

Address Given by Dr. Bernard Frank
On the Occasion of the Opening of the
International Ombudsman Institute
at the Van Leer Foundation
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INTERNATIONAL OMBUDSMAN INSTITUTE

We are met today in a country whose creation in this century proved the power of the human spirit and in a city-- eternal and sacred--which is the spiritual capital of humankind. Here we mark the official opening of the International Ombudsman Institute. A dream has materialized into reality--and that makes this an awesome occasion indeed.

And in this country, in this city--where the past lives again--I speak to you first of an ideal--the Ombudsman concept--its meaning and essence--young in its form but ancient in its spirit.

The Ombudsman cannot be understood without relationship to the troubled times in which we live. People everywhere have great concerns for an uncertain present and future. New beliefs have arisen rejecting the faiths of our fathers. Change fills the air. Differences have arisen between generations. Society's values and institutions are undergoing a process of critical review and frequently drastic alteration. The governed find themselves increasingly suffering harm and wrongdoing from those who serve as the governors. The citizen, unable to deal with bureaucratic government, sees a widening gap. Alienated and cynical, he says that one cannot fight the halls of power.

So today we ask the question--what are the roles of the Ombudsman and the Institute in such times?

Here in this land, the sages taught that the world stands on three feet--justice, truth, and peace. It has been said that where there is truth, there is peace; and where justice is **done**, there is also peace and truth. And so ancient Israel stamped its ideals on the human mind, never to be forgotten.

If one word can be said to symbolize the true essence and spirit of the Ombudsman, that word is "Justice." The men and women who serve as Ombudsmen in the democratic world are of many faiths, beliefs, races, and colors, but they are united in heeding the impassioned biblical cry in Deuteronomy, "Justice, Justice, shalt thou pursue" and the mighty words of Amos, "Let justice roll down as waters and righteousness as a mighty stream." There is no person who cannot feel the throbbing pulse of a concept which seeks to correct wrong--whatever it be called--maladministration, injustice, harm or error.

I repeat today that which I have often said--human rights and fundamental freedoms, so essential to the dignity of humankind, are only words and phrases in impressive written documents--constitutions, bills of rights, charters, laws, and declarations, unless there are agencies such as the Ombudsman to breathe life and meaning into those writings and guarantee to the peoples the rights set forth in those documents. Justice Douglas put it in shorter and dramatic words--"To take government

off the backs of people."

Modern society cannot survive without such instruments as the Ombudsman consisting of men and women who pursue truth and justice.

This I believe and in saying what I have said, I do not overlook other great institutions--such as the judiciary--who are similarly concerned with the pursuit of truth and justice. Nor have I disregarded the limitations and weaknesses of the Ombudsman. He cannot remake society or cure all its problems, and he cannot touch some deep, troublesome major issues. Professor Walter Gellhorn once wrote, "The greatest injustice to the Ombudsman would be to regard him as the possessor of a cure-all." . . . "Ombudsmen, no matter how accomplished they may be, cannot replace all other mechanisms that make for governmental justice and wisdom. They must be viewed as supplementers of, not as substitutes for, legal controls." Notwithstanding limitations and weaknesses, the Ombudsman is unique in that it is one of the few institutions totally and completely devoted to making right if there has been a wrong against a person. If Daniel Webster was correct in saying that the great interest of humankind on earth is justice, then it is vital to appoint as Ombudsmen highly qualified individuals who are intelligent, honest, enlightened, and tolerant, who have wisdom and humility with a passion for

truth and justice, who know and restrain their own prejudices and frailties because Ombudsmen are after all human beings and who are aware that Ombudsmen are servants of the community not inaccessible, cold and dogmatic rulers. The men and women who serve as Ombudsmen and who are assembled in this Jerusalem Conference I believe to have these qualities and will continue to have them as the years pass in the performance of their duties. We earnestly pray that Ombudsmen everywhere will heed the biblical admonition, "Ye shall not do unrighteousness in judgment." And so I say to you, the spirit of the Ombudsman is to judge truly and give righteous judgment--and to be the "voice of the voiceless" (words of Dr. Randall Ivany) and "The ordinary man's corridor of access to the seat of power," as was said by Arthur Maloney.

The International Ombudsman Institute is a vehicle to spread a spirit that is essentially biblical. It is fitting therefore that this Institute, which has its physical home in Edmonton, Alberta, Canada -- many thousands of miles from here -- is opened at this occasion in the city and country which is its spiritual home.

The Institute, I repeat, is a dream which has materialized into reality. It has a single purpose -- to promote the concept of Ombudsman and to encourage its spread throughout the world. It will do so by ~~research and study, the development and operation~~

of educational programs, by the collection and distribution of information and research data, the development and operation of programs enabling and exchange of information and experience between Ombudsmen, the providing of financial support to encourage the development of the concept, and by such other programs as may be developed to further the objectives of the Institute.

