

**3rd GENERAL MEETING OF EAST AFRICAN ASSOCIATION OF
ANTI CORRUPTION AUTHORITIES HELD IIN BUJUMBURA
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RWANDA'S REPORT AND EXPERIENCE IN PREVENTING AND
FIGHTING INJUSTICE, CORRUPTION AND RELATED OFFENCES.

1.0 The background of the Office of the Ombudsman

In Rwanda the Office of the Ombudsman has been created in a context of struggling to establish democratic spaces which foster the welfare of communities. Rwanda had been destroyed by multifaceted violence and genocide after having stopped the genocide, some people took the resolution of building structures that enable the country to move towards sustainable human security.

The Office of the Ombudsman is one of those organisations that control if people access to a significant voice in all the major decisions that affect their life. It also controls if organisations fulfil suitably their mission and participates to spread the compliance of rules, good practices such as planning, reporting, delivering good service and so on.

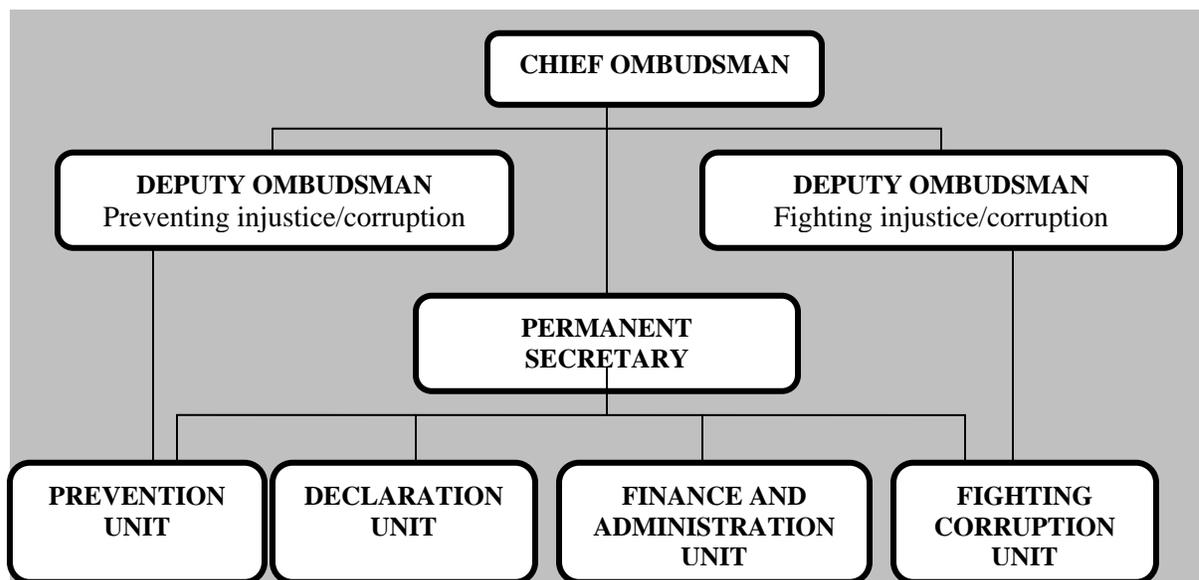
Given the mission accorded by the Rwanda Constitution of 4th June 2003, in its article 182 as amended to date, the Office of the Ombudsman was established to reinforce good governance in public Institutions and emphasizing transparency. Its organization and functioning are established by the Organic law n° 25/2003 of 15th august 2003 as amended by the law n°17/2005 of 18/08/2005.

