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MISSION STATEMENT

We are committed to publishing the highest quality of scholarly and professional articles submitted for publication. We will publish articles by and about ombuds that provide insights into and understanding of our institutional role, practice, and contributions. Manuscripts and materials submitted will be peer-reviewed. We use a collaborative approach to publishing, in which prospective authors receive constructive critiques from reviewers in an effort to increase the quality of the content of *The Journal*. Our main purpose is to enhance understanding of the art and practice of academic ombudsing.



LETTER FROM THE EDITOR

Dear Friends and Colleagues,

It is with pleasure that we present the 2016 edition of our online Journal.

Our contributors this year include Bruce MacAllister, Caroline Adams, Paul Herfs, Natalie Sharpe, Valerie Kube and Henok Elias. The subjects they've written on reflect some of the broad gamut encompassed by our field; the challenges of gaining broader recognition of our standards of professional practice, the relevance of legal training to ombuds practice, a comparative international perspective on evolving ombuds programs, and more. We hope you find their discussions illuminating, provocative and apt to your professional circumstances.

The Journal maintains its interactive design. As such, articles are open to comments in order to encourage discussion. It is our hope that this year's contributions will encourage productive dialogue, deepen understanding and support and improve our practices as ombuds.

Finally, we encourage your continued participation, both through Journal contributions and through commentary on articles and case studies.

James Laflin, Editor, on behalf of The Editorial Board of the California Caucus of College and University Ombuds

The salvation of the human world lies nowhere else than in the human heart, in the human power to reflect, in human modesty, and in human responsibility. -- Vaclav Havel



PETE SMALL AWARD RECIPIENT 2015: TOM SEBOK

Nominated by Mary Chavez Rudolph and Lisa Neale

The 2015 Awards Committee is pleased to recognize Tom Sebok as the 2015 Pete Small “Ombuds of the Year.” This is the highest award conferred by the California Caucus of College and University Ombuds, as it requires substantive contributions to CCCUCO, demonstrated excellence in academic ombudsing, and recognition of fellow Ombuds as a leader in the field who has advanced the profession. Named for Pete Small, who in 1984 established the UC Berkeley Staff Ombudsman Office, this award recognizes the consummate colleague who shows strong support of Cal Caucus, and is seen as “raising the bar” in what we, as ombuds, expect of ourselves. Pete accomplished this through authentic acknowledgment of individuals, humanizing the academe, displaying compassion and enriching others, and it is these characteristics that the recipient of this award exemplifies.

There are many descriptors for outstanding ombuds: leader, thinker, mentor, trailblazer, friend, and contributor. Not as often does one ombuds emulate all of these qualities; few have “raised the bar” as this nominee has.

Tom Sebok has demonstrated leadership at Cal Caucus for decades, whether it has been serving on the editorial board of *The Journal*, regularly presenting at each of our conferences, or serving on the Awards Committee (a position he still holds). In addition to these services, Tom Sebok has done much more; he has inspired ombuds to serve others, raised questions to elevate the profession, taught other ombuds critical skills, and regularly made himself available for anyone seeking mentorship. We respectfully pose that Tom Sebok represents the kind of ombuds we all aspire to be: a servant leader, someone who serves others ahead of themselves in order to develop another’s development and growth; one who collaborates, shares resources, cares for others, and helps build a community. His actions and legacy, no doubt, encourage others to follow in his path. Tom Sebok has demonstrated a selfless sharing of his expertise, insight, and resources, has collaborated with a wide variety of colleagues, and has altruistically given of his time to guide and assist other Ombuds. In addition, Tom has fostered the development and growth of countless individual Ombuds by guiding, mentoring, supporting and encouraging them to succeed in their role, which has, in turn, aided in the development and growth of the Ombuds profession.



ABSTRACTS

FIVE CURRENT CHALLENGES THAT POSE OPPORTUNITIES TO IMPROVE AND CONSOLIDATE THE OMBUDS PROFESSION

Bruce MacAllister, B.S., J.D.

International Foundation for Online Responsibility (IFFOR)

Santa Fe, New Mexico

This article discusses five challenges currently facing the ombuds profession and explores how these challenges may actually pose opportunities to improve the ombuds profession. The author identifies the following challenges:

1. Unrealistic standards of practice for organizational ombuds who must function in a world that has not accepted and is, in fact, hostile to the concept of “testimonial privilege.”
2. The challenges posed by embracing too deeply the ombuds value of “inclusivity” at the expense of accepting reasonable professional standards, which sometimes result in some behaviors and practices that are not acceptable and some individual programs that should be excluded the profession.
3. The absence of any meaningful mechanism to enforce standards of practice, even assuming reasonable, updated standards could be developed.
4. Allowing other professions to impose their own interpretations on the “proper” functions of an organizational ombuds.
5. Failing to develop an effective approach to influence the corporate, government, and higher education organizations in a way that helps them understand the value of the ombuds model.

After identifying these challenges, the author explores ways to view each challenge as an “opportunity” and to develop approaches to address each challenge. The author concludes by describing the critical stage he believes the organizational ombuds profession now finds itself – confronted by challenges from government agencies, the courts, and the misinterpretations of other professions, but concludes on a hopeful note that with dogged determination and effective focus, the profession can enhance its recognition and wider acceptance of the ombuds model.



OMBUDSING AT CANADIAN UNIVERSITIES THROUGH THE EYES OF A DUTCH OMBUDSMAN

Paul Herfs
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The ombudsman of Utrecht University in the Netherlands made a study trip to Canada in the spring of 2016. He visited 12 universities in order to gather best practices at the offices of Canadian ombudspersons. The major principles namely independence, impartiality and confidentiality were described. Also the funding of the offices of the ombudspersons and the target groups of ombudspersons are drawn. After having spoken with Canadian ombudspersons comparisons were made between the work of Canadian and Dutch ombudspersons. It appeared that there are more differences than similarities. An important similarity is that in both countries governments are not proactively advancing the value of ombudswork for students, staff and faculty by recommending that ombudspersons be established on all campuses.

OMBUDS: DEGREE REQUIRED?

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Many ombuds positions require advanced degrees, yet organizations differ as to which degrees they require. Some positions require a law degree, while some practitioners dispute the need for an ombuds to have a JD. This article explores the relationship, advantages and disadvantages of a legal education for ombuds practice based on one former attorney's experience. It then discusses the overall advantages of advanced courses of study in general for an ombuds. Finally, encourages the ombuds community to share the strengths of our collective perspectives.



OMBUDS INTERNSHIPS: A MODEL OF STRONG COLLABORATION

Natalie Sharpe, B.A., (Hon), M.A.
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Edmonton, Alberta

*“(T)he issue of the structure, organization and jurisdiction of the ombudsman institution must be approached with a great deal of **flexibility and improvisation**”.*¹

Flexibility, creativity and improvisation were key to the creation of the University of Alberta’s ombuds internship program launched in May 2015. The program was initiated for many reasons. One was the need to ensure independence of the office and compliance with privacy rules at universities; another critical factor was consistency in ombuds professional practice. When the Association of Canadian College and University Ombudspersons’ Standards of Practice were adopted in 2012, it became apparent that our ombuds operation needed structural changes to meet these standards. For several years we had operated as a hybrid office of professionals and paraprofessionals. We wanted to provide all staff, including student ombudspersons, rigorous training and guidance to engage in consistent practice in our service to students. The time was right for the development of a professional internship program.

THE POWER OF HOW: CONSIDERING THE VALUE OF RELATIONAL FAIRNESS IN HIGHER EDUCATION

Veronica Kube
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Edmonton, Alberta

Fairness is multifaceted. Its aspects are broken down according to procedural, substantive, and relational forms in Martine Conway’s adaptation¹ of the Ombudsman Saskatchewan *What is fairness? Triangle*.³ Universities – like many other institutions – pay particularly close attention to procedural and substantive aspects of fairness through the development of, and adherence to, written rules and policies. In contrast, relational fairness is practiced in social interaction. While procedural and

¹ Ayeni, V. (1985) A Typology of Ombudsman Institutions. *Occasional Paper #30, International Ombudsman Institute* p. 20



substantive aspects of fairness concern *what* must be done, relational fairness concerns *how*. This article illustrates the value of relational fairness as an aspect of the Fairness Triangle.³ The accompanying handbook² – created during my 12-month internship with the University of Alberta Office of the Student Ombuds – offers relational fairness skills and considerations for Ombuds practice.



FIVE CURRENT CHALLENGES THAT POSE OPPORTUNITIES TO IMPROVE AND CONSOLIDATE THE OMBUDS PROFESSION

Bruce MacAllister, B.S., J.D.
Santa Fe, New Mexico

Introduction

I first began working in the ombuds profession in 1995, when I was selected to serve as the first ombuds for Los Alamos National Laboratory. At the time, the Laboratory was managed exclusively by the University of California and had been since its inception during the Manhattan Project.¹ While serving as the Ombuds Program Director for Los Alamos, I became deeply involved in IOA's predecessor organization, The Ombudsman Association, "TOA." I had the opportunity to serve on the TOA Board of Directors before and during its merger with the University and College Ombudsman Association, UCOA, (forming the IOA) and to serve as the TOA liaison to the American Bar Association when a section of the ABA developed standards for establishing and operating ombuds programs. In designing and implementing the Los Alamos Program and in working through the negotiation processes with UCOA and the ABA, I had the opportunity to delve deeply into the state of the profession's Standards of Practice and Code of Ethics as they governed the practice at that time.

After leaving the Los Alamos ombuds program, although I helped create several new ombuds programs, I was more distanced from the status of the profession and its current challenges because my consulting practice involved a broader focus. I returned to full engagement and participation with our profession after a several year hiatus and was intrigued to discover that, in many key respects, the state of professional development for our profession is remarkably unchanged from what I observed

¹ The **Manhattan Project** was a research and development project that produced the first nuclear weapons during World War II. It was led by the United States with the support of the United Kingdom and Canada. From 1942 to 1946, the project was under the direction of Major General Leslie Groves of the U.S. Army Corps of Engineers; physicist J. Robert Oppenheimer was the director of the Los Alamos Laboratory that designed the actual bombs. See, https://en.wikipedia.org/wiki/Manhattan_Project for more information.



twenty years ago. At the same time, there are many challenges coming from new directions that may pose more fundamental threats than we, as a profession, have ever faced.

I write this article to share some observations about the profession and its current challenges. I seek to identify some key areas of challenge and to explore the opportunities that they afford. These are points where, with focus and energy, the ombuds profession may at last move past some long-standing issues that have perhaps seemed chronic and intractable. I discuss a few of these issues and opportunities in this article and offer some thoughts on how we might push past them.

Challenges:

1. Unrealistic Standards of Practice: Asserting testimonial privilege

The current IOA Standards of Practice purport to impose legally unsupported requirements, which undercut the credibility of other legitimate standards, such as the general concept of confidentiality. A key example of this is the Standard of Practice requirement included in paragraph 3.2, stating:

*“Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are considered **privileged** [emphasis added]. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.”*

The commitment to “confidentiality” can be created in many different settings, by contract or by business practice and is widely recognized, within limits, by the courts. Unless compelled by a court or other authority, confidential information can generally be held private. However, “*privilege*” typically relates to the concept of *testimonial privilege*, which, when recognized, allows an individual a basis to refuse to share information in a formal proceeding such as a trial or criminal investigation. Testimonial privilege is invariably the purview of the courts or legislative entities to create, interpret, and sustain and, outside of a few narrowly construed but generally accepted categories, privilege is difficult to establish and maintain.

