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The Ombudsman in Canadian Universities: and justice for all

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ABSTRACT *The paper is developed around four major topics: review of the ombudsman concept; factors which influenced the adoption of the ombudsman concept by Canadian universities; factors associated with the effectiveness of ombudsman offices; and comparative studies of university ombudsmen. In addressing the above topics, the authors draw on the generic literature on the ombudsman concept, specific articles on campus ombudsmen, the results of two questionnaires circulated by the authors to campus ombudsmen, annual reports and case materials. The paper concludes that the generic ombudsman literature about essential attributes and characteristics of ombudsmen is useful in examining specialist campus ombudsmen; and that those operations which most closely approximate the classical ombudsman model appear to operate most effectively and enjoy a high level of acceptance in the institutions they serve.*

Introduction

In the last two decades the campus ombudsman's office has become a relatively common service on North American campuses. There are now more than 100 university and college ombudsmen in the United States and more than 20 in Canada's 59 degree granting institutions but the concept remains little known in other parts of the world. This paper, which is focused on ombudsmen in Canadian universities, is structured around five questions. Why has the ombudsman concept been adopted in 20 Canadian post-secondary institutions? What factors are associated with the effectiveness of campus ombudsman services? What structural arrangements are in place for delivering these services? How do university ombudsmen view their roles? What are their educational and work backgrounds and terms of tenure and salary?

In developing this paper, the authors have drawn on generic literature about ombudsmen, articles and papers directly related to the university/college ombudsman function, data collected from two questionnaires separately distributed by the authors, annual reports published by university ombudsmen and related case material.

The model of the university ombudsman in Canada is very much influenced by the example of the classical legislative ombudsman which originated in Sweden in 1809. At that time, the *Riksdagens Justitieombudsman* or Parliament's Agent of Justice was created to act as a counterweight in the balance of power between King and Parliament.

Although the ombudsman concept has spread far and wide, and ombudsmen can now be found in banks, hospitals, nursing homes, prisons, school boards and on the staff of more than 30 newspapers in the United States and Canada (Zagoria, 1988), in modern usage the term is still most commonly used in the government context. Here it is understood to mean an independent official appointed by a legislature to receive, investigate and report on

citizens' complaints of bureaucratic error, abuse, and injustice. Not all ombudsmen are called 'ombudsmen'. Popular but not inaccurate synonyms include grievance person, mediator, citizens' defender (Hill, 1976), *Protecteur du Citoyen* in Quebec, People's Attorney in Austria, and Citizen's Advocate in Kentucky (Zagoria, 1988). The ombudsman concept is relatively new in Canada. The first provincial government ombudsman was appointed by the Province of Alberta in 1967 and, since then, all but Prince Edward Island, the smallest of the Canadian provinces, have appointed ombudsmen. There is still no federal ombudsman in Canada despite pressure from the public and the provincial ombudsmen, and despite government commitment in the Throne Speeches of 1977 and 1978. However, there are four federal officials with specific ombudsman-like responsibilities—the Commissioner of Official Languages, the Privacy and Information Commissioners and the Correctional Investigator. Canada is one of few countries with such a comprehensive ombudsman system available to its citizens, but it is not alone. There are other examples of well-established government ombudsman services, particularly in Scandinavia and in several countries of the British Commonwealth. In the United Kingdom, the ombudsman is called the Parliamentary Commissioner, and that officer investigates complaints of maladministration related to the central government which are referred by members of Parliament; he is also 'ombudsman' for the National Health Service. There are also Commissioners for Local Administration who deal with complaints related to local authorities or municipalities, the second tier of government in the United Kingdom (Stacey, 1977).