As the constitution stipulates in its article 182, the mission of the office are mainly the following:

Act as a link between the citizen and public/private institutions;
Prevent and fight against injustice, corruption and other related offences in public and private administration;
Receives and examines, in the aforementioned context, complaints from individuals and independent associations against the acts of public officials or organs, and private institutions and to mobilise these officials and institutions in order to find solutions to such complaints if they are well founded.
Receiving the faithful declaration of assets of senior civil servants and employees involved in public property management.
Implementation of the code of conduct regulating high government officials' behaviour

The Office of the Ombudsman is made up of the Chief Ombudsman and two Deputy Ombudsman. They are proposed by the Government and elected by the Senate. The Chief Ombudsman has a mandate of four years renewable once, while the Deputy Ombudsman has a three years mandate also renewable once. The Office has five Units: There is also the Permanent Secretary who is in charge of coordinating the units' activities.

The organisation chart of the Office is shown below.



2.0 strategies used in preventing injustice, corruption other related offences

Apart from investigating cases of injustices in public administration and private institutions, the Ombudsman has another task of preventing and combating corruption and other related offences. This task is accomplished by undertaking different mechanisms: ***ex ante* and *ex post***. These mechanisms are expressly provided under Article 3 of the 2005 Ombudsman law completing and modifying the Law providing for the structure and organisation of the Ombudsman.

Considering the prevalence of corruption in Rwanda and determined to employ appropriate efforts, a department was created under the ombudsman office exclusively for this task. Since the commencement of operation of the ombudsman institution in Rwanda, several mechanisms have been undertaken in this regard.

For the purposes of this paper, such mechanisms shall be classified into two categories: *Ex ante* (Preventive) and *Ex post* (fighting).

Ex Ante mechanisms

With regards to prevention, several mechanisms have been adopted on year basis. These measures are used every year, but more and more intensified.

2.1 Property declaration

This mechanism is provided under both the Constitution and the law establishing the Ombudsman, as one of the tasks of the office.¹ Property declaration is expressly provided as a separate task of the ombudsman, it is an activity done by the ombudsman office to prevent embezzlement of public funds by government officials and to promote transparency in public administration.

¹Articles 3 (4) of the Ombudsman Law n°. 17/2005 of 18th August 2005, *supra* note 85.

The 2005 ombudsman law requires all government officials, including the President, to declare their property yearly. This obligation is not limited to declaring personal property but goes also that of his/her spouse and children who are less than 18 years of age (minors) as well as that property origin. Such declarations are made to the Ombudsman. An independent department has been allocated to submit and receive declaration forms indicating public officials' property. This activity is done on year basis and not later than 31st June.

In this respect, all top government officials are required to declare their property one month after the commencement of their duties, whilst all civil servants execute this obligation not later than 30th June of each year.

According to reports of the previous years, this measure has been more than 80% successful because most of public officials and civil servants have respected it.

Following the declarations, the Ombudsman institution goes further to make follow up and verify whether the information provided corresponds with the actual property and value attributed. In this regard, sometimes, experts are hired to conduct the actual evaluation of property. This is especially done for land and houses where evaluation may not be very simple or in case of disagreement upon the actual value. The objective of this verification is to ensure that there are no manoeuvres in the exercise or devaluation of the declared property.

The legal consequence of this activity is that any public official who fails to justify the legal source or origin of his or her property is considered to be guilty of illicit enrichment. Thus, in such instance, the ombudsman immediately refers the case to the Prosecution Authority which submits the file courts of law for court proceedings to be undertaken. Persons guilty of such acts are normally sentenced to a term of imprisonment of between 2 and 5 years and a fine ranging from twice to 10 times the value of the property the legal source of which, he or she is not able to justify. Last year 2008 23 people failed justify the origin of

their wealth and after investigations the office of Ombudsman submitted their files to the prosecution Office and the cases are filed to courts of law.

