

The United Nations Resolution "The role of ombudsman and ombudsman institutions in the promotion and protection of human rights, good governance and the rule of law"

Webinar hosted by AORC – October 13, 2022

**Speech by Marc BERTRAND, Ombudsman of Wallonia
and the Wallonia-Brussels Federation (B) –
Vice-President of the Association des Ombudsmans et Médiateurs de la Francophonie
(AOMF)
and Member of the Board of Trustees of the International Ombudsman Institute (IIO)**

Plural of madame

Plural of Monsieur

Colleagues

Allow me first of all to thank the initiators of this conference, the African Ombudsman Research Centre (AORC) and the Association of African Ombudsmen and Mediators.

For a long time, I have been challenged by the dynamism of the Centre, which regularly offers webinars on concrete issues that concern us all, both more fundamental themes such as the one proposed today, as well as concrete training on our job as an ombudsman, on aspects of our organization and our functioning.

I recently had the opportunity to convey to my African colleagues at a recent meeting of the IIO Board of Directors, my admiration for the professionalism in the organization and the

richness in the topics dealt with by the AORC to the greatest benefit of all ombudsmen not only in Africa, but at the global level.

I am proud that the IIO collaborates concretely with your organization, and moreover, I inform you that the Association des Ombudsmans et Médiateurs de la Francophonie will propose to AOMA and AORC to collaborate concretely in the field of training the employees of our institutions.

Thank you also for inviting me to present the UN resolution on Ombudsmen and Mediators.

Perhaps because I participated in the various stages that led to the adoption of this resolution by the United Nations General Assembly on 16 December 2020.

First of all, we must remember that the General Assembly has adopted several resolutions referring to the role of ombudsmen in the promotion and protection of human rights.

You will find in the^{3rd} recital of the Resolution, the list of these 5 resolutions.

Reading them, one can see the will of the General Assembly to support ombudsman institutions, and to encourage States to take initiatives to strengthen them where they exist.

But it is from 2019, we are several, both at the level of the IIO and at the level of the AOMF, to ask the question of an international extension of the principles of promotion and defense of ombudsmen included in the Venice Principles.

And this extension had to go through the United Nations, which, while already recognized the specific role of ombudsmen as defenders of rights, always gave greater attention to national human rights institutions.

We proposed to our colleague Ombudsman of the Kingdom of Morocco, to ask the Moroccan Minister of Foreign Affairs to take up an initiative, as that country had already done before, to propose an even stronger text on ombudsmen and their role as defenders of human rights, based on the Venice principles.

Amendments have been prepared by the IOI, translated into French, is the subject of several lobbying actions with several permanent representations to the United Nations, to lead, on December 16, 2020 to the text you know.

Once again, I would like to point out that it is thanks to the excellent collaboration between the ombudsman networks that we have achieved this result that can be described as historic.

What can we learn from this resolution? I will pick up on a few points.

1. There is a clear call for States to establish independent and autonomous institutions of ombudsmen and ombudsmen, in accordance with the principles on the protection and promotion of the institution of the Ombudsman (Venice Principles).

The Venice Principles thus become the reference principles at the global level. It is important to underline that.

2. Each State may either create a specific institution or entrust these tasks to a national human rights institution.
3. As set out in the Venice Principles, this institution must be able to benefit from the support and protection of the State, sufficient financial resources for staff and other funding needs, a broad mandate that covers all public services, the necessary powers to have the tools they need to choose the problems to be examined, address and report on abuses, conduct and communicate the results of maladministration, as well as all other means they need to carry out their mandate effectively and independently, and enhance the legitimacy and credibility of their activities, which constitute mechanisms for the promotion and protection of human rights and the promotion of good governance and respect for the rule of law;
4. The independence of the Ombudsman must be guaranteed in the Constitution or the law, and in practice he must be protected from all possible forms of reprisals and his mandate must be clear to prevent and resolve any problem of injustice and to promote and protect human rights;
5. Ombudsmen are also invited to act to strengthen their independence, to collaborate with NHRIs and if they are at the same time NHRIs, to seek accreditation from GANHRI, the Global Alliance of National Human Rights Institutions, to collaborate with the IIO, to work with civil society, to report on their activities.

Here is a few strokes of the content of this resolution.

This text is there now, as are the Venice principles.

But what can we do with it? What should we do with it?

