

**THE COMMISSION ON
ADMINISTRATIVE JUSTICE**



"Hata mnyonge ana haki"

**REMARKS BY COMMISSIONER (DR) OTIENDE AMOLLO DURING THE
OPENING OF THE SECOND REGIONAL COLLOQUIUM OF AFRICAN
OMBUDSMAN AT THE SAFARI PARK HOTEL ON 19TH FEBRUARY 2015**

- Hon. Justice Dr. Emmanuel Ugirashebuja, President of the East Africa Court of Justice
- 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 & Mediators Association (AOMA) & Chief Ombudsman of Ethiopia
- H.E. Sofie From-Emmersberger, Ambassador of Finland to Kenya
- Honourable Ombudsmen
- Chairpersons and Members of Constitutional Commissions and Holders of Independent Offices in Kenya
- Distinguished Delegates,

Ladies and Gentlemen:

On behalf of the Commission on Administrative Justice, I am pleased to welcome you to the Second Regional Colloquium of African Ombudsman Institutions. The Inaugural Colloquium was on the theme

As the Office of the Ombudsman, we are particularly honoured by your presence at this Colloquium. Looking across this Conference Hall, I can see an assemblage of distinguished guests and scholars from various parts of Africa and beyond who seek to enrich the practice of ombudsmanship. To say that we are honoured would be an understatement. Your response and support have been overwhelming. This is indeed a testament of your commitment to good governance in Africa, which would ultimately propel the continent to her rightful place at the table of nations. I am hopeful that the wide representation will make the discussions exiting and proffer invaluable insights on best practices on ombudsmanship.

Allow me to thank all of you for the support and co-operation in the organization of this event. In particular, I wish to thank the Government of Kenya and the United Nations Development Programme for their support that has enabled us to actualize this goal. I also wish to thank the Commissioners and staff of the Commission for their commitment and discipline that has enabled the Commission to set the pace in matters of administrative justice and good governance.

OMBUDSMAN AND GOVERNANCE

Ladies and Gentlemen:

The Ombudsman institution is important instrument of accountability in public administration. As you are aware, it is one of the fundamental watchdog institutions that support good governance. It is central to democratic governance. It is derived from the need to provide citizens with an institution within the democratic framework which enjoys independence and public confidence, and to whom citizens can have easy access for the redress of their grievances.

Allow me to emphasize that the Ombudsman is an institution that deepens governance by making it meaningful for the people thereby strengthening their

confidence in the government. This, it achieves by striking at the root of maladministration such as injustice, delay, negligence, unreasonableness, improper, discriminatory and unjust action, oppressive behaviour on the part of the administration. Government by definition presupposes good governance and the Ombudsman is the necessary tool of state to complement Government efforts towards good public administration. The centrality of the Ombudsman has seen its global spread to over 150 countries in the last 30 years, making it one of the fastest growing institutions in modern times.

THE STATE OF THE OMBUDSMAN IN AFRICA

Ladies and Gentlemen:

In Africa, the centrality of the Ombudsman has been recognised and seen its establishment in over 44 countries over the years. Indeed, in many African countries, there is emerging what can very easily be described as the right to good public administration as seen in their Constitutions. The Ombudsman plays a central role in the realization of this right. In this regard, we must be felt by the citizens as their defenders or 'watchmen' so that when we leave the stage we are appreciated as opposed to a case where it is said 'good riddance.'

Ladies and Gentlemen:

I am cognizant of the central challenges facing the Ombudsman in Africa today. This is historical. As many of you may recall, a number of post-independence African states considered good governance as a barrier to development. This approach was not to change until the 1990s when it was realized that the two were intertwined.

Despite the foregoing, many of our countries are yet to develop the culture of respect for the rule of law; a culture where no action is taken in the absence of

penal consequences. In that environment, moral suasion cannot work; only the threat of or coercion works. If court orders are ignored, how much would a recommendation by the Ombudsman achieve? As a practitioner of ombudsmanship, I have had cases where some have sought to know whether the Ombudsman is a Court of Law to make adverse decisions. Some even say that they can only obey Court Orders. Worse still, implementation through parliamentary reporting has been disappointing due to the politicization of the work of the ombudsman and lack of sufficient scrutiny of the reports. I am fully persuaded that the effectiveness of the African Ombudsman lies in the realization and acceptance by public officers that the findings, determinations and decisions of the Ombudsman are binding on them unless otherwise varied by the Court for good cause.

The Ombudsmen in Africa continuously find themselves in contradictory situations where they are expected to be the people's defenders or watchmen against bad administration while at the same time bestowed with 'soft' powers. How can we fight abuse of power and investigate high profile systemic issues and merely make recommendations? How do we complement the Judiciary in the dispensation of justice if our decisions are deemed as mere recommendations? It is my respectable opinion that the Ombudsman in Africa must have more than mere recommendatory powers for it to be effective. We must not be made to depend on the good morals of government in the discharge of our functions. In the words of the great Mahatma, service we must render, but with necessary tools.

SECOND REGIONAL COLLOQUIUM OF AFRICAN OMBUDSMEN

Ladies and Gentlemen:

This is the second time we are holding the Regional Colloquium of African Ombudsman Institutions, the inaugural one having been held in September 2013

in Nairobi, Kenya. The Colloquium has provided a platform for benchmarking on the operations of the Ombudsman in Africa. It has also provided a source of inspiration and support to each of us as we share ideas and experiences.

I hasten to add that while the inaugural Colloquium focused on the development and placement of the Ombudsman in the governance structures within various African countries, the Second Colloquium seeks to discuss ways of strengthening the institution to respond to the unique needs and circumstances of Africa. This is aptly captured in the theme of the present Conference '*Securing the Ombudsman as an Instrument of Governance in Africa*' which speaks to the contemporary issues facing the Ombudsman in Africa. Briefly, the Colloquium seeks to achieve the following:

- i) Strengthen the institution of the Ombudsman through sharing of information and ideas to promote good public administration in Africa;
- ii) Discuss ways of enhancing the development and strengthening of the Ombudsman in Africa;
- iii) Discuss ways of developing a concrete framework for action and change strategies for the African Ombudsman; and
- iv) Complement the efforts of Ombudsman institutions by creating a platform for benchmarking and networking.

Ladies and Gentlemen:

To this end, the Conference will analyse various topics such as the role of the Ombudsman in Governance, Emerging Lessons in Investigations, Ombudsman and the Courts and Enforcement of the Decisions of the Ombudsman among others. These topics will serve to prompt us to re-evaluate our positions and take appropriate action.

The Colloquium will seek to answer the many questions that we face in our daily work, drawing from comparative experiences. In my respectable view, we must redefine and muster our strengths in our expedition to get our rightful pride of place in the table of oversight institutions. As we discuss the various issues at this event, let us confront the challenges in order to provide the solid foundation for the Ombudsman to flourish in Africa. In this regard, I invite you to have a robust discussion and share your wide experiences on governance and ombudsmanship in particular.

Thank you and May God bless you.

DR. OTIENDE AMOLLO, EBS
CHAIRPERSON OF THE COMMISSION ON ADMINISTRATIVE
JUSTICE (OFFICE OF THE OMBUDSMAN) - KENYA