This provision ostensibly requires practicing ombuds to claim such a privilege in jurisdictions where it has not been created or recognized and often in venues that are clearly hostile to expansion of



testimonial privilege. By so doing, we, as a profession, undercut our credibility to assert the more general and defensible concept of confidentiality and place the vast majority of our membership in the position of asserting a claimed status that is simply not supported by law. In my view, this approach undercuts our ability to assert appropriate and defensible levels of confidentiality because challengers look to aspects of the standards that are clearly unsupported and draw conclusions about the Standards of Practice in their entirety.

In my now-long tenure of ombuds practice, I have found that the average program user is typically not all that concerned about the remote potential that the ombuds might, at some vague point, be compelled to testify about a matter in court. Most people find this a generally remote potential. Rather, I find the average visitor is far more concerned about keeping their conversation with the ombuds confidential from their management or peers.

The opportunity

Our opportunity now is to update the standards to be realistic and recognize that the attempt to bootstrap testimonial privilege by boldly claiming it has failed after nearly forty years of effort. The Standards can now be re-written with the knowledge that our effort to secure a recognized privilege similar to a priest, doctor, lawyer, or psychologist has simply failed to gain any significant traction. Other aspects of the Standards of Practice can now be written with real life workplace and campus experience in mind.

2. The “you ombuds where you’re at” approach: Inclusivity at the expense of professional standards.

Because ombuds are ombuds, we tend to be socialized to hold inclusivity as a very high value. We learn not to judge our visitors and we neutrally accept positions held by others as a part of our daily work. We tend to carry this approach forward into our interactions within our own professional community, and gladly welcome others in our working community who approach practice issues, by choice or by compulsion, very differently. And, as a profession, we accept within our professional community many whose practices vary widely from the aspired model espoused by our Standards of



Practice. A dear former colleague from a leading university ombuds program used to refer to this phenomenon as “you ombuds where you’re at.”

Ombuds practicing to IOA Standards generally accept that there are three pillars to our practice: independence², neutrality, and confidentiality. As expressed in the current Standards of Practice, the fundamental elements of a practice are reasonably clear. However, as an ombuds community, we welcome and accept individuals and whole programs that clearly disregard even the most core concepts of the standards. Examples are prolific, but some of the most striking include:

- An individual who serves at their university as both its “Title IX Officer” and its “ombudsman;”
- A nationally recognized program that until recently also managed the formal review process, including gate-keeping and case processing;
- An individual who serves as the “EEO Officer” and “Ombudsman” for their university and who was directly responsible for “investigating and resolving” sexual harassment complaints.
- An ombudsman who also serves as the chief ethics officer for their organization;
- Ombuds who serve as voting members of policy-making committees within their organization;
- An individual who holds a senior management position while simultaneously carrying the title of “ombudsman” in their organization.
- Countless programs that report into structures that cannot be viewed as a neutral or independent reporting structure.

Note that I am not focusing on comparatively minor practice variations, such as mandatory reporting of sexual harassment or sexual assault, or whether a program does indeed secure separate counsel if confidentiality is challenged.

² I include informality within the category of independence because the nature of our approach to informal problem solving and the requirement of independence necessarily require avoiding participating in or limiting our problem-solving approaches through a formal process.



The problem is not that we do not want to welcome, educate, and include everyone in the ombuds community. Rather, the problem is that, in welcoming everyone, we undercut our ability to demonstrate to others that the title “ombudsman” means anything in any context. And, we place those who seek to assert and defend confidentiality and other practice requirements by linking them to the Standards in a real bind because critics of the approach can easily point to examples of positions with the same title that do not hold true to these values.

Part of the challenge is the perhaps regrettable choice to call practitioners “ombudsmen” in the first place, when there were already so many variations of the “ombuds” practice. Many challenges have been created by choosing a term, which historically refers to a hodge-podge of different roles and approaches – organizational ombuds, classical ombuds, long-term care ombuds, and many other program variations that creative and well-meaning people have put into place over many years.

One has only to look at other somewhat more mature professions to see that they each zealously define and defend their titles and practice requirements. Even in situations that lack legal enforcement, other professions have devised ways to define and defend their practice. For example, the common term “Realtor®” is a registered trade name and can only be used by those complying with the National Association of Realtors® code of ethics and Standards of Practice.

The opportunity

The inclusivity approach will be tested soon with a vote to eliminate categories for ombuds within the IOA. While this may enhance IOA’s ability, as a professional organization to grow its membership, it does nothing to add value to those members who have hoped to use standards as leverage to secure their status as confidential offices that do not automatically serve to put their managers on notice when certain issues are reported. It may serve a legitimate purpose to allow those who do not practice to standards to participate in the organization, but, in my view, it will definitely dilute other members’ ability to leverage off of the Standards of Practice. Ironically, at the same time, the IOA is, in essence,



actively encouraging distinct practitioner categories through the CO-OP program and the still-conceptual ombuds program certification processes.

In the face of the movement to eliminate categories, it may seem a bit radical, but I propose that the ombudsman association actually leverage off of the separate and distinct category of practitioners and programs that demonstrate that they clearly and completely practice to reasonable, updated Standards of Practice. The seeds for this approach are already sewn, in that the IOA has already established a CO-OP certification program and is moving to establish a program certification process. Currently, there is little incentive to pursue CO-OP status. It is expensive, and one can easily lose one's hard-earned status as a result of policy decisions made by others. The stroke of a policy pen on a campus can eliminate CO-OP eligibility. I propose that, beyond certification approach, IOA should create a new and protected practitioner category name, similar to the approach that the Realtor® community uses – it might even be a name such as Certified Organizational Ombuds Program® (and Practitioner). If this approach is to be widely embraced, the IOA must be prepared to make the status available to campuses and workplaces, and rather than charging organizations for the privilege of the status, the IOA should invite programs to gain the status for little or no fee as a way of gaining wide acceptance. Naturally, the training program for individual practitioners could be provided for fees similar to the status quo. If established, the IOA must be prepared to aggressively protect the name and to zealously support its certified members when their practice tenants are challenged.

3. Standards don't mean anything unless they are enforced.

One of stated reasons for eliminating membership categories is that the criteria for full membership have not been policed or consistently enforced. Similar to the law, where laws and regulations are only effective as the ability of the system to enforce them, Standards of Practice are only relevant if enforced. If we update our Standards to make them more universally accepted and achievable, it will be imperative for IOA to put a system in place to ensure that they are actually followed. Compliance can only occur with some form of inducement or leverage. Currently, the only inducement for complying with IOA standards is to be able to make that claim in ombuds websites. It carries no real value. Yet those making that claim are not even screened or enforced. In 2014, with the help of a very gifted intern colleague, we conducted an extensive benchmarking process that entailed national research into the state of compliance with current IOA standards. What we discovered was a rather



shocking proportion of ombuds programs across the nation³ – particularly in the higher education sector – that claimed to be in full compliance with the IOA standards, but went on to detail exception after exception to that compliance. Typical areas of non-compliance involved mandatory reporting of sexual assault or harassment and roles that vested the ombudsman with policy and/or management responsibilities beyond managing the ombuds program.

The concept of membership categories was carried forward from the days of TOA and perhaps earlier. During TOA's existence, new members joining the organization were vetted by TOA to verify qualifying status for full membership. This process ceased at some point with IOA. To be clear, standards can be enforced through other mechanisms than membership categories, which, themselves, seem to carry little weight or inducement to organizations chartering ombuds programs.

The opportunity

The IOA Standards of Practice should be updated so that they are coherent and defensible. Once updated, the IOA should design a program accreditation process that includes reasonably rigorous vetting of programs and individual practitioners. The challenge to this approach is that there is currently little incentive for chartering organizations to commit to IOA accreditation and to abide by reasonable requirements. To create this inducement, we will need to develop an aggressive educational campaign to build support among ombuds constituencies for ombuds programs that are chartered true to the IOA Standards of Practice. (I discuss this further, below.)

4. Allowing other professions to define our profession

Almost from the inception of the concept of organizational ombudsmen practice, others outside the profession have sought to define what an ombudsman is and what an ombudsman does. In 1999 and 2000, IOA's predecessor organization was involved in vigorous dialogue with the American Bar Association when the ABA decided it was appropriate for it to create "Guidelines for the Establishment and Operation of Ombuds Programs." Imagine, if you will, what the reaction of the American Medical Association would be if the American Bar Association sought to define detailed

³ Our review was limited to American college and university campuses.



medical practice standards. Imagine the reaction of the psychologists' community, if the IOA sought to rewrite the Diagnostic and Statistical Manual of Mental Disorders! In 1999 and 2000 the Administrative Law Section of the American Bar Association undertook a project to define what an ombudsman is (identifying three major categories) and how ombuds should practice. While the TOA – the organizational ombudsman association at the time – was engaged in negotiations, the ABA took the position that the final word for defining an organizational ombudsman actually rested with the ABA!

Now we, as a profession, face a similar challenge along the same lines. The United States Department of Education has recently included university ombudspersons in its list of positions that it believes “generally meet the criteria for being campus security authorities” and who are therefore ostensibly required to report certain crimes under the Clery Act. The Department’s own communications demonstrate that its officials do not understand the neutral, independent and informal role of an ombuds on a college campus.⁴

The opportunity

If the IOA is to add true value to its constituents, it must assume a more aggressive role and engage other professions, professional organizations, and government entities more assertively. One only needs to look to the AARP, or other similar entities for benchmarks for more aggressive lobbying, outreach and educational efforts. One of the major roadblocks to this approach to engagement is the value-set of our own membership. As a volunteer-driven organization populated by practicing neutrals, an approach of zealous advocacy often does not feel natural.

⁴ The IOA has challenged the Department of Education position and is actively developing its own best practices statement in response. Essentially, the IOA bases its position on two tenets: 1) that nothing in the underlying law has changed and ombuds practicing to IOA standards cannot be considered a “university official” under the department’s own definition, which states that a campus official “has the authority and the duty to take action or respond to particular issues on behalf of the institution,” which an ombuds, practicing to IOA standards clearly does not have; and, 2.) that for many reasons, it is bad public policy to require ombuds to report crimes.



As an example of our own collective discomfort with zealous advocacy, in 1999/2000, I was designated as the board member liaison to the ABA in our negotiations with the ABA over the standards it was developing around *our* profession. As I sought to engage the ABA as a negotiator and advocate, I found that some of my fellow TOA board members found my advocacy “unombudsmanlike.” Of course it was “unombudsmanlike!” I was attempting to serve as an advocate and negotiator. As a collective group, we value constructive conformity, agreement, and neutrality. Yet these values have led the profession into the chronic position of pushing back rather passively at non-practitioners who presume to define the profession. If we are to survive as a profession using a fundamentally different approach to risk management, we must accept that, while we can be an independent, neutral resource in our ombuds settings, as a profession, we must embrace the role of zealous advocates.