The role of an ombudsman in a university is not dissimilar to the role of the legislative ombudsman. That is, the ombudsman is an impartial person who receives and investigates complaints, reports on findings and helps achieve just and equitable settlements. Like their government colleagues, many university ombudsmen are 'agents for change', recommending modifications and improvements to rules, regulations, policies and practices which are unclear, inequitable or unfair. As well, and perhaps more than in government, university ombudsmen often act as advisors, counsellors and educators. They spend a good deal of time informing people of their rights, explaining about existing channels for grievance and appeals, and assisting people in the use of those procedures (McKee, 1979).

Table I illustrates the types of cases dealt with by the Ombudsman at the University of Manitoba.

What Factors Influenced the Adoption of the Ombudsman Concept by Canadian Colleges and Universities?

Canadian universities, like their counterparts in the United States and the United Kingdom, experienced their share of student unrest in the 1960s and early 1970s. In the United States, the 1971 Carnegie Commission *Report on Higher Education* recommended the creation of ombudsman's offices as one way to cope with the turbulence of the times (Stieber, 1987) and, indeed, ombudsmen have been widely used on American campuses as a means of identifying, resolving and separating grievances against universities and colleges themselves from broader social and political issues. While at least one Canadian ombudsman's office was created in the aftermath of campus violence (in 1971 at Sir George Williams University, a founding institution of Concordia) student unrest has not been a major factor prompting the development of the university and college ombudsman system in Canada. This is not to suggest that pressure from students has not been influential. Several offices began operating without institutional blessing under the auspices of student associations, and some still operate that way.

The lowering of the age of majority did away with the concept of *in loco parentis*, and

TABLE I. Types of cases, 1 September 1987 to 31 August 1988

Type of case	Number of cases, 1987/88	Percentage
1. Provision of information/ resolution of red tape issues	36	9
2. Academic appeals, including appeals of academic decisions	115	28
3. Problems with individual instructors, advisors, programme quality and organisation	80	19.5
4. Admission/registration/fees	58	14
5. Discipline (plagiarism, academic dishonesty, unacceptable conduct)	15	4
6. Unfairness or discrimination	53	13
7. Other (library, parking, residences, student aid, etc.)	51	12.5
Totals	408	100.0

Source: Seventh Annual Report of the University Ombudsman, Winnipeg, University of Manitoba Senate Minutes, 1988-89.

the introduction of human rights and consumer legislation influenced students to reject paternalism and begin to think of their relationship with universities in terms of contract. As students increasingly view themselves as consumers of educational services, their demands for fair treatment have become difficult for universities to ignore. This combination of factors has placed increasing demands on universities to adhere to the principles of natural justice and procedural fairness in resolving grievances and hearing appeals (McKee & Stephensen, 1988). Many universities have responded by creating an ombudsman's office to receive complaints and identify procedural problem areas in need of reform.

If initial pressure for the creation of an ombudsman office has often come from students, the advantages of the concept have also been recognised by many who teach in and administer post-secondary institutions. In a time of growing and often unresponsive university bureaucracy, an ombudsman can be a 'user-friendly' counterbalance (Hill, 1976). Like their legislative counterparts, university ombudsmen provide a cost-effective, quick and informal route to resolve problems and grievances. Complainant-driven, but acting on behalf of the institution, ombudsmen have the power to conduct independent, objective and impartial investigations. They may criticise and recommend change, and some may report publicly on their findings and conclusions, but they have no power to make decisions or to interfere in day-to-day administration. They provide an outlet for the airing of complaints, and they may find that a complainant was mistreated but, because they are seen as objective, they may also satisfy the bearers of unjustified complaints that no mistreatment has occurred. They have the mandate to recommend redress when circumstances warrant, but they also vindicate and defend academic and administrative decisions when investigation shows no evidence of error or impropriety. Ombudsmen also assist institutions by identifying systemic problems or inequities and by acting as an agent for prescriptive change (Rowat, 1968). In short, the establishment of an ombudsman's office allows an institution to use its own power and resources to examine itself rather than having its inevitable mistakes aired in more public ways and resolved by outsiders.

