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The Ombudsman's Role in Human Rights Protection

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Practices and recent development of the International Ombudsman Institute

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1. Introduction

Nǐ hǎo. President Dr. Chang, Regional President Judge Boshier, Secretary General Amon, Vice President Sun, Moderator, Dr. Chen, Members of the Control Yuan, APOR colleagues and distinguished guests, I am delighted to be here for the 31st APOR meeting in Taipei, Taiwan. It is a particular delight for me to be here again at the Control Yuan, who last hosted our APOR meeting in 2011, and to be among wonderful friends and colleagues from our region. I echo the sentiments of others before me today in expressing my sincere gratitude to the Control Yuan for hosting our APOR conference.

In this session, as you know, we are focusing on practices and recent development of the International Ombudsman Institute or IOI. The IOI was established in 1978, having celebrated its 40th anniversary last year. It is the only global organisation for the cooperation of nearly 200 independent Ombudsman institutions from more than 100 countries worldwide. The IOI is organised in six regional chapters - Africa, Asia, Europe, the Caribbean & Latin America, North America and, of course our region, Australasia and Pacific. The IOI is governed by a World Board of Directors who, kindly hosted by IOI members, meet annually at different locations around the world, with a group of four Directors, the President, Vice-Presidents and Treasurer constituting an Executive Committee of the Board that meet at least twice a year. The IOI's Secretary General is also an Ombudsman member of the Austrian Ombudsman Board, with the Volksanwaltschaft (office of the Austrian Ombudsman) providing the IOI Secretariat, based in Vienna.

With regard to this last matter, can I join with others in congratulating Werner on his appointment as Austrian Ombudsman and Secretary General and warmly welcome him to his first APOR Conference. I take this opportunity to note our indebtedness to the Austrian Parliament, successive Austrian governments and the office of the Austrian Ombudsman for their very generous provision of our IOI Secretariat, including the office of the Secretary-General. Without this support, the IOI simply could not function effectively. On behalf of my APOR colleagues, danke schön, Werner.

In my remarks, I do not propose to speak generally about particular practices and general recent developments at the IOI – I will leave that to Carmen and Werner who will speak later in this session. Rather, I propose to focus on matters relating to enhancing inclusion, fairness and adherence to good democratic principles by the IOI that I, first as the IOI Treasurer and, since 2016, as IOI Vice President, and the IOI Board, have worked on very closely over the past few years.

The IOI is a body that represents Ombudsmen. It exists to serve them, not just directly through a range of supporting mechanisms for IOI members, but also in terms of promoting at a state, national and supranational level, democracy, human rights and good

governance. Of course, it stands to reason that the IOI cannot promote principles of inclusion, democracy, fairness, equity and fundamental rights if it itself is not well-governed and ensures these principles are reflected in its own practices.

That being the case, let me discuss with you two critical projects that have been, and are being, undertaken to this end.

2. IOI Fees Reform

The first project involves changes to promote inclusion and equity for our members through ensuring that all members have access to the IOI in accordance with their means to pay. As some of you may recall, some years ago, during the period that I was Treasurer of the IOI, a decision was taken to abolish our flat-fee membership system that was undoubtedly, as a matter of principle, unfair and, as a matter of practice, resulted in smaller Ombudsman offices finding themselves in regular default of membership fees. In summary, the new system provides that, for the first time, IOI members pay annual fees tailored to their institution's budget – a system that entirely equitably reflects an Ombudsman institution's capacity to pay. This initiative received unanimous support at the General Assembly of the IOI World Conference in Bangkok in 2016 and was formalised at the meeting of the IOI World Board in Vienna in 2017.

It was pleasing that, following analysis undertaken by the IOI Secretariat, that the 2018 IOI Board meeting in Toronto was informed that the new three-tiered fee structure had resulted in a more member-oriented and fairer membership fee policy.

The new membership fee structure has been further refined at the 2019 IOI Board meeting in Merida such that members who have not otherwise undertaken fee self-assessment will be automatically allocated to the highest membership fee tier but of course can be allocated to a lower tier upon assessment.

3. IOI Bylaws Reform

The second project involves changes to the governance of the IOI to ensure that IOI is as inclusive, democratic and as well-governed as possible. The governance of the IOI is undertaken by the IOI Board and its Executive Committee, supported by the IOI Secretariat. The IOI is governed by its Bylaws, which regulate the work of the IOI. The Bylaws, however, also set out the IOI's core purpose and principles. More specifically, the Bylaws:

...affirm the IOI's core purpose and elaborate a set of principles which reflect the Principles relating to the Status of National institutions for the promotion and protection of human rights, i.e. the Paris Principles, and United Nations Resolutions on the Role of the Ombudsman.

The Bylaws establish two key objectives for the IOI to inform its purpose and work. The first objective relates to inclusion, more specifically:

[t]he Institute recognises the diversity of Ombudsman institutions which in turn reflects the diversity of the countries and regions which individual Ombudsman offices serve. Different models of legislation and accountability underpinning Ombudsman offices are also emerging which can reflect particular constitutional arrangements and cultures and the IOI for its part wishes to reflect this diversity in its membership. The second objective of the IOI is to enhance the Ombudsman role and secure the core values of independence, objectivity and fairness which underpin each Ombudsman institution and importantly inform its work.