The Institute is governed by a Board of Directors whose membership represent many parts of the world. Oliver Dixon, Australia, former Western Australia Ombudsman; Joseph Berubé, Canada, New Brunswick Ombudsman; Dr. Randall Ivany, Canada, Alberta Ombudsman; Dr. Frank Jones, Canada, Dean, Faculty of Law, University of Alberta; Dr. Myer Horowitz, Canada, President, University of Alberta; Sir Moti Tikaram, Fiji, Ombudsman; Baroness Serota, Great Britain, Chairman Commission for Local Government; Ulf Lundvik Sweden, former Chief Ombudsman; Dr. Jacques Vontobel, Switzerland, City of Zurich Ombudsman, and Bernard Frank, United States, International Bar Association, Ombudsman Committee. It has a dedicated small staff headed by Dr. Randall Ivany. We are indeed indebted to him for assuming this position.

The Institute has proceeded in accordance with its purpose and objectives. It has become a resource center by obtaining and distributing information: Published Newsletters,

Vol. 1 No. 3-5 and Vol. 2, No. 1-5, the Annual Survey, 8th and 9th (The 9th, 1979-1980), is now in the mails, Occasional Papers, conference proceedings, (including the Sydney International Bar Association Conference, the U.S. Association of Ombudsmen Conference, and the Canadian Provincial Ombudsman Conference), and other publications; established the Ombudsman in residence program with Sir Guy Powles of New Zealand in 1978, Ulf Lundvik of Sweden in 1979 and Ramawad Sewgobind of Mauritius in 1980; assembled an Ombudsman Library; gathered into a computer a bibliography bringing together all known materials on the subject and published Bibliography Volume 1 and a Supplement; ~~create~~ ^{edited} a profile of each legislative Ombudsman office; ~~publ~~ ^{publ}ished court cases involving Ombudsmen and a Brief to be made available in litigated matters; it has done research or given assistance to five Ombudsman offices, the Governments of Netherlands and Ireland in connection with the establishment of new Ombudsman offices in these countries, the Pakistan Vigilance Commission, and the British Commonwealth Legal Secretariat; manuscripts are reviewed and where possible advice given with respect to publication sources; a seminar in South America in Venezuela is being planned for February 1981; and finally, a research grant has been made to Dr. Stanley Anderson. Last week the Board of Directors met in Stockholm and planned other projects which will in due course be announced.

It is appropriate to have Dr. Randall Ivany and Frank

Jones give remarks and the Ambassador of Canada speak on this occasion because the dream was converted to actuality mainly by Canadian assistance. In 1969 the proposal was made to the Bangkok World Conference on World Peace Through Law in my work paper that there was a need for an Ombudsman Center. The same recommendation was contained in my first report as Chairman of the Ombudsman Committee of the American Bar Association in 1971 and in my first report as Chairman of the International Bar Association Ombudsman Committee in 1974. But nothing came of these recommendations until the Conference of Canadian Ombudsmen at Halifax in September, 1975, when I discussed an Ombudsman Center preferably at a university. For the first time, the proposal reached receptive ears. I bring to mind the action of that Canadian Ombudsman Conference in passing a resolution favoring the establishing of an Ombudsman Centre, the proposal of the Faculty of Law, University of Alberta, in 1977 for an Institute, and the adoption of that proposal by the International Ombudsman Steering Committee in 1977 after presentation by Dr. Randall Ivany. Funded by the Alberta Law Foundation under a three year grant, the Institute was established at the University of Alberta in 1978 under the close supervision of Dean Frank Jones with Professor Peter Freeman as the first Executive Director and upon his resignation, Dr. Randall Ivany became Acting Executive Director on June 1, 1980, and a week ago, in Stockholm, Executive Director. The continuation of the Institute has been assured by further funding from several

Canadian Provinces (Alberta and Ontario, others are anticipated), and so the role of Canada was the major factor in the creation of the Institute.

The future of the International Ombudsman Institute is before us. I now speak in more contemporary terms. The Institute has just left the launching pad and is now in orbit. The mission will not be completed in our lifetime but will, we hope, continue through the lifetimes of those who will come after us. It will, we pray in this holy city, continue on its path, visible to all, performing a great task on behalf of all mankind. But this cannot be done without your help, for all of us are mission control and to this endeavor we must dedicate ourselves. As an ancient teacher in this land once said, "It is not incumbent upon thee to complete the work; but neither are thou free to desist from it." Spelled out, this means sending information concerning your offices, enrolling as members and interesting public and private sources in supplying funds. The Institute is not Canada's alone. It is yours as well.

Let me close with a paraphrase of words of the then Chancellor of Hebrew University, Judah L. Magnes, who said in October, 1934, on the occasion of the academic year opening, "Here is the Institute. (Dr. Magnes said University) It exists. It is alive. It has plans and hopes and faith." And so I say to all of you here--join with us in the building of the Inter-

national Ombudsman Institute in its mission to promote the concept of Ombudsmen and to encourage its spread throughout the world.