5. Failing to develop a coherent approach to influencing the business and higher education communities.

As a professional community, we have yet to coalesce around on a clear vision of how to wield our collective voice. At this point, the IOA has no coherent lobbying initiative, and is only now beginning the process to explore what our collective message should be, how best to convey that message, and to whom. If the IOA is to provide value on a strategic level, then it must accept that it currently wields very little influence in the larger worlds of legislative, legal, and professional communications. It must accept the reality that, while we are professional communicators in our own right, our communication approach is fundamentally a non-advocacy approach and few of us have the professional background, temperament, and skills to develop an aggressive, coherent professional advocacy message. We must come to the understanding that there are limits to effective volunteerism and that we have reached the point professionally that, if we are to sustain ourselves as a profession, we must convince others that our risk management approach is fundamentally sound and offers a viable, non-escalating alternative to the standard legal approach.

The opportunity

For the ombuds community to finally achieve professional recognition, many things must converge, as discussed in this article. We must recognize that we do a disservice to our profession when we rely on exclusively our membership to develop and convey our message. I believe the time has come for



us to reach out and secure professional lobbying and messaging support similar to every other major profession.

Conclusion

In my view, the ombuds profession finds itself at a crossroads. We can either watch our profession slowly decline as others outside the profession determine what ombuds do and what their standards and limitations should be, or we can move out boldly to take back full ownership of our profession. This may involve operating in new ways that, to many, may feel somewhat counterintuitive. We cannot “ombuds” our way forward through gentle, neutral collaboration. We must accept that, to establish ourselves as a profession – at least in the American context – will require zealous advocacy and the help and alignment of many key institutions, which, at this point, are ambivalent at best about ombuds. The time and resources necessary to launch such an endeavor exceed those available using a purely volunteer model, and will require commitment to using professional resources outside of our own profession.

The world in general, and particularly the United States, is in desperate need of more widely embracing the different and more effective way of approaching conflict resolution and risk management that a high-performing ombuds approach can offer. Our professional challenge is to effectively communicate how this approach works and to demonstrate the proven results. If we, ourselves, embrace a new way of doing things collectively as a profession – a way that involves leveraging off of the skills and talents of others outside of our own relatively small professional realm, I believe we can see great results. If not, I fear that the ombuds profession will linger on the fringes, fighting the same battles repeatedly and gaining little ground in terms of growing the size of the profession and gaining more general acceptance of the model.



OMBUDSING AT CANADIAN UNIVERSITIES THROUGH THE EYES OF A DUTCH OMBUDSMAN

Paul Herfs

The Netherlands

“I do not put faith in institutions, but in individuals all over the world who think clearly, feel nobly and act rightly. They are the channels of moral truth.”¹

Rabindranath Tagore

¹ This maxim was found on a memorial stone near the Ombuds office of the University of British Columbia.



Introduction

In the spring of 2016 the ombudsman at Utrecht University in the Netherlands made a study trip to Canada. He made a comparison between ombudsing² at universities in Canada and the Netherlands³. His research found out that ombudsing in Higher Education in Canada is far ahead with regard to ombudsing at Dutch universities.

The board of Utrecht University made this extraordinary study trip possible⁴. Paul Herfs visited ombudspersons at 12 Canadian universities all through the country. He started in Montréal, in central Canada and ended his trip in Victoria on Vancouver Island at the western edge of the country some 3700 kilometers away. The aim of the study trip was to gather best practices at the offices of Canadian ombudspersons.

The data for this research among offices of the ombudsperson were collected at the following Canadian universities. The year for the establishment of each of these offices is added for historical context.

² In this article we will use the word “ombudsing” in describing the work of the ombudsperson. The majority of the ombudspersons I visited did not use the title ombudsman or ombuds. Therefore I will use the title “ombudsperson” in this article.

³ Higher Education in the Netherlands is organized in two major streams. There are 34 Universities of Applied Sciences (in total 445,000 students) and 14 (research) Universities (in total 260,000 students).

⁴ The author thanks the Board of Utrecht University for their permission to make this study trip possible and the confidence in their ombudsman.



Table 1: Universities visited and years the Ombuds Offices were founded

University	Foundation year Ombuds Office
Université de Montréal in Montréal	1988
McGill University in Montréal	1987
Concordia Université in Montréal	1971
Laval Université in Quebec City	1981
University of Ottawa in Ottawa	2010
University of Toronto in Toronto	1976
Ryerson University in Toronto	1997
MacMaster University in Hamilton	1980
University of Alberta in Edmonton	1972
University of Calgary in Calgary	2010
University of British Columbia in Vancouver	2009
University of Victoria on Vancouver Island	1978

There is no legal obligation at the federal level, the provincial level, or by the university itself to appoint an ombudsperson. Nevertheless about 25% of all universities appointed ombudspersons. Student demands laid the basis of the appointment of an ombudsperson. In 1965, students at Simon Fraser University in Vancouver appointed the first ombudsperson on a Canadian (and North American) university campus. Today the Simon Fraser ombudsperson operates as: “..... an advocate for fairness in general for the benefit of all students and the university community as a whole. The community is committed to the fair and just treatment of each and every member of the University.”⁵

⁵ <http://www.sfu.ca/ombudsperson.html>



Cornerstones of practice of the ombudsperson

Ombudspersons operate according to three core principles: independence, impartiality and confidentiality. What is the significance of these conditions?

1. Confidentiality: all information the ombudsperson receives from a person who brings a concern or complaint forward will not be shared with third parties unless permission from that person was given to do so. The fact that somebody visited an ombudsperson is also protected information.
2. Impartiality; the information the ombudsperson receives will be regarded with the utmost objectivity. The ombudsperson is not an advocate for the individual bringing forward the complaint. The ombudsperson is also not an advocate or apologist for the institution.
3. Independence; the ombudsperson operates independently of all other administrative structures within the university.

Most ombudspersons are members of the Association of Canadian College and University Ombudspersons (ACCUO/AOUCC) and of the Forum of Canadian Ombudsman⁶ (FCO). ACCUO members subscribe to “Standards of Practice”⁷ and the FCO members subscribe to “Ethical Principles for Ombuds”⁸. The Standards of Practice describe not only the above mentioned principles but also provide information on functions and responsibilities of the ombudsperson. For instance on intervention policies (access to information pertaining a particular case; conflict resolution including shuttle diplomacy and mediation; investigation), recommendations to the appropriate authorities, submitting an annual report, submitting special reports, etc.

⁶ The Forum of Canadian Ombudsman is a multi-sector organization with ombudspersons in the public, private, education and non-profit sectors.

⁷ http://www.uwo.ca/ombuds/accuo_aoucc/english/SoP.pdf. Visited on 15 August 2016.

⁸ http://www.ombudsmanforum.ca/en/?page_id=157/. Visited on 15 August 2016.



On the ACCUO site, information can be found on how to set up an ombudspersons office, standard clauses for terms of reference, information on the fairness guide, etc.

In 2015 the 50th anniversary of the establishment of the first ombudspersons role in Canada was celebrated. In the Newsletter of the Forum of Canadian Ombudsman Nora Farrell (President of FCO and Ombudsperson Ryerson University) and Lorne Sossin (Dean Osgoode Hall Law School, York University) stated⁹: “Ombudspersons exist because we all know that, even with best of intentions, an unhindered bureaucracy can lead to unfair treatment of citizens, residents, taxpayers and customers. An ombudsman may not be the first place people turn to solve their problems, but it is the invaluable last resort for those who feel they have nowhere left to turn.”

Funding of the Office of the Ombudsperson

At most universities the ombuds offices are funded by the student unions and the board of the university. Democratization played a decisive role on the starting point of offices of the ombudsperson. At Concordia University in Montreal a computer riot¹⁰ in 1969 was the immediate cause for the creation of the Ombuds Office. “The Ombuds office was established in 1971 to resolve problems not settled through existing university channels, or those which simply don’t fit existing procedures.”¹¹ At most universities, except for management and confidential staff, every student, every staff member and faculty are automatically members of a union. Canadian university communities are therefore very much unionized. The extent of unionization gives more (Canada) or less (Netherlands) power in dealing with the university administration. In most Canadian universities the student unions played a key role in lobbying for the establishment of Ombuds offices. As a

⁹ N. Farrell & L. Sossin (2015): *Fifty years of fighting for fairness*. Newsletter Forum of Canadian Ombudsman. http://www.ombudsmanforum.ca/en/?page_id=3524. Visited on 15 August 2016.

¹⁰ The events leading up to the riot began in the spring of 1968, in which six West Indian students accused their biology teacher, Perry Anderson, of racism after they suspected unfair grading.

¹¹ K. Robillard & J. Boncompain (2015): *35th history; Ombuds Office promoting fairness at Concordia University*.



result, there is a big difference between Canada and the Netherlands with regard to the role the unions play in both countries. In the Netherlands not even 10% of staff and faculty is unionized, while among students this number is even smaller.

Target groups of Canadian ombudspersons

Nearly all Ombuds Offices began as a service for students. Nevertheless, quite a number of the ombudspersons visited address complaints from staff and faculty as well. Ombudspersons who only respond to complaints from students include PhD candidates and postdoctoral fellows, which is not the case in the Netherlands. PhD-candidates and postdoctoral fellows in the Netherlands are seen as temporarily appointed faculty. Some Canadian Ombudspersons are able to work with post-doctoral fellows if they are not unionized. As noted earlier, most staff and faculty at Canadian universities are compulsorily unionized. In cases where a staff member or faculty member has issues with their employer, that are covered by a collective agreement, the ombudsperson will not be involved in any way. It is only in situations where union representatives, the employee, the Ombudsperson and the employer agree that the expertise of the ombudsperson can be sought.



In Table 2 the target groups of the ombudspersons of the visited universities are described.

Table 2: Target groups¹² of ombudspersons

University	Students	Staff	Faculty
Université de Montréal in Montréal	+	+	+
McGill University in Montréal	+ ¹³	-	-
Concordia Université in Montréal	+	+	+ ¹⁴
Laval Université in Quebec City	+	+	+
University of Ottawa in Ottawa	+	-	-
University of Toronto in Toronto	+	+	+
Ryerson University in Toronto	+	-	- ¹⁵
MacMaster University in Hamilton	+	+	+
University of Alberta in Edmonton	+	-	- ¹⁶
University of Calgary in Calgary	+	-	-
University of British Columbia in Vancouver	+	+	+
University of Victoria on Vancouver Island	+	-	-

¹² Some ombudspersons also accept complaints from applicants and alumnae.

¹³ McGill ombudsperson also assists post-doctoral fellows

¹⁴ Concordia’s ombudsperson also deals with issues brought forward by alumna.

¹⁵ Ryerson’s ombudsperson will discuss issues with staff and faculty if they ask for a meeting after having explained that this Office cannot look into their concerns.

¹⁶ University of Alberta ombudsperson assists post-doctoral fellows as well.



The fairness principle

All ombudspersons strive for fairness; it is the major principle underlying the work of ombudspersons at Canadian universities. Fairness however is not an exclusive principle for ombudspersons. Veronica Kube¹⁷ stated that: “... fairness is key to preserving the institution’s academic reputation by upholding the integrity of publications, pursued research and issued degrees”. In fact everything that happens under a university umbrella should be fair.