Table of Received and Verified Declaration of Assets

Year	Received Declared Assets	Not received	Verified
2004	2770	527	317
2005	2532	984	450
2006	3679	454	316
2007	3526	480	157
2008	4629	453	227
2009	4957	489	753

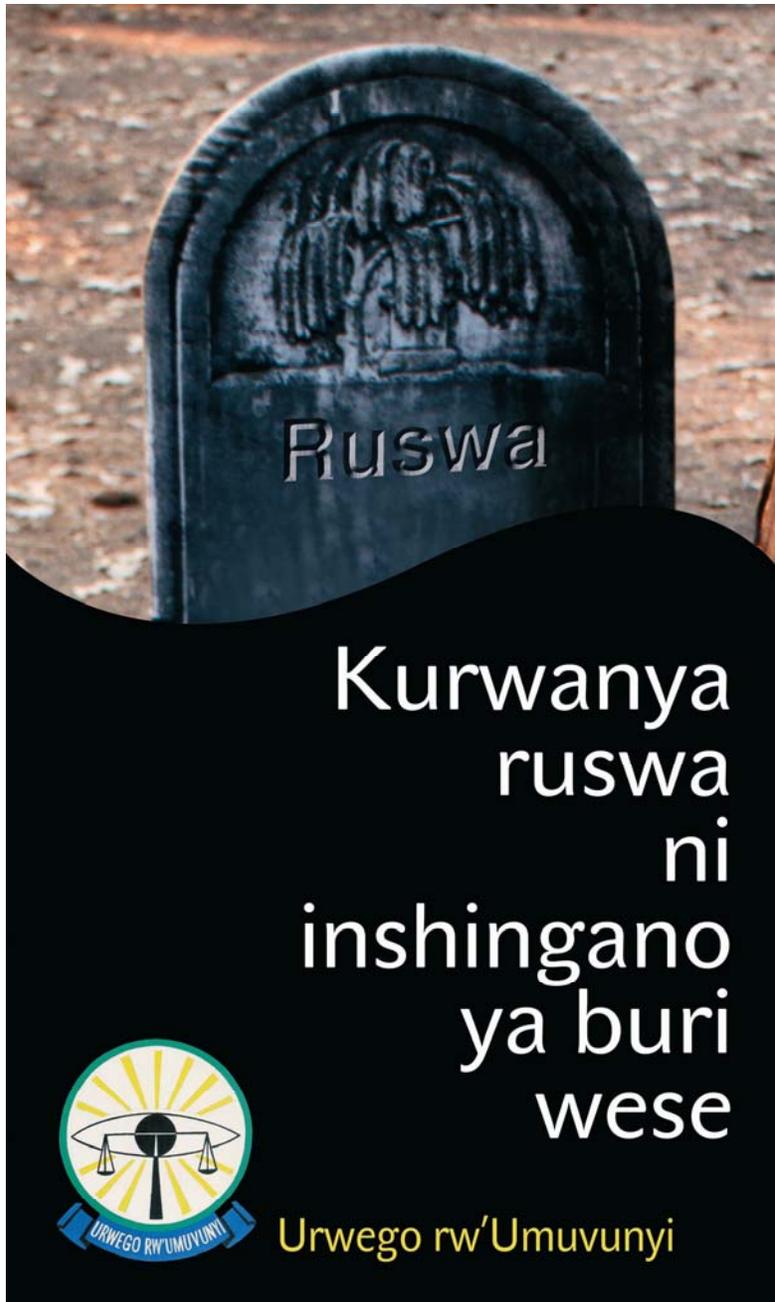
2.2 Educating the public and Dissemination of information

Furthermore, several education campaigns, including through the publication and distribution of brochures or the holding of public conferences, are conducted in order to enforce public awareness of the evil and dangers of corruption. Such education campaigns are conducted to sensitize the entire Rwandan population to refrain from corrupt practices and their role in combating the pandemic and its effects. The ombudsman began such campaigns in 2005 and in that particular year, the main focus was the youth and youth groups.

Employee of the Ombudsman office sensitizing secondary schools against corruption

In respect to this, various Secondary and Higher institutions of learning were visited to sensitize students as well as the teaching staff. In the subsequent years (2006-2009), the ombudsman continued this activity in the entire country. This

campaign focused on local leaders and the population in general. Particularly, local authorities from village to sector levels as well as mediators (judges in the Mediation Committees), were educated about the rates of pandemic in the country, as well as their vital role in its control as grass root leaders. Secondary and Higher Institutions of Learning students, Youth Associations, public and private journalists, and public servants and employees of private institutions were also educated, putting up bill boards and sign posts denouncing corruption. These campaigns are also meant to inform the public about the institution, its attributions, and its relationship with other institutions.