For those post-secondary institutions in Canada which have adopted the ombudsman concept, these advantages seemed to outweigh the obvious concerns and questions university faculty may have had such as: how might this new office interfere with our academic freedom? Will the ombudsman subvert the use of normal accountability structures? To what extent will its presence, by 'propping up' the existing order, inhibit real structural reform (Gwyn, 1968)? At the University of Manitoba, for example, where the office was designed to serve only students, fears about interference with academic freedom and normal accountability structures were part of the debate which preceded the setting up of an ombudsman service. One of the ways in which these concerns were resolved was to create a policy on the Responsibilities of Academic Staff with Regard to Students. Institutionally developed through Senate and endorsed by the University's Board of Governors, it outlined the role of the faculty member in terms of research, teaching and administrative functions and defined the institutional expectations and responsibilities of faculty members. (The policy has subsequently been improved and refined and is referenced in the collective agreement between the university and faculty members.) Institutional consensus, rather than the ombudsman, therefore defined academic freedom, academic responsibility and a protocol for the ombudsman related to 'normal accountability structures'.

Another approach was to set up ombudsman offices, such as those at the Universities of Concordia and Toronto, which served all constituencies in the university, i.e. students, staff and faculty members. Any appearance of bias towards a particular constituency was therefore avoided. The ombudsman office could find itself defending a professor's academic freedom to the university administration one day and making a critique of their unfair evaluation methods the next. As long as the ombudsman is seen to be objective and fair in approaching the resolution of problems and the ombudsman role is clearly defined by institutional consensus, concerns about interference with academic freedom and normal accountability structures can be allayed. It is also important that the ombudsman have no executive authority. The power of the office should be vested in objective, reasoned and well argued recommendations to those with the executive authority to make decisions.

Finally, Gwyn's argument that in government the ombudsman is a conservative and counter-revolutionary force, designed to make the existing order more palatable, may be valid from a radical theorist point of view. However, when the concept is transferred to universities, in practical terms, the ombudsman can be used as a useful and powerful tool for generating debate on institutional issues and as a catalyst for institutional reform. Its capacity to initiate changes in policies and procedures is seen as one of the most useful functions of the ombudsman in Canadian universities and one of the central reasons for its adoption.

Factors Associated with the Effectiveness of University Ombudsman Offices

The generic literature lists a number of attributes and characteristics of ombudsmen, most of which are similarly defined by authors such as Rowat (1968), Anderson (1968) and Hill (1983). Hill provides a comprehensive list of factors which tend to be attributes of 'successful' or effective ombudsman operations. These include legal establishment; functional autonomy; externality to the administration; operational independence; non-partisanship; specialist in function, but universal in mandate, knowledge and activities; client centred but not anti-administration and popularly accessible and visible (Hill, 1983). How should these factors be applied to university ombudsman operations?

Legal establishment of a university ombudsman office involves the introduction of formal terms of reference that have been developed and endorsed by the institution. For

example, at the University of Manitoba, the impetus for creating the Ombudsman's Office grew out of the work of a Senate Committee charged with reorganising student services. The terms of reference for the ombudsman were developed in co-operation with this committee, debated in Senate and finally adopted by Senate and the University's Board of Governors. From first discussion to final approval, faculty, students and administrators were involved and, as a result, institutional consensus about the creation of the position was achieved.

Functional autonomy and operational independence in the case of the legislative Ombudsman in Canada are achieved by creating an Office which is clearly separate and typically reports to the legislature rather than a single minister. In a university environment, this is more difficult, but a structural relationship and reporting link ideally should separate the ombudsman office from normal administrative structures. It is important that the ombudsman be seen as someone *external to the administrative hierarchy* and not subject to influence by the administration of the institution or constituencies it serves. A university ombudsman who is susceptible to pressure by either, risks being labelled a 'student advocate' or dismissed as a creature of management.

Associated with operational independence is access to people and to documents, including records and confidential files. This is essential to the effective investigation of complaints and grievances.