Fairness is operationalized in the so-called Fairness Triangle. In the fairness triangle¹⁸ three dimensions can be distinguished:

- A: a relational dimension; how the person is treated at every step
- B: a procedural dimension; the process used to make the decision
- C: a substantive dimension; the decision itself

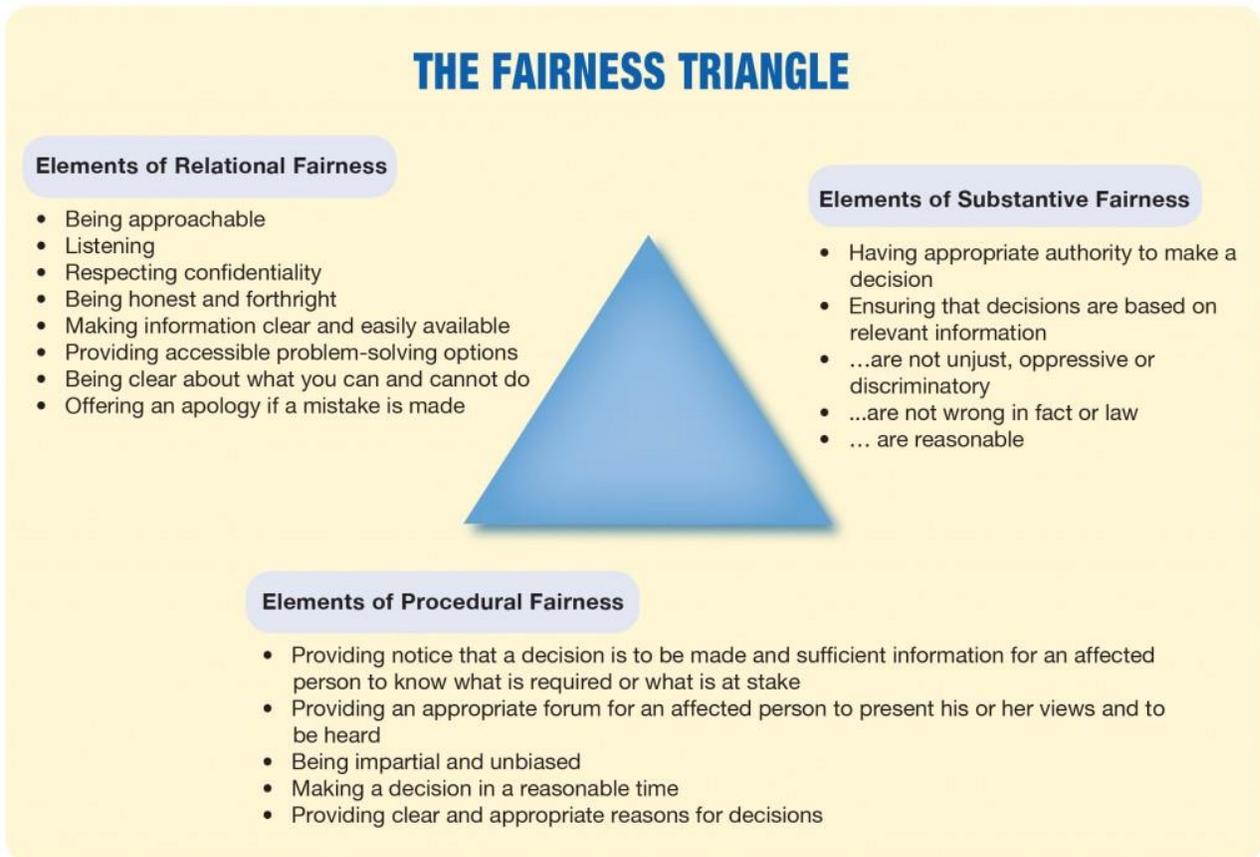
The fairness triangle (adapted from the Ombudsman Saskatchewan fairness triangle) can be applied in cases of students, staff, faculty or administrators, whether you are making or being affected by a decision. Both decision-makers as persons who are confronted with a decision can make use of the fairness triangle.

The Ombudsperson from the University of Victoria, Martine Conway, explains in her annual report: “A person’s experience of fairness or unfairness is made up of the sum in interactions between that person and the institution. It includes the way the person is treated at every step (relational fairness),

¹⁷ Kube, V. (2016): *Fairness in communication; a relational fairness guide*. Office of the Student Ombuds. University of Alberta.

¹⁸ Conway, M. (2016): *Fairness (for students, staff, faculty)*. Retrieved from: <http://uvicombudsperson.ca/guides/fairness/>.

the process used to make decisions (procedural fairness) and the decisions themselves (substantive fairness).”¹⁹



¹⁹ Ombudsperson (2013): *Annual Report*. University of Victoria. Volume 16; issue 1.



In the phase of orientation the ombudsperson will give advice on how to proceed. Martine Conway²⁰ gives the following examples of fairness tips:

- Inquire (rather than accuse) by asking relevant and clarifying questions → relational fairness
- Provide clear information, explore extenuating circumstances → relational fairness
- Consult with other services if needed → procedural fairness
- Identify the relevant policy or procedures → procedural fairness
- Is the decision based on complete and accurate information? → substantive fairness
- Is there a legal or equity principle to apply? → substantive fairness

Some Canadian Ombudspersons provide training to students, staff and faculty on how to resolve disputes constructively and on how to make decisions fairly.

Background and training of the ombudsperson

Most ombudspersons hold (at least) a master degree. Sometimes ombudspersons have a law degree, but the diversity in academic degrees (e.g. psychology, liberal arts, English, etc.) is great. For most ombudspersons it is not their first job. They have relevant working experiences in higher education or in other sectors of the civil society. Academic training, knowledge about the ins and outs of university politics and working experiences are relevant for the work of ombudspersons. Many ombudspersons are trained mediators also.

Beginning in 2013, the Forum of Canadian Ombudsman, the national umbrella organization for Ombuds in Canada and the Osgoode Hall Law School of York University Toronto offers an

²⁰ ACCUO/AOUCC (2015): *Fairness is everyone's concern; a sampling of practices and resources on cultivating fairness*. Produced in recognition of the 50th anniversary of the first ombudsman in a Canadian post-secondary institution.



intensive certificate program called “Essentials for Ombuds”²¹. The curriculum contains e.g. the guiding principles of ombudsing (independence, impartiality, confidentiality), early resolution techniques, dealing with difficult complainants, fundamental values (respect, fairness), information gathering and assessment, strategic analysis, presentation to appropriate stakeholders, writing of annual or special reports, etc. The Ombudsperson from Ryerson University is the Program Director (and the President of the Forum of Canadian Ombudsman) and other University Ombudspersons have made presentations for the program. The language of instruction for this program is English. For those ombudspersons who prefer French as the language of instruction, a second partnership has been developed by the Forum of Canadian Ombudsman with the University of Sherbrooke in Montreal to offer a French version of ‘Essentials for Ombuds beginning in 2016.

Prior to the availability of this certificate program various Ombuds courses and workshops were offered by FCO and ACCUO. In addition, ACCUO and FCO have co-hosted a national conference every two years for many years which provides specialized training for Ombudspersons working in a wide variety of settings.

In the Netherlands no training for ombudspersons exists. In 2014 Sytske Teppema and Paul Herfs made the first step by filling that gap through writing a handbook for Ombudspersons who work for staff and faculty.²²

Similarities and differences in ombudsing in Canada and the Netherlands

On the basis of the interviews held with Canadian ombudspersons a comparison of the work of ombudspersons in Canada with ombudswork in the Netherlands was made.

In Table 3 the similarities between ombudspersons in Canada and the Netherlands are described.

²¹ Osgoode Hall Law School (2016): *Essentials for Ombuds; A joint program of the Forum of Canadian Ombudsman and Osgoode Professional Development*. York University Toronto.

²² Teppema, S. and Herfs, P.G.P. (2014): *Handboek Ombudsman Personeel Hoger Onderwijs*. Brave New Books.



Table 3: Similarities between ombudspersons in Canada and the Netherlands

Canada and the Netherlands
No provincial nor federal legal obligation for universities to appoint an ombudsperson
A minority of universities have ombudspersons
Some ombudspersons work with students and staff & faculty
Some ombudspersons work with students only
No governmental actions to propagate Ombuds offices at universities
Some ombudspersons hold solitary positions
Ombudspersons are working in accordance with terms of reference
Ombudspersons may address complaints from PhDs who perceive relational problems with supervisors
Sometimes individual or a series of unacceptable incidents are the catalyst for the founding of the office of the ombudsperson

Because of the fact that the name of the position of the ombudsperson in higher education institutions is used in both countries one might expect that the work and the conditions of the work of ombudspersons in Canada and the Netherlands would be quite equal. It appears however that there are more differences than similarities.



In Table 4 the differences between the positions of ombudspersons in Canada and the Netherlands are described.

Table 4: Differences between ombudspersons in Canada and the Netherlands

Canada	The Netherlands
Training for ombudspersons is available	No training for ombudspersons is available
All ombudspersons work with students	Not all ombudspersons work with students
Ombudspersons are not merely working with staff & faculty	Some ombudspersons work with staff & faculty only
Some ombudspersons combine Ombuds work with work as faculty	Ombudspersons do not combine their Ombuds work with scientific/academic work
An active network (ACCUO) between ombudspersons exists ²³	Only a very small network (VOHO) is available
Ombuds office consists of more than one person	Ombuds office has just one staff member: the ombudsperson
Ombudspersons are perceived as assets for the university community	Ombudspersons are not yet considered as assets (except by the universities who appointed an ombudsperson)
Ombudspersons are “visible” (advertising and outreach is a regular activity)	Ombudspersons are “not visible” (hardly any publicity)
A longstanding tradition in Ombuds work	No tradition in Ombuds work with the exception of a few universities
Ombudspersons make use of a theoretical framework	Work of Ombudspersons lacks theoretical framework

²³ ACCUO/AOUCC (2015): *Fairness is everyone’s concern; a sampling of practices and resources on cultivating fairness*. Produced in recognition of the 50th anniversary of the first ombudsman in a Canadian post-secondary institution.



Position structurally independent of administrative board; often funding from both the student union(s) and university	Position: reports to the administrative board; funding by university only
Ombudspersons are expected to bring forward contentious matters and systemic concerns so that the university can address them. Their position is safe	Incidents that have been addressed by the ombudsperson might be the basis of dismissal of the ombudsperson
Awareness of the importance of safety planning and resources for the ombudsperson office (e.g. duress/panic/safety buttons are standard, motion sensors)	No awareness on the vulnerability of ombudspersons in their contact with dangerous people

Conclusions

Ombuds work in Canada lies ahead of ombudsing in the Netherlands. Only a few universities in the Netherlands have decided to appoint ombudspersons. Some ombudspersons are working with students, some are working with staff and faculty only and some work with students, staff and faculty. Due to the fact that the number of Dutch Ombudspersons lacks critical mass, the possibilities to professionalize Ombuds work in the Netherlands are limited. All university positions in the Netherlands are described by the Hay Group²⁴. However, the position of the ombudsperson is not described in the university standard work on job descriptions.

The position of ombudspersons in both countries are different. Because of the prevalence of funding by two parties the independence of the position of Canadian ombudspersons is stronger than those of the Dutch ombudspersons. Last year for instance a few Dutch ombudspersons were removed from service by their boards because of displeasing activities. At Canadian universities that

²⁴ Annex to the Collective Labour Agreement of the Dutch universities (2014): *Functie Ordeningsysteem*. http://www.vsnul.nl/functie_ordeningsysteem_ufo.html. Visited on September 21, 2016.



would have been very unlikely. Legal protection of ombudspersons exercising their duties is very important.