Message on the sign post calling upon every body to fight against corruption

2.3 Anti-corruption Clubs

The Office has encouraged the formation of Anti-corruption clubs in secondary schools and in High Institutions of Learning, at moment they are a very many and they are helping the office by receiving complaints of Mal-administration & submit them to the Office. So far there are clubs which are very strong like the Anti-Clubs of ULK Gisenyi Camps, This Club receives complaints of injustice from people and submits them to the office of Ombudsman, for the club to fulfill this

mandate the Office of Ombudsman opened for the Club a cyber café at the University. The Office sensitizes these clubs about the dangers of corruption, how it be prevented and how it be combated.

2.4 Monitoring or Operational Auditing and control of Public Institutions and bodies

In addition to the above duties, the Ombudsman also monitors on a regular basis the functioning of all government institutions, bodies and parastatals. Such controls are conducted to examine the practices, systems and procedures of such bodies to facilitate the discovery of corrupt practices and secure the revision of such practices, systems or procedures which may be prone or conducive to corrupt practices. Particularly, the ombudsman controls whether those government institutions and bodies; have a system of internal control; function in accordance to the governing laws and if such laws are not conducive or do not have loopholes that give room for corruption. He also makes follow up of the implementation of the policy of preventing and fighting against injustice, corruption and related offences by public and private institutions.

Year	Number of audited Institutions
2004	3
2005	6
2006	15
2007	11
2008	15
2009(January-September)	12

2.5 Advising the Public institutions and bodies on Prevention of Corruption

In regard to preventing corruption, the ombudsman also has the responsibility of advising public institutions and bodies on ways of preventing corrupt practices and on changes of practices which are necessary to avoid the likelihood of the occurrence of corrupt practices. Particularly, the ombudsman advises the Cabinet and other concerned institutions as regards strengthening and improving their policy of preventing, fighting and punishing corruption and other related offences

3. Investigating cases of Corruption

The Chief Ombudsman and the two Deputy Ombudsman have the got the powers of judicial Police, there is also a team of employees of the Office of Ombudsman who have got the same powers where they can carry out investigations and submit the files to the prosecution Department

Some cases of corruption and related offences have been identified by the Office of the Ombudsman while examining the practices, systems and procedures of government institutions, others came from information got in different ways sometimes.

The Office of the Ombudsman may on its initiative carry out investigations on corruption cases and thereafter submit the file to prosecution department to act on it

The Table showing investigated cases of corruption

2004	2005	2006	2007	2008	
120	35	36	42	482	

4. Achievements

- Raising awareness, a big number of population in the whole country are now aware of their fundamental rights, With massive sensitization program of the office the population is willing to denounce injustice and corruption tendencies committed in all administrative level in the government;
- Investigation of corruption cases has been achieved and cases have been submitted to Prosecution Department.
- Receiving and verifying declaration of assets;
- Conducting Corruption surveys, these surveys have been conducted, there is survey which was conducted in local Administration were it was found that there is corruption in local administration and a lot need to be done to fight it . there is also a survey which was conducted in the whole country to know the nature and the level of corruption and it was found that there severe corruption in many institutions of the state like in the police, Judiciary, Rwanda Revenue Authority and many others
- Receiving and solving citizen complaints has been done well.