The worst thing is to deposit them religiously in our libraries, in beautiful bindings, or, let's be modern, to save them preciously in the documents saved in our computer systems.

In my opinion, we must use and abuse these reference documents.

How to do it?

I would like to suggest a few ideas.

A first track, the simplest, in my opinion, is to ensure the widest publication of these documents, particularly on our public communication media, such as our websites presenting our institutions. But also in our annual reports.

Indeed, it is still not nothing, principles approved by the United Nations bodies....

A second avenue could be to send these documents to the authorities of our various countries, parliaments, governments, in order to make them aware of their content.

Admittedly, I am well aware that not all national situations are the same. While in several countries the dialogue between the Ombudsman and the authorities is a reality experienced positively by these partners and makes it possible to calmly examine the situation of the Ombudsman in the light of the standards set out in the Venice Principles and in the resolution, in many other countries it will often be difficult for the incumbent to put forward these principles, even though the institution itself is threatened because of its role and independence.

But these principles must also enable these institutions to defend themselves. The independence of the institution and its holder, the autonomy of management, the granting of sufficient resources, the powers of investigation, the annual report and its publication, all these principles represent the very foundations of our institution, and the commitment of our States must not remain a dead letter.

Another avenue is permanent work for our various networks.

Indeed, our international networks of mediators and ombudsmen have an important role to play in the permanent monitoring and monitoring of compliance by the authorities of each State with the content of these two documents. They will be all the more attentive and reactive, when institutions are concretely threatened directly, by legislative changes reducing the Ombudsman's ability to intervene, or indirectly, by unjustified reductions in the budgetary resources granted to the institution.

We can also take our share of the work, including developing and promoting a peer review mechanism, as the IIO already practices by working today on an improvement towards more rigor. This mechanism makes it possible to put each of our institutions under the microscope of our colleagues, following a rigorous verification scheme that will thus make it possible to determine areas for improvement to meet international standards. Our networks could work together to carry out this long-term work.

Another avenue: we must strengthen collaboration with the United Nations High Commissioner for Human Rights on the Resolution.

The UN resolution sets out a clear mission for the High Commissioner: "*[The General Assembly] Urges the Office of the High Commissioner to design and promote, through its advisory services, activities dedicated to existing ombudsman and ombudsperson institutions, in order to strengthen their role within national human rights protection systems.*"

I call on the networks to strengthen collaboration with the UN High Commissioner for Human Rights.

Certainly, some of us have already had the opportunity to meet and collaborate with this international body.

But we now need to move up a gear, not least because we need to convince the Office of the High Commissioner to promote a specific place for ombudsmen and ombudspersons in UN human rights bodies. It is also a long-term work that is carried out at the level of the IIO under the impetus of its president, Chris Field! The first objective is to obtain permanent observer status in the United Nations General Assembly. I am optimistic that this will become a reality next year.

The next step will be the UN Human Rights Council. As you know, National Human Rights Institutions, through Ganhri, the Global Alliance of National Human Rights Institutions, enjoy a privileged status with a right of intervention, particularly during the Universal Periodic Review, a mechanism that provides each State with the opportunity to present the measures it has taken to improve the human rights situation on its territory and fulfil its obligations in this area.

Like these institutions, which are certainly not our competitors but our partners, I express the hope that soon, our institutions of ombudsperson and ombudsperson, will enjoy such recognition in these bodies, because our work can also contribute to strengthening the protection of human rights throughout the world.

We are confronted, day after day, with situations where maladministration leads to bad governance, and where, in the end, it is the fundamental rights of our fellow citizens that are not respected by public, administrative and governmental authorities, political rights, economic rights, social rights, cultural rights, environmental rights. It is our responsibility to bring these dysfunctions not only to the national level, in our annual reports, to parliaments or heads of state, but also to the international level, in order to strengthen this international solidarity to better protect our colleagues in difficulty.

Ladies and Gentlemen,

I tried to trace some tracks to give body, to give life to this beautiful resolution.

It is up to us to implement most of these tracks. And through our networks, we are working on it.

There is still a long way to go before these ambitious texts are translated into the reality of all our institutions, whatever their basis and acceptance at national level, whatever the legal tradition in which they operate, whatever the degree of protection of fundamental rights....

As William 1st of Orange-Nassau said, says William the Taciturn: *"There is no need to hope to undertake, nor to succeed to persevere.* Hope is not necessary to engagement, nor success to perseverance.

Thank you for your attention.

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