It is remarkable that in both countries governments are not proactively advancing the value of Ombuds work for students, staff and faculty by recommending that Ombudspersons be established on all campuses. One would expect that the number of individuals that make use of ombudspersons services in Canada and the Netherlands should be quite convincing for governmental legislation of ombudspersons. At Dutch universities the need for ombudspersons working with staff and faculty is especially large as only a small minority of university personnel is unionized. If problems arise one cannot fall back on any support. University personnel in Canada can fall back on support from either faculty or staff unions.

As long as legislation to appoint ombudspersons in higher education institutions is lacking students, staff and faculty of those HE institutions where no ombudsperson is available are in a detrimental position. Legislation on ombudspersons often remains behind because of the fact that universities (and or unions) can decide themselves if they want to appoint ombudspersons. Boards of universities where ombudspersons are lacking fear to appoint ombudspersons as they are sometimes perceived as threatening to the institution. That opinion however is outdated. Proof of the high value of ombudspersons in higher education institutions can be found on those universities where ombudspersons do their important work in early dispute resolution, training on fairness, as well as fact finding on individual and systemic issues and trends analysis.

Note of Thanks

I thank my Canadian colleagues for their support and very hearty welcome. It made my trip to Canada enormously valuable and agreeable. At last I wish to thank Kristen Robillard. She was the former Ombudsperson at Concordia University in Montréal and the former president of ACCUO/AOUCC. My plan to visit Canadian colleagues has been made possible with help from Kristen Robillard. Also, I want to express my great appreciation to Martine Conway, Nora Farrell and Kristen Robillard for their valuable comments on the draft version of this article.



OMBUDS: DEGREE REQUIRED?

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One of the clear trends in the organizational ombuds field is toward greater formalization of professional standards of practice for the ombuds practitioner. This article looks at one of the important sources affecting that evolution; legal education, training and the bar itself as a sometimes cooperative and sometimes competitive influencer.

In 2001, the American Bar Association endorsed Standards for the Establishment and Operation of Ombuds Offices, which it revised in 2004.¹ The International Ombudsman Association developed Standards of Practice for organizational ombuds, revised in 2009². That same year, the Board of Certification for Certified Organizational Ombudsman Practitioner was established to award the Certified Organizational Ombudsman Practitioner™ credential. The educational requirement for COOP™ certification is a Bachelor's degree, an attestation of experiential practice and a test, of which there is no legal component.³ In contrast, many ombuds positions require advanced degrees, yet even organizations in the same sector often differ as to which degrees they require for an ombuds position. Some positions require a law degree, and yet I have heard some opine that a law

¹http://www.americanbar.org/content/dam/aba/migrated/2011_build/dispute_resolution/attach_authcheckdam.pdf accessed August 30, 2016.

²http://www.ombudsassociation.org/IOA_Main/media/SiteFiles/IOA_Best_Practices_Version3_101309_0.pdf accessed August 30, 2016.

³ <http://www.ombudsassociation.org/Certification/Obtaining-Certification/Eligibility-Requirements.aspx> accessed August 30, 2016.



degree has no relation to ombuds practice. As an ombuds and former attorney, I began to wonder: what is the relationship between legal education and ombudsing? Is experience or education in the law a good thing (or a bad thing)? What training is associated with best practices as a professional ombuds?

Relevance

One could argue that attorney practice differs so widely from ombuds practice that it is irrelevant. Legal conflict represents a violation of societal norms as evidenced by case law, a violation of a regulation or statute, or a violation of a legal agreement. Even in the case of divorce or death, the court does not address the relationship of parties, but merely effectuates the division of assets. The remedy is money, property, or, in the case of criminal law, a loss of liberty. The conflict we see as ombuds is rarely a finite legal dispute; rather, it may be an objection to these standards themselves, a conflict which does not rise to the level of legal complaint, or the violation of the rule is merely the veil over a longstanding, seething interpersonal conflict.

The study of law requires an emphasis on the details. In law schools, hundreds of hours are spent learning about whether A or B takes precedence in the ownership of Blackacre; how to tell if a will is valid; how to form an LLC; or whether to italicize a period. “Justice” is determined by whether the contract provision in fine print was followed, or whether a deadline was missed- even if by five minutes. A lawyer who spends a career analyzing tax returns in the context of the latest tax code may have little experience relevant to ombuds work (unless it is for a government tax collection agency). A law degree may not help with understanding an organization or creating influence in order to realize systemic change. The least effective and seldom used argument is the societal impact of a decision- the major controlling authority in ombuds work.

A JD rarely covers the sources of interpersonal conflict or how to express empathy. The law doesn't take feelings into account, even in family cases, nor help with resolving relationships. After months



or years of legal battle, digging up incriminating evidence on each other, thinking only of how to beat the other, meanwhile spending thousands of dollars, litigants' relationships are often strained even more than at the beginning of the disagreement.

There are a host of other academic programs applicable to ombuds work. A degree relevant to a particular organization might be more preferable, such as EDD for Ombuds in Higher Ed; MD for Health Industry; a scientific degree for a national laboratory. Courses in counseling and interviewing, negotiation, mediation, and other alternative dispute resolution courses may be found both in law schools and other institutions. In California, there are at least four ADR degree programs (two housed in law schools).⁴ In addition, counseling, therapy, and psychology provide relevant skills. Active listening; meeting planning and agenda setting; facilitation; and creativity; were cited as the four main skills for conflict management by the authors of Designing Systems and Processes for Managing Disputes (notably, three of the four authors were law school faculty at the time of the printing and the fourth was a sociology faculty specializing in law and criminology).⁵ Bernard Mayer said that a successful conflict resolver needs “a set of values, an array of analytical and interpersonal skills, and a clear focus...”⁶ Certainly, law is not the only path to being a skilled ombuds and may, in fact, not provide many skills at all, yet law professors and the ABA have weighed in heavily regarding the profession.

⁴ Stanford University, Pepperdine University, California State University- Dominguez Hills and University of San Diego. <https://www.scmmediation.org/professional-development/degree-programs/> accessed August 30, 2016.

⁵ Rogers, Nancy, *et al.* (2013). Designing Systems and Processes for Managing Disputes. New York: Wolters Kluwer Law & Business. p. 359.

⁶ Mayer, Bernard (2000). The Dynamics of Conflict Resolution: A Practitioner's Guide. San Francisco: Jossey-Bass.



From what are lawyers “recovering”?

Whether they have become ombuds, mediators, or retirees, former attorneys often refer to themselves as “recovering” lawyers. I have wondered: from what are these people recovering? Is it related to the numerous negative lawyer jokes?

A lawyer is someone who takes a lot of your money for helping you to take a little of someone else's money.

Q: Why did God invent lawyers?

A: So that real estate agents would have someone to look down on.

Q: What's the difference between a lawyer and a leech?

A: After you die, a leech stops sucking your blood.⁷

Despite formal Rules of Professional Conduct, lawyers are stereotypically labeled as greedy, lying, “sharks.” An entire movie was based on the premise of a lawyer’s consistent lies even to his family members.⁸ This is not the picture of an advocate for justice and fairness.

An infamous Harvard Law School address states, “Look to your right, look to your left – one of them won’t be here next year.”⁹ Law school programs are notoriously competitive, fostering a

⁷ <http://www.iciclesoftware.com/LawJokes/IcicleLawJokes.html> accessed August 30, 2016.

⁸ See *Liar Liar* <http://www.imdb.com/title/tt0119528/> accessed August 30, 2016.

⁹ Kahlenberg, Richard D. (1992), *Broken Contract: A Memoir of Harvard Law School*, New York: Hill and Wang cited in https://en.wikipedia.org/wiki/Harvard_Law_School#cite_note-28 accessed Aug. 30, 2016.



desire to win at the expense of others from day one, and tales of stolen legal tomes abound. The goal of trial is to win at the expense of the other, and in many cases the amount of damages is based on how much it will hurt the liable party, to punish- not rehabilitate- the loser, and certainly not to foster peace and reconciliation.

Lawyers advocate for one side, regardless of whether that position appears to promote justice or improve society. While lawyers can argue alternative theories, in the end, the law requires one set of findings of fact. Ombuds stress sharing each person's own truth and understanding that there are different perspectives. Even a legal mediator's experience and training can actually be a hindrance if her or his experience has focused on settling discrete issues, rather than remedying relationships. Ombuds promote mutual satisfaction, including what is right for the community as a whole.

An attorney turned ombuds would be required to make a significant shift from advising a specific course of action for a client, to remaining neutral even if the visitor chooses a path that seems risky or unlikely to prevail. Lawyers need to be self-assured - or at least able to present a confident front - for judges, opposing counsel, juries, and clients. A lawyer is hired to be an expert, to provide guidance about what a client should do, and to make the best decisions about the most effective means to achieve victory or assuage defeat. Where an attorney-ombuds can see that a claim will fail, he or she is limited to presenting options and possible outcomes, and must allow the visitor to make a choice, even if it appears to be a poor one.

What's law got to do with it?

It is not surprising that attorneys are drawn to the ombuds profession which advocates for justice and fairness. The American Bar Association's mission includes "eliminating bias and enhancing diversity," "promot[ing] competence, ethical conduct and professionalism," "hold[ing] governments accountable under law," "work[ing] for just laws, including human rights, and a fair legal process," and "assur[ing] meaningful access to justice for all persons." These goals are clearly shared by



ombuds. Just as the judiciary maintains independence from the legislative branch that creates the law, the ombuds functions as an independent office to help keep the system in check.

A legal education provides an in-depth understanding of the interpretation and application of agreements and policy. The study of legislation and constitutional law lends depth to understanding the principles of discriminatory intent and effect of law and policy. This facilitates the ombuds' ability to determine whether policy is being applied appropriately and equitably, and to make recommendations for changes.

Ombuds help walk people through systemic red tape and find appropriate resources to resolve problems. Changes in statutes, regulations, and administrative guidance will affect whether there are formal processes available for a specific issue. It is therefore essential to be aware of existing law to be able to evaluate options, and to weigh risks. For example, a visitor felt insulted by his manager for being classified as an hourly employee. Having an awareness of pending Department of Labor guidelines which would restrict employees in his salary range from becoming exempt, was helpful for the visitor to understand his current classification, to gauge the potential for other options, and ultimately to exonerate his manager from blame for the non-exempt status. In another example, a visitor and supervisor were in conflict over the visitor's requested lactation breaks. Having an awareness of new DFEH guidance and the intersection of the Family Medical Leave Act and the ADA was essential to helping the employee understand her rights and limits, and importantly, to evaluate the fairness of the supervisor's actions in the context of the law. Understanding what is required to make a legal claim for a hostile work environment helps me judge possible options for these allegations.

A legal education also helps in understanding how our work might be confidential and the limits to any privilege. An understanding of agency enables an ombuds to implement practices in a way most indicative of confidentiality and independence. Likewise, in the case of a legal complaint between the university and a visitor, having a clear understanding of litigation practices and how the ombuds'



actions and words might be interpreted by a judge can provide guidance for interacting with counsel for the visitor or the institution, for instance, when faced with a request from in-house counsel for information or documents regarding an alleged former visitor. A legal education is also helpful in understanding our own obligations for reporting, such as understanding that the Department of Education's updated Clery Handbook stating that an ombudsperson "generally may meet the criteria for being a campus security authorit[y]," would be superseded by federal laws and regulations.