A university ombudsman must also be non-partisan and objective if he or she is to elicit and maintain the trust of the university community. The office should be prepared to recommend redress or arbitration if a *prima-facie* case is established after investigation but it should also be able to vindicate administrative and academic decisions if a matter has been handled fairly and appropriately.

It is desirable that the university ombudsman role be a *specialist* function, separate and distinct within the institution it serves but broad and not restricted in terms of mandate and clients served. Expertise about the culture of the organisation and its rules and regulations are also important for the ombudsman's flexibility and credibility.

A university ombudsman should be *client-centred* for he or she is usually the last resort for angry, upset and frustrated people who have often visited too many other offices without success. Ombudsmen should also be good listeners because, too often, no one else has listened.

Finally, Hill argues that ombudsmen should be *popularly accessible and visible*. There is little point in having a university ombudsman to look into grievances and resolve problems if no one can find the office or if it is difficult to gain access to its services. This factor has implications for the geographical location of ombudsman offices and their mode of operation.

In discussing attributes of effective university ombudsman offices, Schatz, who evaluated the service at the University of Southern Illinois in 1983, added to Hill's list the characteristics of client confidentiality and the 'trust and regard' in which the office is held (Schatz, 1983). This is closely related to Hill's proviso that ombudsmen be knowledgeable about the rules and procedures, and understand the 'culture', of the organisations which they serve. These latter criteria were also used by the Edwards evaluation of the University of Manitoba Ombudsman Office (Edwards, 1985).

Comparative Studies of Canadian University Ombudsmen

As indicated earlier, there are 59 degree granting institutions and more than 200 colleges in Canada. Most ombudsmen are found in medium to large institutions with student enrolments of 15,000 or more. There are, as far as we know, only two college ombudsmen in

Canada although it is hard to determine how many offices exist. Ombudsman operations run by student associations come and go and are particularly difficult to track. Some seem to function more as advocacy services rather than true ombudsman offices.

Two separate questionnaires were distributed by the authors in 1987 to learn more about how university and college ombudsman units are set up and operate; to examine campus ombudsman perceptions about factors related to effectiveness; to determine how ombudsmen see their roles; and to find out about the backgrounds and terms and conditions of service of university and college ombudsmen. Selected results from each survey are discussed below.

Results of the University of Manitoba Survey

The University of Manitoba survey distributed 23 questionnaires, 20 were completed and 16 institutions represented. Respondents in the University of Manitoba survey were asked a number of questions to determine whether the attributes of 'success' or 'effectiveness' defined in the literature, were in place in their operations. As indicated earlier in this paper such factors include legal establishment, independence and autonomy, access to confidential information, client confidentiality, trust and co-operation and accessibility.

Four different types of delivery models emerged from the University of Manitoba data collected: the University Ombudsman Model; the Shared Model; the Student Ombudsman Model; and the Layered or Hybrid Model. Table II illustrates the inherent characteristics of each and which universities use the different types of delivery structure.

The University Ombudsman Model typified by Concordia, Laval, Manitoba, McGill and Toronto all have written terms of reference or mandates approved by bodies such as the University Senate, Board of Governors or Governing Councils and operational independence reflected in their reporting structure. These operations also have the broadest and most unlimited access to confidential information. Two of the Shared Model operations, Western and Carleton, function under similar memoranda of agreement and appear to have limited access to confidential information, which is endorsed by the institution. The Student Ombudsman Model, funded and governed by Student Associations, typically does not have access to confidential information.

Almost all respondents, except those who functioned within the administrative framework of a Layered or Hybrid Model (e.g. the University of Alberta and York University), reported that they felt their offices to be independent and could function with minimal constraint. In some cases, this subjective perception was reinforced by external evaluation, e.g. the University of Manitoba (Edwards, 1985), and Concordia University (Stieber, 1988).