During the 2016 General Assembly of the IOI in Bangkok, a range of issues were raised by Members principally related to ensuring inclusion and equity for smaller regions.

To undertake a review of the Bylaws, the IOI Board established a Bylaws Committee at the 2017 IOI Board meeting in Vienna. The Committee comprised myself as Chair and a number of Directors of the IOI Board, including Regional President Judge Boshier.

A major discussion paper on all areas for possible reform was completed by my office in consultation with the Bylaws Committee and considered and approved by the 2018 IOI World Board meeting in Toronto. Subsequently, the draft amendments to the Bylaws arising from the reforms, as well as a comprehensive Explanatory Note, were prepared and then considered and approved by the 2019 IOI Board in Merida. It was agreed by the Board that the reforms and Explanatory Note would be distributed to IOI Members well in advance of the next General Assembly, to ensure that participating members are in the position of taking the most well-informed decision possible in Dublin in 2020. This second project has been a very major piece of work and I take this opportunity to pay sincere thanks to members of the Bylaws Committee, my fellow Board Directors and the IOI Secretariat, particularly Uli and Karin, for not only translating a very large amount of material to both Spanish and French, but also having made very significant contributions to the actual wordings of the reforms themselves. I also want to acknowledge my outstanding staff team and particularly express my thanks to Assistant Ombudsman Rebecca Poole, Head of International Relations in my Office and with us today, who has made very significant contributions to this project.

The IOI Board will be presenting two tranches of reform to the General Assembly in Dublin. The first tranche of reforms arise from the work of the Bylaws Committee, of which there are four reforms, and the second tranche arises from work that was done prior to 2016 in relation to the Bylaws. I will deal with each in turn.

3.1 Quorum

The first relates to quorum. Despite the attendance of the highest number ever of IOI voting members at our World Conference in Bangkok in 2016, we were otherwise unable to achieve a quorate meeting. The IOI Board recommends that quorum requirements be changed from a majority of voting members to 40% of voting members.

3.2 Fairer representation of regions and members on the IOI Board

The second relates to achieving a fairer representation of regions and members on the IOI Board itself. The IOI Board recommends a fairer and more inclusive IOI Board, and fairer representation of regions that have a smaller number of voting members, by lowering the threshold of IOI voting members required to elect four IOI Directors in a region from 30, to 20 voting members. In this way, IOI Regions with as few as 20 voting members would be entitled to four IOI Directors, compared to only three Directors currently.

3.3 Achieving equal representation on the Executive Committee

The third reform relates to achieving equal representation on the Executive Committee. The IOI Board recommends achieving equal representation of all six IOI regions on the Executive Committee by ensuring that regional presidents of regions not otherwise present on the Executive Committee through the IOI office of President, First and Second Vice President, Secretary General and Treasurer will automatically become members of the Executive Committee. By virtue of this recommendation, each IOI region will be

represented equally in a key decision making process of the IOI.

We have already implemented this reform in a de-facto fashion. At both the 2018 and 2019 Executive Committee meetings held in Toronto and Merida respectively and the 2018 Executive Committee meeting held Brussels as an adjunct to the 20th Anniversary of the Federal Ombudsman in Belgium, two of our Regional Presidents were invited to attend as observers. I can say that while I have always considered that the Executive Committee process worked very well, I think this reform will significantly improve the work of the Executive Committee.

3.4 Proxy Voting

The fourth and last reform is in relation to proxy voting. The IOI Board recommends enhancing the IOI principle of inclusivity by changing the time period for giving notice of the exercise of a proxy to one week in advance, rather than two weeks in advance.

3.5 Universal suffrage through electronic voting

The second tranche of reforms relate to our electoral processes. Electoral reform was:

- First considered at the 2013 IOI Board meeting in Vienna;
- The subject of consideration by a sub-committee of the Board;
- Given in-principle approval at the 2013 IOI Board meeting in New York;
- Subject to the development of detailed implementation proposals by a further sub-committee of the Board, and then considered by the 2014 IOI Board meeting in Vienna; and
- The subject of testing of electronic voting mechanisms to ensure its effectiveness.

The reform proposes a new system of election of the officers of the IOI, namely the President, First Vice-President, Second Vice-President and Treasurer (but not the Secretary General). This is a major shift for the IOI. This new system will be that these officers will be elected by all Voting members in good standing, rather than election by vote of the IOI Board as is currently the case. A further reform will be that the proposed system will be based on electronic voting for all elections to the Executive Committee. In short, this electoral reform is to achieve universal suffrage for the office of the President and other officers of the Executive Committee. Although these reforms received the overwhelming support of voting members present in Bangkok, the reforms were not passed due to the General Assembly being inquorate. It is now proposed to present these indicatively supported electoral reforms to the 2020 General Assembly in Dublin and, as you know from our discussion at our Member Meeting yesterday, we will be utilising this system for the coming election of the President and other Executive Committee officers.

4. Conclusion

In conclusion, and as we look forward to our 2020 IOI World Conference in Dublin, I am excited about the renewed vision and purpose of the IOI to be the most inclusive, fair, democratic and well-governed organization possible. With the Ombudsman being ever more critical to the rule of law, the development and enhancement of democracy and the protection and promotion of fundamental human rights, I am deeply honoured to be able to serve the IOI and its unique role in advancing the great institution of the Ombudsman.