Labor law is another area that may benefit ombuds working in a union environment. Given the vague nature of our independence from our institutions, we need to understand what we might do that could be alleged to constitute an Unfair Labor Practice, including what issues constitute those for which a union is the exclusive representative of the employee. Both unions and management may interact with an ombuds, and an ombuds requires a base of knowledge to understand under what circumstances and to what extent ombuds involvement is appropriate.

Although they are not proprietary to lawyers and may not even be taught in law school, the successful lawyer will often demonstrate good communication and interpersonal skills. In the end, most lawsuits are not decided in the courtroom, but rather in face-to-face discussions with other humans. Lawyers use their relationships with other lawyers and judges to advocate for their clients. Lawyers use their relationships with their clients to influence settlement. Practice in these skills can be helpful in working with visitors and providing upward feedback.

In addition, trial practice can help with the ability to think on one's feet in the moment, as one needs to do in consultation or during a facilitation. Furthermore, the intensity and proliferation of legal writing can be helpful in honing logical, written communication. Perhaps most important, and what I would view as the cornerstone of my own legal education, is the ability to think logically and analyze situations to spot issues, to give appropriate weight to authority, and to evaluate risks and benefits. Many times, after providing an empathetic ear, my job seems to be to help visitors to sort



out feelings from facts, to pull out and define goals, and define possible next steps; in essence, to provide a logical framework for the information that has been shared.

Where Do We Go from Here?

Despite these links, one does not need to have practiced law nor even attended law school to learn and stay informed of legal matters, and to develop skills required for ombuds practice. Certainly, it seems that a legal education and experience could be helpful for ombuds practice. It would be hard to argue that *any* advanced degree would *not* be helpful for ombuds practice. Each of us brings the strengths of our own studies to the practice. Many times I find myself leaning on my arts education or my experience as an art professor to inform my work. I use the methods that I have been taught to come up with creative ideas, or I recall my experience as a new faculty member to reach out to faculty on my campus. Yet I have never seen “MFA required” or “Adjunct experience necessary” in a position posting.

One could argue that any advanced study shapes our thinking and creates its own lens through which we see the world. Lenses can sharpen focus, distort, impair vision, or cast a rosy glow. I know a community college professor who purposely delayed earning a PhD for fear that the education would create a greater chasm between herself and her students. We are all, in a sense, “recovering” from our past experiences and education. As ombuds, we know that we are not – cannot be – inherently neutral. Rather, we try to practice self-awareness to be conscious of the ways in which our backgrounds, personal privileges and disadvantages, prior experience with specific people, and education have shaped us. Perhaps we can unlearn the traits which are less desirable for ombudstry. Perhaps we just need to be conscious of the impact of our training and education on our attitudes, words and actions. In the end, education is self-improvement and having a deeper understanding of anything is helpful.



A legal education is by no means sufficient in and of itself to qualify one to be an ombuds. Individually, we cannot be experts in everything. Non-lawyers can learn approaches and gain knowledge from lawyers. Lawyers can learn approaches from those who have studied conflict management, organizational development, and counseling. Having little advanced education in these areas, I cannot speak to the strengths that these disciplines lend to the practice, but we could all benefit from knowing.

I hope that we can overcome the human tendency to be drawn to others like ourselves. Then those of us who work in offices with multiple ombuds can collectively share diverse perspectives and bring different tools to problem-solving. As a community, at conferences, through publications, and through mentorships, we can continue to learn information, new skills, and different ways of thinking from each other.

This piece is based on having attended only one law school and a specific and limited experience practicing as an attorney, and may not align with the experiences of all law student graduates or attorneys. Anyone who would like to share their thoughts on how to encourage cross-disciplinary training and collaboration should feel free to contact the author at caroline.adams@ucsb.edu.



OMBUDS INTERNSHIPS: A MODEL OF STRONG COLLABORATION

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Introduction

The internship program is well into its second year. We have found that a well-planned internship program faces fewer obstacles and challenges in its implementation. This paper focuses on director, mentor and learner perspectives on the merits of an ombuds internship program. Originally presented as a six-month review sampler session at the 2015 CCCUO conference, we now reflect on the personal and professional growth of the first interns, and what they have given us to enhance our service.

Background

The idea of an ombuds internship program had been discussed for over a decade; finding the opportune time to start required careful planning. We had researched internships that were well-established in university counselling, peer health support, and career centres. Universities are supportive of student leadership training, and there was measured success of many internship programs on campus. As we focused on establishing an ombuds internship, we sought information on intern models in other ombuds offices. We contacted colleagues in our CCCUO network who were mentoring interns or had started as ombuds interns. We received a list of reading resources from the Ombuds Office, University of California, Riverside that we added to our research file for our interns. We also participated in a Practice Issues session offered by NWOOG where ombuds



interns talked about their experiences.¹ This information was invaluable as we heard positive comments on the intern role, and words of encouragement as we began the program. We reviewed IOA, CCCUCO and other higher education conflict resolution journals so that interns could further explore the profession of ombudsing through lessons learned from various ombuds practitioners.

Further advice from colleagues helped us build a strong and credible program. They emphasized using a professional approach to our teaching and mentoring and to not “water down” the content. We decided on a full-time, one-year internship building on established career internship programs in place at our university. We chose senior undergraduate students who had met the required academic standing and showed commitment to the goals of internship. We pursued soft funding to provide students a decent, living wage. The internship would include an individual project to benefit the profession of ombudsing; the interns would be able to leave a permanent contribution in their year of internship. There was potential for internships to be tied to university credits (similar to a practicum).

We were able to use the University’s internal career internship resources in the Career Centre and various faculty offices. The Career Centre provided a module on the benefits and goals of an internship program and formulating a work-experience learning plan. The coordinators of the various internship programs were excellent resources to help the intern plan and reflect on his/her development of leadership, technical and communication skills. This allowed us to focus solely on ombuds training and mentoring.

¹ Ayeni, V. (1985) A Typology of Ombudsman Institutions. *Occasional Paper #30, International Ombudsman Institute* p. 20.

² Larratt Smith, A. and Hutchens, S. (2015) How do Ombuds develop and implement internship programs. *NorthWest Ombuds Group Practice Issues* www.nwogblog.com/practice-issues.html.



Training Resources

Our past working experience with student staff proved to be an asset in building training resources. We had worked in a collaborative, hybrid model with student ombudspersons for almost two decades. Over the last several years, we had developed and updated an office manual annually, as well as a special orientation manual for the student ombudspersons. The next step was to develop an internship manual, and to train the interns incrementally so as to not overwhelm them with the steep learning curve. The need to not compromise our work standards and to treat our clients fairly was paramount in this process.

In order to document the planning and implementation of the program, we developed an intern-training manual with clear objectives and specialized modules of training. We examined all the skills that were relevant in the work of an ombudsperson. By developing modules of training, we were able to divide the tasks among the three ombudspersons, focusing on our areas of expertise. The modules could be easily revised and could vary in length and delivery time. The modules were covered in two to three hour, morning or afternoon sessions. There would be incremental steps in developing and honing skills such as Conflict Resolution I – Covering the Basics, and Conflict Resolution 2 – Advanced Skills and Strategies. The professional Standards of Practice were reflected in the various modules of training. We provided hypothetical cases to review and test the knowledge gained in each learning module. The hypothetical cases would start with simple case scenarios; we would then add the complexities and nuances of more difficult casework to test the intern's understanding and application of ombuds principles. We also borrowed extensively from our Canadian colleagues to test and understand administrative, procedural, and relational fairness through an Ombuds lens. The module approach to teaching in a workplace allowed flexibility for the trainers to manage our high caseloads (we see over 1200 students annually).



Basic modules of in-house training included:

- Introduction to Being a University Ombudsperson : The Role and Responsibilities
- Overview of the ACCUO Standards of Practice
- Purpose of Mentoring and Shadowing
- Casework Review at Staff Meetings
- Ethics and Professionalism
- Confidentiality
- Impartiality
- Freedom of Information (Privacy Policy)
- Phone Call and Email etiquette
- Communications and Social Media Restrictions
- Empathetic Listening Skills
- Establishing Professional Boundaries
- Dealing with Difficult Students
- Dealing with Suicidal Students
- The Fairness Triangle
- Administrative Fairness Checklist
- Meeting Checklist
- Statistics and Recordkeeping
- Note-taking and File Maintenance
- Conflict Resolution (Level 1 and 2)
- University Governance
- What can and cannot be appealed



Shadowing, Mentoring and Debriefing

In addition to the learning modules, Shadowing and Mentoring helped the interns to develop their skills in ombuds practice. This involved meeting clients², always with the permission of the client. In every case, clients have been very happy to engage in this process, feeling they are being fully heard. Following each case, there was a debriefing of what was learned through observation. When the intern felt ready, casework was assigned, first with the primary ombudsperson doing the initial questioning, and the intern to ask follow-up questions. When ready, the intern would take the lead and follow with the primary ombudsperson. Debriefings occurred after meeting with clients. The interns could then practice their responses to similar casework scenarios in their training manual or practice role plays with each other and their mentors.

Mentoring, shadowing and debriefing are invaluable tools in teaching ombuds practice. Mentorship involves one-on-one meetings to ensure that university policy and procedure is understood, and so that the interns make informed referrals.

When interns shadow cases, they observe the unique qualities of each client and their perspective on their situation. The intern learns by observing an experienced ombudsperson, and eventually leads the client meeting with the ombuds mentor observing before managing cases alone. Debriefing is also a component of learning and helps the intern learn to be an active listener and provide consistent, sound advice. Debriefing helps to build the intern's confidence in examining the case through an ombuds lens. Ultimately through mentoring and coaching, the mentors help the interns build expertise, learning new strategies and techniques of Alternative Dispute Resolution processes (e.g., restorative justice, and mediation). This knowledge can be applied to their casework.

² In Canada, the term client or their category (e.g., student) is used instead of the American term visitor.



External Training

The internship program involves the expertise of various university resources, including workshops to develop work experience learning plans at the Career Centres. The interns participate in many on-campus workshops to increase their knowledge and skills. Some examples are: Safe Disclosure (Whistleblowing) and Human Rights; Duty to Accommodate; Public Disclosure Information Act; Sexual Minority Awareness and Safe Spaces; Administrative Law (pro bono workshops by University lawyers); Helping Individuals at Risk; Mental Health and Wellness workshops; Privacy Information on Note-taking; Sexual Assault Awareness Training, etc.

Conferences and Workshops

The Office of the Student Ombuds also hosts an annual Student Advisors' conference with the support of the University, to 200 participants who gather to network and hone their skills in serving students. The interns learn how to plan and organize a conference, and may present a workshop, paper or poster presentation at this one-day event. Last year, intern Veronica Kube presented a workshop on "Am I Being Fair?" to help in the preparation of her handbook on Relational Fairness. Intern Josh Hillaby, gave a poster presentation on the value of the Student Ombuds Internship, and some of his reflections are covered in this paper.