Great emphasis was placed by respondents on the importance of client confidentiality. All but one said their files were entirely confidential and accessible only to the staff of the ombudsman office. The one respondent who answered this question negatively, indicated that the administrator to whom this person reports, and the university lawyer have access. It is notable that the structural arrangements for delivering the ombudsman service which could be categorised as a Hybrid or Layered Model, appear to have more inherent constraints on their independence and autonomy.

Emphasis was also placed by respondents on the geographical accessibility and visibility of the ombudsman office. All respondents except two rated the location of their offices as accessible or very accessible. However, in most cases, appointments to see the ombudsman are usually or sometimes needed.

One factor considered vital to the effectiveness of a campus ombudsman operation is the level of trust which the ombudsman enjoys and the co-operation he or she receives from

TABLE II. Structural arrangements for delivering Canadian university/college ombudsman services

Model	Characteristics	Examples
The University Ombudsman Model	<ul style="list-style-type: none"> ● University funded ● Reports to Board of Governors/ University Council and/or Chief Executive Officer (CEO) ● Clear terms of reference ● Access to confidential information 	<ul style="list-style-type: none"> ● Concordia ● Laval ● McGill ● Manitoba ● Toronto
The Shared Model	<ul style="list-style-type: none"> ● Jointly funded by University and Student Association ● Reports to joint Advisory/ Co-ordinating Committee ● Memoranda of agreement establish terms of reference ● Limited access to confidential information 	<ul style="list-style-type: none"> ● Carleton ● Waterloo ● Western
The Student Ombudsman Model	<ul style="list-style-type: none"> ● Funded and governed by Student Association ● Ombudsman may be staff position appointed by Student Council or an elected officer ● Reports to Student Council ● Limited or no access to confidential information 	<ul style="list-style-type: none"> ● Calgary ● Saskatoon ● Victoria
The Layered or Hybrid Model	<ul style="list-style-type: none"> ● Operation part of administrative structure and institutionally funded ● Several people playing ombudsman function ● Ombudsman or person fulfilling function reports to senior administrator such as Dean of Students, Academic Vice-President, but not CEO ● Fragmented access to confidential information as ombudsman 	<ul style="list-style-type: none"> ● Alberta (Edmonton) ● York ● Algonquin ● Dawson College

the university community. Sixteen out of 20 respondents reported excellent or good co-operation demonstrated by a willingness of others to listen, having meetings at short notice, returning telephone calls quickly and being prepared to negotiate. One respondent reported good co-operation at higher levels such as deans and senior administrators but “the instructors think I am the CIA”. Again, the delivery model here was a ‘Layered or Hybrid’ one.

The information collected by the University of Manitoba suggests that those universities which have adopted ‘university’ or ‘shared’ ombudsman delivery models, which have set up independent operations with clearly defined terms of reference and access to confidential information, and which are fully endorsed by the institution, tend to score highest on the attributes of ‘success’ defined in the literature, are able to operate with a minimum of constraint and are more likely to enjoy the full co-operation of the university or college community.

Campus Ombudsman Roles

One additional matter of interest to the University of Manitoba survey was the kind of roles ombudsmen play in their work. Approaches to the generic ombudsman function have been extensively studied by Hill. He classified six models or approaches to the ombudsman function as a result of his research on ombudsmen in government and other institutional settings (Hill, 1983). They include the detached investigator, the enabler, the broker, the arbitrator, the advocate and the political activist. Carolyn Stieber argues that "a high degree of similarity exists between classical and specialised ombudsmen on virtually every aspect of their role" (Stieber, 1987). She develops this assumption by analysing the extent to which these models can be applied to the campus ombudsman situation. Like Stieber, the University of Manitoba study used Hill's generic typology as a framework for identifying possible roles ombudsmen were likely to play. Table III identifies the roles undertaken by respondents. Listener, information source, advisor, source of referral, agent of change and investigator were the most commonly shared roles.

