colloquium reveals that what brings you together is the influence of the aspiration "To facilitate and enhance the development of the institution of Ombudsman, through sharing of knowledge experience, and ideas to promote good governance in public administration, improved delivery of public service, and respect for justice and equality in the pursuit of improved human development.

The concept of Ombudsman is not a strange phenomenon in African traditions. In former times, there institutions were put in place in different cultures which played a similar role to that of Ombudsman. The idea of elder

groupings such as the Njuri Cheke in Meru, Kokwet in Kalenjin, the Ker in Luos, the Abashingantahe in Burundi, Umuvunyi in Rwanda just to name but a few ensured that there was relief and redress to citizens who were adversely aggrieved.

In this part of the world, the concept of a formal Ombudsman (or its equivalent) is one which has grown rapidly and taken root in a variety of constitutional dispensations. At the inception of the concept, many conservative legal thinkers wondered what the new institution was coming to cure that the traditional institution of the judiciary could not. However, over time, the Ombudsman institution, has proved that the versatility with which it deals with the problems registered by citizens on maladministration, particularly when the traditional formal structures of legal processes have failed or are inappropriate has immensely contributed to the welfare of the citizens, especially “the wanyonge”. Unlike the Ombudsman institution which is endowed with the possibility of flexibility in dealing with problems of maladministration, the Courts are by and large limited in the way they deal with the problems. Litigation can be costly and at times slow and littered with tedious and complex legal procedures. Only the most serious cases of administrative abuse are therefore likely to ever find their way into the courts and at times there is simply no remedy at law available in a great many cases. An older, experienced judge was once talking with a younger judge who had just been sworn in for the first time. And the older judge asked the younger judge if he knew what his job was in making decisions; and the younger judge said, “Yes, I should make decisions which are just and fair.” And the older

judge said, “No, you should make decisions which enforce the law.” Whereas, by and large the job of a Judge is to enforce law, the purpose of an Ombudsman is provision of a watchdog designed to look into the entire working of administrative cases. According to Chief Justice Milvain in the Alberta Case concerning the Ombudsman, “the Ombudsman can bring lamp of scrutiny to otherwise dark places even over the resistance of those who would draw the blinds. If the scrutiny of the Ombudsman and reservations are well founded, corrective measure can be taken in due democratic process, if not no harm can be done in looking at which is good”. In a nutshell, the Ombudsman institution can reach where other traditional institutions cannot reach through efficient procedure which complaints may be investigated, bureaucratic errors and abuses brought to light and corrective action initiated. The institution represents the paradigm of remedial justice.

We know that the dignity and the fulfilment of the aspirations of free men and women in our complex society depend on the faithful performance of institutions such as the Ombudsman. In a complex society, justice would be unattainable without the sophisticated skills and unquestioned integrity of the Ombudsman institution. The trust reposed by the community in the Ombudsman is an enduring comfort. It is important to point out at this juncture that there are three virtues which have sustained the Ombudsman Institution up-to-date, and they will be the same virtues that will sustain the Institution in years to come. The three virtues are what i refer to as the three Is. They are integrity, impartiality and independence. The three Is form the bedrock of the foundation of the Ombudsman Institution.

Ladies and Gentlemen:

I wish to laud the Commission for successfully organizing this Colloquium which is the second after the Inaugural one of September 2013. The insights learnt at the Colloquium should be a platform for further engagement amongst yourselves and with other stakeholders to improve governance and administrative justice in Africa.

I have perused the Programme of the Colloquium and gladly noted its rich contents on topical issues of concern to the Ombudsman institution. The delivery of the topics by distinguished speakers from across the globe makes me conclude that the discussions will be exhilarating and invaluable. I am aware that the task ahead of you is enormous and no single institution can deliver good governance. In this regard, I wish to urge all of you to adopt a holistic approach and collaborate with other stakeholders. This would also involve having regular exchange experiences amongst yourselves for benchmarking, inspiration and support. The cross-pollination of ideas in this Symposium can produce progression towards achieving very effective and efficient Ombudsman institutions in the region. I do understand that a lot more will be required to be done post- the Symposium. We should not be flummoxed just because things take time. We should strive to give a significant amount of our time and energy. Such occasions such as this Conference should elicit our real commitment to the issues of ameliorating the institution of the Ombudsman in our different capacities and they should just

not be symbolic gestures. The Good news is, we are our own best hope. The ongoing efforts spearheaded by the Commission of Administration of Justice to shape and improve the institution of the Ombudsman through learning from each other are impressive. It is a great endeavour you all undertake and I take this opportunity to wish you well with it. As the President of the East African Court of Justice, I wish to assure you of my support and collaboration in matters of good governance in the region.

With these remarks, I wish you all enjoyable deliberations during the Colloquium.

Thank you and may God bless you.

HON. JUSTICE DR. EMMANUEL UGIRASHEBUJA
PRESIDENT OF THE EAST AFRICAN COURT OF JUSTICE