Intern Ombuds Project

Another important feature of the intern program was to enhance the intern's personal growth while simultaneously contributing to the profession of ombudsing. Each intern was asked to design a project; in turn, mentorship was provided by the ombuds director and intern program coordinator. Josh Hillaby contributed a case review to the Cal Caucus Journal in 2015. Veronica Kube developed a power point teaching tool on relational fairness and a Relational Fairness Guide. Veronica also speaks to relational fairness in an article in this Cal Caucus Journal.



Balancing Casework and Mentoring

A big concern for anyone contemplating this kind of commitment is the time and resources required for training and mentoring. We knew we needed to document our program as clearly as possible so that we could revise and update the training as needed, and monitor our time. We also valued the interns' reflections on their experiences and challenges, and their recommendations to improve the program from a learner perspective. Through their learning career plans, we could see what areas created challenges in learning. This was very important for informing the next set of interns, so we incorporated important tips and strategies from the learner's perspective in the revised training manual. The interns' perspectives also helped to improve the manner in which the trainers and mentors approach their work this year.

So a big question is how we accomplished this without teacher/mentor and learner burnout in the first year. We believe that our collaborative approach to teaching and learning; reaching out to appropriate learning resources on campus; and approaching our colleagues who have intern experiences and resources, were critical to the success of our first year. We also credit the interns who had excellent qualifications for their positions, and were senior students with solid academic standing. Both interns knew this was the first year, and their commitment and enthusiasm was strong; they were flexible and forgiving to any mistakes made by their mentors. Our proof for success is reflected in the learners' assessments of their year in this program. We had many commendations from their clients and the various administrators and faculty they interacted with. The interns recognized that the skills they learned in the ombuds role were adaptable to a wide range of professional areas. They learned and practiced: diplomatic communication skills; worked with confidential records and treated clients with respect; learned a broad range of policies and procedures; helped to empower students to understand their rights and responsibilities; and taught students strategies to resolve interpersonal conflicts. Although they did not work on the more complex casework of their mentors, nor conduct investigations, and appreciative inquiries, they were very aware of the grey areas of work they were encountering, and often sought guidance.



Building Internship Programs Through Collaboration

The internship program has grown this year to include a graduate ombuds intern as we explore the potential for restorative practice initiatives in resolving graduate student conflicts with their supervisors. Our graduate ombuds intern is playing a key role in the development of this program and handling a small graduate caseload.

Our internship program is attracting students and gaining positive recognition throughout our institution; we are also receiving inquiries from other institutions. We recognize that we need to continue to be vigilant and rigorous in our training and mentoring process. In summary, key to a successful internship program is to:

- * Build credibility by adhering to ombuds Professional Standards of Practice
- * Teach skills incrementally and build levels of expertise over time
- * Use Reflective Practice in monitoring and evaluating skill development
- * Build competence in practice through Mentoring, Shadowing, and Debriefing
- * Collaborate with on-campus career services to ensure professional components of skill building and student leadership development
- * Build a Work Experience Evaluation Plan with the career service partner
- * Use specialized university resources to enhance professional development
- * Provide mentorship for projects that contribute to the ombuds profession
- * Advertise the benefits of Internship through the intern's voice
- * Improve the internship plan with recommendations from the intern
- * Build Best Practices on ombuds internship programs with ombuds colleagues and share resources



How Interns Inform our Practices

Finally the voice of the intern provides a complete perspective on the teaching and learning process. Interns make us better practitioners. They help us to rethink our practices. Marc Johnson, Undergraduate ombudsperson, states: “They revitalize our practice and offer a refreshing perspective.”³ Brent Epperson, graduate ombudsperson, adds their value to the institution. “They enrich the perspectives and approaches of service offices, challenging situated knowledge and encouraging administrative innovation.”⁴ As a director, trainer and mentor, mentoring is a serious responsibility because interns are serious workers: “Be fair and reasonable in your expectations, and you will always have a healthy working relationship. Student services are enriched with student interns.”⁵

Conclusion: “Voice” of the Interns

The internship is best understood through the voice of the interns. Mid-way through the internship, Josh Hillaby reflected: “During my time at the office, I have enjoyed meeting students from different areas of study, encouraging them to open up their perspectives in constructive ways, and empowering them with the skills they need to solve their academic problems and prevent future issues. With the help of my friends and mentors at the office, I have been working to develop my own unique style as an Ombudsperson. I am also collecting important information and resources that will aid in the training of future Ombuds Interns. For my internship program, I complete bi-monthly reports on pursuing work goals and learning objectives. This gives me valuable opportunities to reflect on any strengths and weaknesses I may identify in my work as well as to

³ Hillaby, J. (2016) From Student to Student: the Value of the Student-staff Perspective in Advising and Services. *32nd Annual Student Advisors’ Conference*. University of Alberta. Edmonton.

⁴ Ibid.

⁵ Ibid.



apply my education to my work at the office. “⁶ Veronica voiced mid-way: “Coming into this Internship Program as a student myself, I feel that I bring a unique perspective to my role. My student lens provides me with a distinct approach to student issues, while implementing newly acquired procedural knowledge and skills. With no prior experience, I examine each case with a fresh set of eyes – something I believe contributes to the development of our internship program. I frequently question and prompt discussions with my more experienced colleagues...I am expected to keep a work journal and complete a series of ethics, methodology, and learning plan assignments”.⁷ Veronica’s summary of the ombuds internship is succinctly captured in this statement “This skill set, personally and professionally, is unparalleled”⁸.

Josh’s voice stresses the important gift of interns to the profession of ombudsing. “The most beneficial aspect of this program is that it has added new insight into the permanent staff’s approaches to ombudsing.... (W)hile the seasoned, full-time staff at the office will be tasked with guiding and working with the intern, they will also have the valuable opportunity of learning from the intern and reconnecting with the purpose and principle values underlying the service. Furthermore, they will have the chance to question and rethink certain practices when they are able to look at them from a new perspective.”

⁶ Sharpe, N. (2015) Challenges and Rewards of a New Internship Program. *California Caucus of College and University Ombudspersons 42nd Annual Conference*. Asilomar. Pacific Grove, CA.

⁷ Ibid.

⁸ Hillaby, J. (2016) From Student to Student: the Value of the Student-staff Perspective in Advising and Services. *32nd Annual Student Advisors’ Conference*. University of Alberta. Edmonton.



These voices offer us a new perspective on innovative ways to approach the ombuds role on our campuses, to collaborate with services that can strengthen our training and make our presence and value known throughout university and college campuses.

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THE POWER OF *HOW*: CONSIDERING THE VALUE OF RELATIONAL FAIRNESS IN HIGHER EDUCATION

Veronica Kube
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“Sleeping in is not an excuse for missing the exam. Your mark is zero.” This is the email response that prompted my early morning walk-in – a distraught and frustrated student who had hurriedly emailed his professor after missing a scheduled midterm. When the student first came in, I patiently listened to his story and prepared to explain the unfortunate truth: although his actions were accidental, the professor did indeed have the authority to deny a deferral. Part way through his story, the student pulled out his smartphone and proceeded to show me the email exchange between him and the professor. Handing me the phone, he muttered “I just don’t feel like this is fair,” – a near trigger phrase by ombuds’ standards. As soon as I read the email exchange, I realized *why* the student likely felt so unfairly treated. The decision stated in the professor’s email was procedurally appropriate, timely, and within his authority – arguably “fair” by procedural and substantive standards. What it lacked was an inkling of relational fairness; there was no greeting, no acknowledgement of the student’s outright honesty, and no empathy for the student’s genuine devastation and regret. Leaving out the relational fairness piece prompted the student’s *perception* of unfairness, put him in conflict with his professor, and ultimately led him to my office.

My experience with this student highlights the importance of relational fairness: *what* the professor decided mattered just as much to the student’s perception of fairness as *how* he communicated his decision. Yet, how – on a practical level – can you teach someone to be relationally fair? Procedural and substantive aspects of fairness are often woven into institutional regulations and protocols. Relational fairness is practiced in social interaction –it affects *how* we communicate. In the development of my handbook – *Fairness in Communication: A Relational Fairness Guide* – I offer skills and considerations to encourage the practice of relational fairness.



Whether real or perceived, relational unfairness contributes to conflict. Perceptions of unfairness are arguably subjective. As such, we must not only consider what shapes individual perception of unfairness, but what influences emotional reactions to it and the ways in which these reactions prevent effective communication in conflict. As Ombudspersons, this begins with properly understanding a client's perspective, indeed those of each side.

To illustrate how perceptions unfold in ombuds casework, I offer another example from my internship. I met with a student who found it unfair that his professor wanted to meet to discuss his missed assignments. When the student first came to me, I struggled to understand why and how the student found this upsetting. To me it seemed like a non-issue – never mind an issue of *unfairness* – yet the student was genuinely upset with his professor and was scheduled to attend a meeting with her to discuss the situation. The student inquired about possible outcomes of the meeting and came seeking advice on how to handle the conversation. He was adamant that his professor was wrong for questioning him about his assignments and planned to tell her so in their meeting. The student had taken something objective – a missed assignment – and had turned it into something incredibly personal, triggering a host of negative emotions towards his professor. I then asked the student what it meant to him when his professor questioned him about his assignments. His response finally shed light on the reason for his perspective: “She doesn’t think I can do it. Nobody has ever believed I could do anything.” I then realized that the story the student had been telling himself – the story that fuelled his perception of unfairness – was that his professor doubted him and expected him to fail. With such a negative story generating his misperception of unfairness, it was not surprising that the student felt upset with his professor. Although there was no real unfairness – as measured by aspects of the *Fairness Triangle* – the student’s misperception of unfairness still drove him into conflict with his professor.

Understanding the student’s perspective in the above case scenario began with a proper understanding of the story behind his perception. My handbook approaches this storytelling through the fundamental attribution error, and subsequently unpacks personal biases of culture and emotion. Effective communication starts with being mindful of the stories we tell ourselves about others, and how our personal background and experiences influence these stories. These considerations are important for effective communication as they draw attention to underlying causes of conflict.



Conflict, in any form – whether interpersonal, grade related, or code of student conduct related – can significantly impact an institution’s reputation. Students who feel unheard, disrespected, or unfairly treated cannot simultaneously feel supported and fulfilled in their educational journeys. Certain forms of conflict – those with procedural or substantive fairness violations – can often be approached by way of an appeal or formal complaint. It is the more ambiguous violations of fairness – the *perceptions* of unfairness – that can be exceedingly difficult to understand and repair. As ombudspersons in higher education and advocates for fairness, we have a responsibility to consider both real and perceived unfairness in our institutions. To do this, we must work to understand *what* and *why* without neglecting to consider *how* – how a situation came to be, how a student feels about it, how a decision was made, and how it was *communicated*. Promoting and practicing relational fairness starts with respectful, constructive communication. Communicating effectively starts with increased awareness of self and of others. As ombudspersons, we must practice and teach these strategies in order to foster healthy relationships and promote fairness within our colleges and universities.

