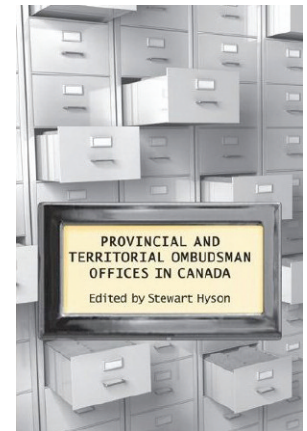


Ombudsmen: The Ontario model

Stewart Hyson, editor. *Provincial and Territorial Ombudsman Offices in Canada*. Toronto: University of Toronto Press, 2009.

Review by Gilles Paquet



Stewart Hyson's edited volume is a welcome addition to the limited literature on ombudsmen in Canada. As the late Donald C. Rowat recalls in the foreword, it has been almost 50 years since he first 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 in late 2008.

This volume is an effort to assess the evolving provincial and territorial ombudsman offices in Canada. These offices vary considerably 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 assembled papers. Rowat 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 10 main attributes of a well-functioning ombudsman office, as originally set out by Larry B. Hill, 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-centred but not anti-administration, and popularly accessible and visible.

While the authors have not applied and could not apply a single template to offices that are quite different and have quite diverse *modi operandi*, these criteria have given meaningful inspiration to the assessment process. The evolution of the offices has, however, been affected by important court decisions in certain jurisdictions that have had an

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impact across the land, because of the nature of the political environments (complainants, public relations, bureaucratic relations and political relations) and the personality, style and approach that the key office holder brought to the office.

It is fair to say, as Gregory J. 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 Arthur Maloney and Roberta Jamieson in Ontario, of Daniel Jacoby in Quebec and of Dulcie McCallum in British Columbia, 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 seen of late not a quieting of the ombudsman activism, but rather a

move in the opposite direction. As Levine writes: "André Marin's work has angered some and no doubt alienated others, but it has also electrified Ontarians and challenged the complacency in the public service."

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 Ombudsman idea in Ontario — a style that has set the standard for the rest of the country,” Hyson and Gary Munro write in the Ontario chapter. According to Hyson and Munro, 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: ombudsmen must innovate or perish.

Hyson’s book documents richly the experiences of provincial and territorial ombudsman offices, but it also distills wisely from these variegat-

ed worlds some interesting and desirable emerging trends in the choice of ombudspersons that the Marin case illustrates very well: a shift away from people known for their impartial credentials and toward those who are proactive and have experience in investigating alleged maladministration; a shift toward people who can be citizen-centred but remain fully aware of their systemic responsibilities as producers of governance; a shift toward people who can use persuasion but can also be brutally frank, and who have the experience and the wisdom necessary to know when to use the one approach or the other; a shift toward people who fully realize that they have to deal with 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 ombudsmanship is being realized.

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