

Swedish Ombudsman's Welcome

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The Ombudsman institution established in Sweden in 1809 was an early expression of the democratic ideal – and the mission since pursued by ombudsmen has advanced that ideal. Today, there are many different models of ombudsman, but our fundamental duty is the same: We are there to protect individuals against unlawful, unfair and unreasonable treatment by their public authorities. And, in so doing, we contribute to the advancement of good governance and to a society based on respect for the fundamental rights of its citizens.

My Swedish Parliamentary Ombudsman colleagues and I – and the members of our staff – are very happy indeed to welcome ombudsmen from all over the world to Stockholm, the capital of Sweden.

We are honored that the International Ombudsman Institute decided to hold its 9th World Conference here in Stockholm, thereby recognizing the importance of the bicentennial of the Swedish Office of Parliamentary Ombudsmen for the international community of ombudsmen as a whole.

And we truly appreciate the fact that in these difficult times – when the financial system is under a serious strain and most of our economies seem to be in recession – colleagues from 85 countries have found it worth their time and money to attend the World Conference and to celebrate with us. And we are grateful that the Swedish Parliament has honored its commitment to contribute to financing this event, despite the grim economic outlook.

I would also like to extend a warm welcome to our distinguished keynote speakers for this afternoon, in particular Mr. Kofi Annan, well known to us all as former Secretary General of the United Nations and still active in promoting peace and stability in troubled regions; and to Ms. Navanethem Pillay, now serving as the United Nations High Commissioner for Human Rights. All of my ombudsman colleagues and I are very honored indeed that you have found it possible to devote part of your valuable time to address this conference.

The Speaker and Ms. Andnor have both emphasized the importance of 1809 in Swedish history. There is some discussion in our country as to just how important the events of 1809 were for Sweden's further development towards a democratic state governed by the rule of law. I think all agree, however, that after a period of royal autocracy, of absolute powers in the hands of the King, at the end of the 1700s, the new Constitution, adopted after the upheaval of 1809, laid the foundation for the journey towards a modern democracy – even if the road ahead was certainly not a straight and narrow one.

One element in the Constitution of 1809, designed to contribute to a division of power between the King and Parliament and to prevent authoritarian rule from reappearing, was the provision that Parliament should elect an ombudsman, the Ombudsman of Justice, or simply the JO, as our institution is commonly known in Sweden.

In the *travaux préparatoires* to the Constitution of 1809, it was stated that the duty of the Ombudsman of Justice was:

to exercise supervision of the observance of the laws by judges and officers of the state, and to prosecute, with due process of law, those who in discharging their duties, through violence, personal considerations, or for some other reason, act unlawfully or fail to fulfill the duties pertaining to their office.

I think that from this quotation it is clear that the institution of the parliamentary ombudsman may be regarded as an early expression of the democratic ideal – and that the mission pursued by the ombudsmen contributed to the advancement of that ideal.

First, the ombudsman was to supervise the observance of the laws by judges and officers of the state. This is to be seen as an expression of the principle of the rule of law in its narrow sense. Citizens should not be subject to the arbitrary whim of the ruler – be that a king, a self-acclaimed president, a central committee or any other executive exercising absolute powers. A state should be governed by norms of general applicability, issued by a legislative body. Such norms, applicable to everyone and known to the citizens, provide legal certainty and let individuals foresee the consequences of their actions.

Secondly, the ombudsman was to prosecute those judges and state officials who failed to fulfill their duties. This may be seen as an expression of the democratic ideal in the sense that it insists on a personal accountability on the part of public officials. During the first 100 years of the existence of our Office, the ombudsman held public officials accountable exclusively by acting as a special prosecutor and bringing those who misused public office to justice.

As you probably know, the Swedish ombudsmen have retained the right to act as special prosecutors, and we still find reason to use this right a few times each year, but the emphasis in our work has definitely shifted from prosecution to providing guidelines for a lawful and correct handling of cases by the state administration. But of course, even without the element of criminal prosecution, the work of ombudsmen to a large extent is precisely about accountability.

Consequently, at this early stage in Swedish history, when the parliamentary assembly was not elected by universal and equal suffrage but nevertheless acted as representatives of the people – the final breakthrough of democracy would take another 100 years to achieve – the ombudsman contributed to the democratic ideal:

- by strengthening the role of Parliament vis-à-vis the King;
- by advocating the rule of law;

- and by making it possible to hold those who have been entrusted with the power to exercise public authority responsible for their actions and omissions.

As is evident from this conference, and as all of us assembled here today know, the ombudsman idea spread rapidly during the second half of the 1900s, especially after Denmark in the 1950s had proven that the concept could be applied outside the Swedish-Finnish constitutional tradition. The concept seems to have been particularly attractive to countries, which, like Sweden in 1809, had experienced a period of authoritarian rule and wished to secure their transition to a stable democracy.