The population is fully aware of where to take their complaints in case of injustice or Mal-administration as illustrated in the table below

Table showing complaints received and solved from 2004-2008

Year	Complaints received	Complaints solved	Percentage
2004	2335	1668	71%
2005	2660	1931	72.59%
2006	961	673	70%
2007	1099	912	83%
2008	1569	1314	83.74%

5. Partnership with other Institutions

- The Ombudsman office chairs the **National Anti-Corruption Advisory Council** which comprises the following institutions:
 - Office of Ombudsman, National Police, Supreme Court, National Public Prosecution Authority, Ministry of Justice, Ministry of Local Government and National Security Services. This Forum helps in sharing of information regarding corruption and to forge a way forward against this monster.
- Office of Ombudsman is a member of East African Association of Anti-Corruption Authorities (EAAACA)

The objective of EAACA is as follows²:

To promote, facilitate and regulate cooperation among the Partner States to ensure the effectiveness of measures and actions to prevent, detect, investigate, punish and eradicate corruption and other related offences in East Africa;

(b) To promote and strengthen the development in East Africa by Partner States of mechanisms required to prevent, detect, investigate, punish and eradicate corruption and other related offences in the public and private sectors;

(c) To coordinate and harmonize the policies and legislations between Partner States for the purposes of prevention, detection, investigation, punishment and eradication of corruption in the East African Community region;

(d) To accord one another mutual legal assistance regarding detection, investigations, prosecutions, identification, tracing, freezing, seizure, confiscation and repatriation of property, instruments or proceeds obtained or derived from corruption;

(e) To assist in extradition of any person charged with or convicted of offences of corruption and other related offences, carried out in the territory of an East African Community Partner State and whose extradition is requested by that Partner State Party, in conformity with their domestic laws, any applicable extradition treaties, or extradition agreements or arrangements between or among the Partner States, or Memorandum of Understanding and Bilateral Agreements between the Anti-Corruption Authorities;

(f) To establish the necessary conditions to foster transparency and accountability in the management of public affairs;

(g) To cooperate in the area of witness protection and whistle blower protection system;

(h) To provide each other with the greatest possible technical cooperation and assistance in dealing with requests from authorities that are empowered by, virtue of their national laws to prevent, detect, investigate and prosecute acts of corruption and other related offences;

² The objectives were got from EAACA web site accessed on 08/10/2009

- (i) To disseminate information on the work and activities of Anti-Corruption Authorities among private and public sectors, civil society and the media;
- (j) To stimulate public awareness about the dangers of corruption and about civil society's role in the prevention and combating of corruption in general;
- (k) To carry out joint training program of employees of the member Anti-Corruption Authorities;
- (l) To conduct research on new and best practices and innovations to improve and enhance the effectiveness of Anti-Corruption Authorities in the East African Community Region, and to promote ethical values;
- (m) To make reports and recommendations to appropriate authorities on best public practices and reforms that would enhance the effectiveness of Anti-Corruption Authorities;
- (n) To promote cooperation among the Anti-Corruption Authorities in conducting and exchanging studies, researches and expertise on good governance, ethical values, and on how to prevent and combat corruption and other related offences;
- (o) To promote cooperation among Anti-Corruption Authorities, where possible, in providing any available technical assistance in drawing up program, codes of conduct or organizing joint training, where necessary and for the benefit of their personnel;
- (p) To facilitate the repatriation of proceeds of corruption or money laundering or ill-gotten wealth and the seizure of any property when requested by any Party to this Constitution;
- (q) To network, associate and co-operate with Regional and International Bodies and Authorities;
- (r) To do any other thing for the common interest of the Anti-Corruption Authorities that are members of this Association.

- The office of Ombudsman is in partnership with the civil society like the media, NGO's so that the fight against corruption can be strengthened

6. Challenges faced by the Office

- ❖ Limited resources to accomplish the mission of the Ombudsman Office;
- ❖ Limited number of staff to accomplish the mission of the office;

- ❖ Resistance in implementation of Ombudsman's recommendations by some institutions;
- ❖ Reporting cases of corruption is still low

In nutshell, the Office looks forward to seek joint cooperation of regional anti-corruption institutions or international institutions in continuing the campaign against corruption in order to create a region free of corruption tendencies by ensuring transparency, public accountability and good governance in the region.