

## **ETHICAL, TRANSPARENT AND ACCOUNTABLE LEADERSHIP.**

The African Ombudsman Research Centre, University of KWAZULU-NATAL.

South Africa.  
2021.

Tuesday, 14th December

“Promoting ethics and accountability in Government and Ombudsman Institutions”.

Speech by Hon. Justice Florence Mumba, Retired Ombudsman, Zambia.

Distinguished Colleagues, Ladies and Gentlemen, I am honoured to have been invited to this discussion of important values that guide interactions between individual citizens and public officials who exercise power and authority in our governance systems. I will deal with government first and then ombudsman institutions.

Promoting ethics and accountability in government institutions.

Enhancing trust in government consolidates legitimacy and efficacy. Once the Ombudsman has authority and jurisdiction clearly spelt out by legislation, complainants and other citizens at large can enjoy democratic values when public officials are seen to respect recommendations that resolve dissatisfaction, anger, misunderstanding of regulations and even unequal treatment of similarly placed officers in public institutions. Senior officials including politicians become conscious of ethical conduct in making decisions that affect people of all walks of life. Discipline will then flow from the ranks above to the ranks below in government offices. Repeated similar complaints from public institutions should lead the ombudsman to examine administrative procedures and make recommendations to streamline operations aimed at promoting efficiency with less friction. When public officers are disgruntled, service delivery suffers. Over time, this may lead to failure by government to implement development programmes during its term in office. With delayed programmes come increased costs for vital services such as health and education, among others. Most complaints deal with appointments or promotion delays, retirement terms, personal tax liability, these touch performance capacity on the part of complainants. While respective government offices in these areas may have

regulations on paper, incompetence and, sometimes, negative personal attitudes may blur them. It is the duty of the ombudsman to persuade compliance with regulations by those in authority. The ombudsman must not take over the running of those institutions but must strongly recommend compliance so that senior public officers do not neglect their responsibilities towards those whom they supervise. This duty may extend to recommending simplified procedures and training of personnel, for instance.

A positive noncoercion approach towards rectifying systemic flows rather than a blame game, is bound to earn respect for the ombudsman such that budgets may even get increased to rectify administrative systems as per recommendations. Discretionary power must be exercised with restraint, only to positively resolve some details which may support successful implementation of the ombudsman recommendations.

Where the ombudsman has oversight of prisons or detention facilities, recommending humane conditions for those in custody may be made at the same time when those institutions' personnel complaints are resolved. This is important in that people in custody have rights to humane treatment. This is one of the areas where the ombudsman may use discretion. Well- handled, the ombudsman can prevent prison riots, instead, promote fair rehabilitation of offenders as well as provide a safe workplace for prison officers.

Transparency of government administration, within reason, removes suspicion on the part of the governed and builds confidence in the system. The ombudsman must publicise services available to the people, must simplify access, whether in person or by other means. There is no complaint too small or trivial, the person affected may be relying on that complaint's resolution to move on. It is a respected ombudsman who treats all complaints with equal zeal. People from different stations of life must be served with respect. These may include noncitizens such as residents, visitors or even tourists.

Periodic official reports of the ombudsman operations must be made public, with due regard to protective measures, and must be widely distributed. Some of the recommendations in these reports may encourage officers running other government institutions to learn from recommendations that have a bearing on their own administrative systems. No self- respecting official would like to be seen as a regular 'offender' of accepted norms. Reports must be translated in all official or common languages including in braille, so that all people are well informed. These reports also serve as public education aides. The ombudsman, thus, serves government and citizen alike as she/he goes about resolving complaints. Government officials will learn that they are in office to serve the

public good, satisfying citizen expectations. Where the ombudsman reports to parliament, members will also benefit and improve government oversight. Better still, parliament may be moved to support legitimate government policy and legislation which promote efficient service delivery and ethics. Further, ombudsman recommendations, when accepted, go a long way in promoting individual realisation of human and substantive rights in the face of state power. This way, ombudsmen act as mediators between citizen and state.

#### Promoting ethics and accountability in ombudsman institutions.

A trusted, competent and robust ombudsman is an asset to government. However, respect must be earned. The way an ombudsman goes about investigating and resolving complaints, creates a positive or negative perception of the performance of the ombudsman. The office is almost always held by a senior and experienced official who understands the role of government. The office is held in similar esteem to that of the office of High court or Supreme court Judge. While courts dispense justice, the ombudsman dispenses equity. The ombudsman must exude competence and a high level of moral discipline. Periodic retreats to re-organise office systems are beneficial to remaining relevant. Staff must constantly be refreshed on latest tech tools that enhance performance and data collection, among other advantages. Ombudsmen institutions must be self-regulating. Wide consultation is advised before a code of conduct is instituted. It does not paint a good picture for a staff member or even the ombudsman, to be dragged into court for tax evasion or sexual assault, for instance; the first deals with public obligation while the latter deals with personal conduct. Such contradictions must be avoided as is humanly possible.

There are international instruments which authenticate the importance of the office; The African Ombudsman and Mediators Association Minimum Standards, The OR Tambo Declaration on the Minimum Standards for an Effective Ombudsman Institution and The Venice Principles, stand out among many others.

Physical facilities, such as offices, client auditoriums, must be accessible to all, including the physically challenged. Where possible, they must be built where public transport is easily available. Communication tools must be free for public use and, in good working order. Privacy protection measures must be put in place to maintain confidentiality. While ombudsman services may be free, attendant costs, such as transport and texting fares may be inhibiting. In a large country,

regional offices may be established. Periodic visits to such offices must be made by the ombudsman in person, to touch base with local communities. Such visits also help to improve staff morale. Where beneficial, staff can rotate between regional and city offices for them to gain a wider understanding of challenges faced by both government and citizen in providing and receiving services, respectively, in remote provinces. Ombudsman operations can then be made flexible to accommodate such challenges. Delays in attending client/staff meetings must not be used to punish clients by putting off appointments to a distant future, this type of conduct simply contributes to delays in complaint resolution. It does not reflect good will. Where interpretation is required, it must be readily available because it is important for clients to understand ombudsman operations so that they are not misled by anti-government characters. Illiterate clients must be well-served by staff trained to handle them with respect.

When public trade fairs or shows are held, the ombudsman may set up a desk for interaction with the public on all matters regarding the institution of ombudsman. This type of outreach promotes visibility of the office.

It is important for ombudsmen to meet with regional and international colleagues so that exchanges of information on strategies and tech- know- how can spread widely for the greater good. Political leaders' sensitivities may also require a wider approach so that political leaders in different countries may view ombudsmen offices as universal institutions which promote good governance. Research centres such as the one we have here in Africa, go a long way in supporting ombudsman institutions as promoters of democracy and the rule of law.

In concluding my remarks, let me share that I benefited a lot as a human being when I served as Investigator-General, in Zambia. When resolving clients' complaints, I came to learn that all human beings are the same in their quest for a quality life and peaceful co-existence.

Thank you for having me.



Justice Florence MUMBA.