

Ontario Ombudsing: a standard for the rest of the country and more

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Stewart Hyson's edited volume (Provincial and Territorial Ombudsman Offices in Canada. Toronto: The University of Toronto Press, 2009, 307p.) is a welcome addition to the limited literature on ombudsing in Canada. It is almost 50 years ago (the late Donald C. Rowat recalls in the foreword to this volume) that he proposed that Canada adopt the Swedish-Finnish office of parliamentary Ombudsman. His proposal of a comprehensive scheme created by an act of Parliament, covering the entire public service and acting as "a kind of auditor general of fairness for all administrative actions" was never implemented at the federal level in Canada. But Rowat was still campaigning for such a scheme at the time of his death late in 2008.

This volume is an effort to assess the evolving provincial and territorial ombudsman offices in Canada. These offices are quite different in size, scope and complexity, and have developed different styles over time. An impressive team has been assembled by Stewart Hyson to deal with each case taking into account their idiosyncrasies.

The matter of what criteria may be used to assess an ombudsman office has been broadly discussed and is a leitmotif across the papers. Don Rowat had suggested five key requirements for success by ombudsman offices: independence, strong but not binding powers, broad scope, being well known to the public, and being directly accessible to complainants. The Larry-Hill ten main attributes of a well-functioning office are quoted by many authors: legally established, functionally autonomous, external to the administration, operationally independent of both the legislature and the executive, specialist, expert, nonpartisan, normatively universalistic, client-centered but not anti-administration, and both popularly accessible and visible.

While the different authors have not and could not apply a single template to offices that are quite different and have quite diverse *modus operandi*, these criteria have inspired meaningfully the assessment process. The evolution of the offices has however been affected by important court decisions in certain jurisdictions that have had an impact across the land, by the nature of the political environments (complainants, public relations, bureaucratic relations, and political relations), and by the personality, style and approach that the key office holder brought to the office.

It is fair to say (as Gregory Levine states in the conclusion) that after a period of great optimism, "the zeal has given way to a technocratic understanding of the role and behaviour of the Ombudsman". Levine underlines the valiant efforts of Maloney and Jamieson in Ontario, of Jacoby in Quebec, and of McCallum in BC, but notes that "mostly, though especially beginning in the late 1990s, Canadian Ombudsfolk have moved along, content to funnel complaints through their own bureaucracies". He characterizes this general drift as the retreat from investigation and the advent of call centre ombudsmanship.

This is a world in which Ontario has bucked the trend. In Ontario, one has not seen of late a quieting of the ombudsman activism but rather a move in the other direction: “André Marin’s work has angered some and no doubt alienated others, but it has also electrified Ontarians and challenge the complacency in the public service” (Levine 296).

Very much in the tradition of Maloney and Jamieson, but with a particularly effective flair and style, “Marin has brought a proactive style to the office that has reinvigorated the Ombudman idea in Ontario – a style that has set the standard for the rest of the country.” (Hyson & Munro 199). According to Hyson & Munro (the authors of the Ontario Chapter) Marin has taken the Ombudsman idea into the 21st century and brought to the office the sort of experience that goes to the heart of the attributes an effective Ombudsman needs. Marin has been clear in his message: we must innovate or perish. His proactive style has translated into his communication and education strategies, in his use of new technologies, and in the development of Special Ombudsman Responses Teams (SORTs) – clusters of 5 or 6 investigators assigned a systemic issue to investigate.

Hyson’s book documents richly the experiences of provincial and territorial ombudsman offices, but it also distils wisely from these variegated lifeworlds some interesting desirable emerging trends in the choice of ombudpersons that the Marin case illustrates very well: a shift away from people known for their impartial credentials towards proactive people who have experience in investigating alleged maladministration; a shift towards people who can be citizen-centered but remain fully aware of their systemic responsibilities as producers of governance; a shift towards persons who can use persuasion but can also be brutally frank, and who have the experience and the wisdom necessary to know when to use one approach or the other; a shift towards persons who fully realize that they have to deal openly different publics and know how to communicate effectively with them and how to gain their confidence.

Hyson’s book demonstrates that the idea of Ombudsmanship is alive and well in Canada. It also shows that it is evolving in a vibrant way. Marin’s experience in Ontario has already attracted attention and had an impact across Canada and around the world. Donald Rowat’s hope that Canada would be a world leader in ombudmanship is getting realized.

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