TABLE III. Roles most commonly shared by university and college ombudsmen

Role	Number of responses
● Listener	17
● Information source	17
● Advisor	16
● Source of referral	16
● Agent of change	15
● Investigator	15
● Mediator	12
● Counsellor	10
● Advocate	7
● Arbitrator	3
● Political activist	1

Results of Concordia University Survey

The Concordia University survey was undertaken in 1987 and updated to include a new office created at the Université de Montréal in 1988. There was some overlap in the questions asked between this and the University of Manitoba survey. The results reported here focus on different aspects surveyed by Concordia. These include funding base and terms of reference of ombudsman operations, educational and work backgrounds of ombudsmen, and their tenure and salary. The Concordia survey represents responses from 13 universities and one college.

(a) Funding Base and Terms of Reference

Eleven of the respondents' offices are funded solely or partly by the university or college; three are funded wholly by student associations. Virtually all Canadian offices have formal terms of reference which define their roles and most are required to make written reports of

their activities, normally on an annual basis. Several ombudsmen publish their reports in university newspapers.

(b) Academic and Work Backgrounds of Ombudsmen

Ombudsmen in Canadian universities are a diverse group. Three of the survey respondents have bachelor's degrees, nine have master's degrees and one has a doctorate. Disciplines include Biology, Public Administration, Counselling Psychology and Women's Studies. Their work experience is just as varied although many ombudsmen held administrative positions with their current employer or another post-secondary institution before becoming ombudsman. Eleven of the sample hold staff positions while three are members of the faculty, one being a professor of social work, one a scientist with extensive senior administrative experience, the other an art historian. Men and women are just about equally represented.

(c) Tenure and Salary

Six of the offices surveyed have existed for more than ten years and two have been created in the past two years. About half the respondents have held their positions for more than five years. Four offices are mandated to receive complaints from students, faculty and other staff, but most act at the request of student complainants. Some university ombudsmen can also act on their own initiative.

The great majority of university ombudsman offices are one-person operations, often but not always, supported by a full-time secretary and/or assistant. Salaries range widely, averaging around \$45,000, and are typically higher in institutionally funded, rather than joint or student funded operations. Only three respondents held their positions on a permanent basis. The remainder are appointed for limited terms ranging from one to five years. Generally, ombudsmen's contracts are renewable indefinitely but one of the respondents, like many Canadian provincial ombudsmen, is eligible to serve for only two terms.

What is evident from the results of the Concordia survey is that differences abound from office to office. However, there are real advantages to having a university appointment rather than a mandate from a student association. This is not only because authorised access to information and to people generally comes with the former, but also because institutional blessing confers some degree of clout and credibility on the office. It is interesting to note that several offices which began as student-run operations have made successful efforts to secure a joint funding arrangement and some view joint funding as the most 'honest' basis for a truly neutral ombudsman's office. There tends to be evolution towards the 'classical' model.

Summary

This paper has provided a brief history of the ombudsman concept, has discussed the factors that influenced the adoption of the concept by Canadian colleges and universities and outlined the factors associated with the effectiveness of ombudsman offices. An attempt has been made to use the generic literature as a framework to examine the extent to which these factors are in place in the campus operations studied by the authors, the kind of structural arrangements there are for delivering ombudsman services, and the kind of roles university and college ombudsmen play. Survey information is presented about the funding base and

terms of reference of ombudsman offices and the educational and work backgrounds, and tenure and salary of ombudsmen.

The intention of this paper was to present information about ombudsmen in Canadian colleges and universities and to report on the surveys of other colleagues undertaken by the authors. Two conclusions can be drawn from this work. First, that the generic literature developed by Anderson, Rowat and Hill about essential attributes and characteristics of ombudsmen is useful in examining specialist campus ombudsmen. Second, that those college and university ombudsman operations that most closely approximate the classical model, are endorsed by their institution and build in features such as legal establishment, functional autonomy and independence, appear to operate most effectively and enjoy a high level of acceptance in the institutions they serve.

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