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CASE STUDY

Submitted by the IOA Mentoring committee

An employee (Gail) comes to you as the ombuds and reports tension with her supervisor (Elaine). They have only been working together for three months since the department was reorganized. The manager has made clear that she enjoys celebrations (birthdays, showers, etc.) and there have been 3 such celebrations since she began managing the department. Your visitor is openly gay, and plans to be married next month. When Elaine discovered there was a wedding shower planned for your visitor, she scheduled a one on one meeting with the visitor during that time frame. The visitor (Gail) arrived at the wedding shower 30 minutes after the originally scheduled time and felt terrible that her co-workers were kept waiting. (Elaine did not attend, though she had attended the other employee celebrations). The visitor also reports that there is another openly gay person in the department and the manager refuses to sit next to either of them during staff meetings. Gail believes that she is being micromanaged in a way that other employees are not, and that she is being discriminated against on the basis of sexual orientation. The visitor reports that the manager had last year run for a seat on the county school board and was known as a candidate with conservative views on social issues. She was not elected.

What you know: You recognize the manager's name as a person to whose campaign you donated (because of the candidate's stance on education issues), but was not aware of her platform related to other issues. The candidate reached out to all supporters on LinkedIn, and you are now connected with her on the site, though this was prior to her working in your organization. You have also received two other complaints about this manager's style and the environment in the department since she has been in the leadership role. You are a sole practitioner in the ombuds office.

- What Would You Do?
- What ethical principle does this challenge?
- Which SOPs (if any) provide guidance to the OO in this situation?
- What are recommended best practices?
- What support and/or education might be needed for the Ombuds or others in the Organization going forward?
- Lessons learned?



BOOK REVIEW

Ta-Nehisi Coates' *Between the World and Me*

Henok Elias

Abstract:

The following is a book review regarding Ta-Nehisi Coates' Between the World and Me. It is a publicly penned personal letter exhorting and encouraging Coates' son Somari (and whomever else resonates with its message) in a world that dishearteningly treats some people with less dignity than others. I invite you to enjoy a panoramic shot of the text's lush landscape followed by select zoom-ins and finally an analytical tie-in to our organizational ombudsman profession. You will read this if you want to know the relevance of oppressed and battered black bodies to ombudsing.

Intro

Preface

Ta-Nehisi Coates, award-winning staff writer at The Atlantic Magazine and author of the taboo-breaking long-form essay *The Case for Reparations*, has written *Between the World and Me*.¹ Part of the book's thrill is that Coates departs from what historian Dr. Thomas E. Woods Jr. often refers to as the "bi-partisan 3x5 index card of allowable opinion" that muzzles most authors, by daring to have a default position of suspicion toward the State.² His suspicion is historically and presently contextual given the relationship between black folks and the State.

I purchased my physical copy of *Between the World and Me* at IOA 2016 in Seattle, WA. Looking at the books available for purchase made me wonder how many books matter for our field and which books matter most. I chose to review this book in this journal to highlight the social construct commonly called "race". Our responses to it matter. Ombuds practitioners striving for inclusion will recognize that the spirit of this book (criticism of oppressive individual and systemic human behavior) can apply to all Otherized people.

Attempts to summarize complex ideas run the risk of oversimplification. Calling out the risk is the first cautionary step. Next, a short and clear roadmap helps. I invite you to enjoy a panoramic

¹ Coates, Ta-Nehisi. (2015). *Between the World and Me*. New York: Spiegel & Grau. Print.

² This phrase and amalgamations thereof, are used by Woods as a catchphrase in print, radio, and online.



shot of the text's lush landscape followed by select zoom-ins and finally an analytical tie-in that shows the relevance to our organizational ombudsman profession.

Panoramic Shot

Between the World and Me is political, but not electoral. It is a publicly penned personal letter exhorting and encouraging Coates' son Somari (and whomever else resonates with its message) in a world that dishearteningly treats some people with less dignity than others. Notable trends he examines are: Battered Black Bodies, The Dream, The Mecca, Christianity, and The Struggle.

Zoom-ins

Battered Black Bodies

Coates' vividness in describing battered black bodies to his son is so alarming and commonplace in this letter that it sucks you into this uncomfortable world just in time for you to realize it's reality and not fiction. He says: the State uses compulsory schooling to "better discipline the body" (pg. 26) and compulsory security production to deflate "the fearless boys and girls who would knuckle up, call on cousins and crews, and if it came to it, pull guns", because "America [sic] had guns and cousins, too" (pg. 27).³ His acquaintance Prince Jones' "vessel was taken, shattered on the concrete, and all its holy contents, all that had gone into him, sent flowing back to the earth" by "the police who lord over them with all the moral authority of a protection racket" (pg. 82).⁴ Relatively affluent Chicagoan blacks who think they have found "respite" instead find "a more intricate specimen of plunder" (pg. 110) and the origin of battered black bodies is a "birthmark of damnation" (pg. 147).

This is not an exhaustive list of how black bodies are battered. But, in these crumbs Coates uses repetition and plain-spokenness to emphasize the repugnance of the status quo condition of blacks in America. The perpetuation of the status quo is The Dream.

The Dream

³ Coates uses the term cousin functionally rather than according to the letter. Your cousin need not share any blood relations with you but for the ones all humans share. The sic is placed after America to signify that a nation or people is not necessarily represented by the State that rules it. The text makes no such distinction.

⁴ This protection racket line is reminiscent of economist and polemicist Dr. Murray N. Rothbard's words from two score and one years ago. "It is the state, indeed, that functions as a mighty "protection racket" on a giant and massive scale." Rothbard, Murray N. "Society without a State." *The Libertarian Forum* 7.1 (1975): n. page print.



The Dream (dreamt by guardians of the status quo critiqued by Coates) is that whiteness has always meant what it does today in the U.S. The Dream is a white picket fence in a white neighborhood with no fretting that you could be murdered on your way to or back from school. The Dream is police as friendly do-gooders with but a few blemishes here and there. The Dream ignores brown babies abroad being extra-judiciously blown-up by Made in USA bombs and euphemistically, Orwellianly, and all-encompassingly described by the 4th Estate as ‘militants’ and/or ‘insurgents’. The Dream is tidy and neat - no room for ‘blight’. Dreamers (often referred to by Coates, perhaps partially for comic relief, as “people who think they are white”) are people who refuse to leave this reverie.

The Mecca

Mecca in *Between the World and Me* is not the famed home of the hajj in Saudi Arabia. Mecca is Coates’ literary device referring to Howard University (HBCU of HBCUs).⁵ Still, for him, it is a sacred space. Mecca is where black intellectuals gather, whether they are qualified for Ivy League Schools or not, because the diversity of blacks allows them to be “normal” for once. They do not feel pressures to behave in a particular way or represent their “race” in controversial conversations. Coates radically and delightfully describes The Mecca as having “a power more gorgeous than any voting rights bill” (pg. 149).

Christianity

Another drawing power throughout the book is religion. Coates is not a Christian, by his own admission, and says his parents raised him atheist. And yet, he cannot help but constantly comment on Christianity’s pervasion throughout black culture. Other authors would have ignored it or literally marginalized it to a footnote or worse an endnote. Coates’ inclusion of Christianity shows his bend toward impartiality.

Outside of Coates’ nuclear family, he has Christian relatives. Eastern concepts of what makes someone Christian can help shed light on this puzzle. In Lebanon, there is a quota of governmental positions that must be filled by Shia Muslims, Sunni Muslims, Uniate Christians, and Orthodox Christians. The politicians’ metaphysical views are less relevant than their familial religious background. Similarly, some Ethiopian Orthodox Christian monks become monks as opposed to goat herders for job security rather than out of religious conviction. Still, this secular monk will be called, and will call himself, a Christian until his last breath. Coates needs not to have recited creedal formulas in his youth, let alone to have had faith in them, to have his thoughts shaped by the Christianity of his community.

⁵ Historically Black Colleges and Universities (HBCU)



Coates' cognitive dissonance regarding Christianity is exemplified by his confidence that there will be no resurrection of the dead but his admiration for the otherworldly hope that oozes out of blacks that have faith in the resurrection of the dead. He says nonviolence in the face of tear gas is imprudent martyrdom. He says a system that promotes violence domestically and internationally has no grounds to tell blacks to be nonviolent. And yet, he thoroughly appreciates the superhuman ability of nonviolent protesters to emotionlessly absorb torment. That's one way to navigate The Struggle.

The Struggle

Coates' prior book, which I have not read, is entitled *The Beautiful Struggle*. Reading it would provide greater context to his usage of the term struggle in *Between the World and Me*. But, even without that added context the message is unmistakably clear. The Struggle is any given black person's persistence through life in the US, in the face of individual and systemic obstacles not faced by other denizens of the US.

Organizational Ombudsman Tie-in

Relevance

South Park has made it evident to the world that "Jesse Jackson is not the emperor of black people".⁶ There cannot be one spokesperson for such a diverse group. Likewise Coates, after publicly supporting Bernie Sanders over Hilary Clinton in a *Democracy Now* interview, wrote that he does not want to be and is not qualified to be the political spokesman for all black peoples.⁷ Thus, however influential this text may become, we must recognize it as but one black and blooming voice.

Our organizational ombudsman profession should take note of *Between the World and Me's* message if it is serious about harbingering individual and systemic behavioral change. How can we practically apply *Between the World and Me's* exploration of "race" relations? Academic ombudsmen should take note of critical 'race' related events pulsating throughout the U.S. such as: Kansas' rejection of a University Senate approved multicultural student government; the University of Missouri's hunger-strike and football-team boycott which resulted in the president's resignation. As ombuds, what is our role in the context of the current campus-wide and nation-wide tensions regarding diversity and culture... especially pertaining to police?

⁶ This is a popular satirical animated comedy in the U.S. Stone, Matt and Parker, Trey. (2007). With Apologies to Jesse Jackson. *South Park*. Episode 154. Comedy Central.

⁷ Coates, Ta-Nehisi. (2016). Against Endorsements. *The Atlantic*.
<http://www.theatlantic.com/notes/2016/02/against-endorsements/462261/>.



Conclusion

Between the World and Me is no proverbial magic wand. But, it rudely awakens those who have slumbered through these issues and encourages those who have already awoken and engaged these topics.



ARTICLE SUBMISSION AND BOOK REVIEW GUIDELINES

Journal Review Guidelines

We welcome submissions to *The Journal* for publication related to the work of ombudsing. Below are our guidelines for submission. As always, the co-editors welcome your ideas and questions.

The Journal publishes articles, book reviews and case studies related to the profession of ombudsing. Prospective writers are encouraged to submit manuscripts that focus on the varied aspects of our work: practice, education, legislation, research, social media or administration. Our goals as editors and peer-reviewers is to support each writer produce the highest quality of work possible that conveys the author's voice and intent.

Each submission should be submitted to the co-editors electronically, double-spaced with one inch margins. Length of each submission should not exceed 20 pages, including references and notes. Our *Journal* abides by APA standards. Please include a title page with the authors, title, institution, email address and an abstract containing no more than 100 words.

All submissions are reviewed by at least two editorial board members. Peer review is a blind process, and reviewers may recommend acceptance, rejection (with reasons given), revisions (with specific suggestions), or resubmission. Recommendations will be sent to the author. Submissions may be edited for clarity, consistency and format.

Book Review Guidelines

Book reviews are welcomed by the editors which relate to the field of ombudsing. Book reviews should be limited to 1500 words and should clearly state the author's thesis or intent of the book. Lastly, the reviewer should assert an opinion, evaluation or stance of the book in the beginning of the review.

The editor welcomes your feedback. Jim Laflin can be reached at jlaflin@stanford.edu.