I look very much forward to our bicentennial seminar this coming Friday, when a number of colleagues have agreed to try to trace the development of different ombudsman traditions from their original Swedish source. I hope this will provide us all with a more thorough knowledge of our common tradition, with a better understanding of our differences and similarities.

We, the ombudsmen who have gathered for this World Conference, have different mandates and different working methods. We have different professional backgrounds and the procedures for our election or appointment are not one and the same.

We also work in societies with different political, cultural and social characteristics. Some of us perform our tasks in fairly stable democracies where the rule of law, at least as a matter of principle, is regarded as a fundamental value and where the ombudsman is a well-respected institution. When other colleagues fulfill their mission, they may experience disrespect from the executive power and even at times encounter physical violence.

Nevertheless, our fundamental duty is the same: We are there to protect individuals against unlawful, unfair and unreasonable treatment by their public authorities. And, in so doing, we contribute to the advancement of good governance and to a society based on respect for the fundamental rights of its citizens.

Because, regardless of whether our enabling legislation states that our work is restricted to issues of legality or maladministration or explicitly requires us to promote and protect human rights, the fundamental rights and freedoms of individuals form an essential part of our work. Human rights are legal norms, whether included in a Bill of Rights in a national constitution or agreed upon in international conventions. And when those in power deviate from, or even set aside, the legal norms they are obliged to follow – then it is time for the ombudsman to act.

This we have in common, even if the political leadership of our respective countries is not always in agreement, or the relationship is hostile. Especially in those situations, we may need to insist on our independence and integrity and continue our work to protect the rights of individuals.

Indeed, the role of the ombudsman may be said to be of particular importance in times of outside aggression or internal disorder – because at such times governments tend to overreact and to disregard fundamental values. Our role is to constantly remind them of those values.

A month ago, I was invited by our Albanian and Greek colleagues to a seminar on the freedom of information. We discussed those issues calmly and professionally between colleagues representing, among others, Greece, Macedonia, Albania, Kosovo, Serbia and Vojvodina – entities that have their differences at the political level. To me, this is a good example of meaningful international cooperation between ombudsmen.

My hope is that this, the 9th IOI World Conference, will fulfill a similar purpose on a worldwide scale. Furthermore, I hope that this conference will not only be important because it recognizes the history of the Swedish Office – which is also the common history of the community of ombudsmen – but because it gives us an opportunity to reflect upon what lessons may be drawn from years past.

I sincerely wish for this conference to also mark a new beginning for the international cooperation between ombudsmen within the framework of the IOI. As many of you know, and as our President Bill Angrick already mentioned, the Board of Directors has, especially during the last two years, intensively considered alternatives to make IOI even more viable and stable, more present on the world arena and in the minds of ombudsmen – thus providing real value to its members and to the 200-year-old idea of ombudsmanship in a world of new challenges. As has been announced in the program for the conference, the board will put forward proposals to this effect at the general assembly at the end of the conference.

The founding conference of the IOI was held in Edmonton, Canada, in 1978, and the Faculty of Law at the University of Alberta has put in a lot of effort to administer our organization ever since. We have every reason to be very grateful indeed for this continuous effort by the university, today represented by Dean David Percy as our treasurer, Linda Reif as our editor and Diane Callan as our administrator.

But our organization has grown. I have in my possession a group photo of the 3rd World Conference held in Stockholm in 1984, 25 years ago. It shows a group of little more than 100 men and women on the front stairs of the Swedish Parliament building.

And, not only has our organization grown, but so has the world – in the sense that our states and the citizens we serve are increasingly interdependent. We travel faster and move more easily from one country to another. Bird and swine flu viruses do not recognize state boundaries; capital and air pollution do not require passports.

The work of ombudsmen is national in essence – our job is to defend the rights of our citizens in cases where our governments or public authorities fail. Nevertheless, given our interdependence, we need to develop closer ties between us, to be able to consult one another when faced with new problems and to have a professional administration, which can provide a strong support to the regions and individual members of the IOI.

I am, therefore, grateful to the Board of Directors for the work that has been done to develop a new organizational structure, based on an ombudsman colleague serving as Secretary General of the IOI and his or her office providing the services of a general secretariat. And I am glad that the Austrian Om-

budsman board, in a generous offer, has declared its willingness to take on this new role within the IOI.

Finally, there is no reason to believe that the need for protecting the rights of individuals and to advocate for good governance will diminish during the next 200 years. Human rights and the rule of law cannot be taken for granted in any of the states in which we work. On the contrary, the strain that our societies may face as a result of, for example, global warming, unstable financial systems and international terrorism will make it even more important for ombudsmen to be watchful and, to the best of our abilities, make sure our governments meet those challenges with due regard for human rights and human dignity.

I wish us all a successful conference.