

Provincial and Territorial Ombudsman Offices in Canada

Stewart Hyson (ed)

Canada: University of Toronto Press, 2010, pp 307, ISBN 9781442640672, \$55.00

Despite being specific to Canadian Ombudsmen, Stewart Hyson's *Provincial and Territorial Ombudsman Offices in Canada* reaches beyond the Canadian market and has relevance to a broader readership. The book's value lies in providing an informative and eclectic textbook on comparative analysis for administrative law scholars and professionals in all jurisdictions, as viewed through the prism of the Canadian experience.

The Ombudsman concept is well studied and is now an integral part of the administrative law frameworks of over 120 countries.¹ The 'value-adding' of Professor Hyson's book is that, in providing a detailed review of both the workings and performance of the respective Canadian Ombudsman, it raises questions regarding the strengths, weaknesses and systemic issues in the reader's own jurisdiction. The book caters to a diverse audience, providing an update on current data for quantitative researchers and a comparative analysis useful to the respective Ombudsmen regarding their resources and management approaches. It delivers a working demonstration of how such comparative analyses must seek to work across a range of levels, considering both the quantitative and qualitative information that measures performance of any given issue.

Integral to the success of the book is the diversity of 'voices'² and individual presentation of the contributing authors. The bulk of the book is made up of chapters which consider each of the ten Canadian 'Ombudsman Offices' and are written by eleven academics based in the respective provinces and one territory; this ensures a detailed focus on the key issues within each jurisdiction. These jurisdiction-specific analyses are book-ended by keynote chapters. The opening chapter provides a broad overview of both the project and the Ombudsman offices, while the final chapter considers the challenges faced by the 'Ombudsman Project' in the 21st century. A review of the chapter headings highlights the variability of these issues, including: the impact of government outsourcing; the need for public perception of fairness and equitability, and trust; and the Ombudsman's role as mediator within the institutionalised

¹ See, eg. Roy Gregory and Philip Giddings (eds), *Righting Wrongs – The Ombudsman in Six Continents* (IOS Press, 2000).

² Stewart Hyson, *Provincial and Territorial Ombudsman Offices in Canada* (University of Toronto Press, 2009), 17.

framework. These issues are universal to all nations that support Ombudsmen.

The chapter topics are in effect the key sub-themes of the book. The threat of privatisation of government programmes, and the subsequent removal of Ombudsman jurisdiction and lessening of the public's right to complain, is a constant source of concern to the authors. Similarly, questions are raised regarding the ability of Ombudsmen to continue to *persuade* agencies — albeit with forceful argument — to effect changes to their administrative short-comings in an increasingly litigious environment where the issuing of orders may be seen as the most effective means of achieving compliance. In contrast, several authors note the growing self-reliance of the community to obtain information for itself, suggesting that this, along with the availability of internal complaints processes within government agencies, may result in a reduced need for Ombudsman assistance. However, as noted in the province of New Brunswick, access to information and communication technology is not equitable across the community, and may result in 'digital gaps'.³ The availability of Ombudsman thus appears to remain as essential as ever, and yet, not surprisingly, Gregory Levine's concluding chapter concludes the book by again highlighting the many future challenges that face this protector of the public's right to complaint.

Another important theme, and consequent challenge, is the variation in Ombudsman 'pro-activeness' across Canada. Several authors highlight the significance of the personality and approach of the individual in the position of Ombudsman, and the influence this has on the direction taken by that Office. Indeed, it is noted that such directions can be pre-determined, with a legislature utilising its influence and control over an appointment process to choose a 'quiet ineffectual Ombudsman'⁴ as opposed to 'an active critic of the administration'.⁵ This is not always the case: the appointment, in 2005, of André Marin as 'Ontario's Watchdog' suggests a willingness to embrace a pro-active style and potentially depicts the future of Ombudsman in general. Since taking office, Marin has introduced a range of measures, aimed at adapting to the changing circumstances of the 21st century. Key innovations have been enhanced use of communications, particularly delivery of information via the internet, and the establishment of Special Ombudsman Response Teams (SORTs), an idea utilised in his earlier role as Military Ombudsman. SORTs enable pro-active investigations of systemic issues over a relatively short time frame, and have potential to combine good governance outcomes with high-profile publicity, something which Marin believes Ombudsmen should not fear. These are innovations that are

³ Ibid 112.

⁴ Ibid 296.

⁵ Ibid.

highly relevant to all Ombudsmen, and the value of the book is the ease of comparison of such initiatives to those in the other Canadian jurisdictions.

The eclectic approach of the book results from the determination to eschew a template for the respective chapters: apart from a general description as to the mandate and structure of the respective Ombudsman Offices, there is little direct consistency in reporting. As stressed in the Preface, the authors were free to ‘exercise their creative, intellectual talents and to develop their own perspectives’; this makes the book interesting and readable, however does result in a fragmented approach to the analyses, particularly in terms of the quantitative data presented from each jurisdiction. This is addressed to some extent in Hyson’s Overview (in the first chapter). However, the book may have benefited from each chapter utilising some proportion of consistent reporting to allow a direct comparison of nominated performance measures. There is considerable diversity, too, in the depth of evaluation of performance by the authors. Some chapters have a greater focus on the reporting of data and statistics, while others (notably the evaluative analysis of Quebec’s ‘Public Protector’ in Chapter Nine) provide a comprehensive temporal review of the Ombudsman’s performance in both the quantitative and qualitative contexts. Such in-depth reviews provide an excellent basis for future research and analysis, in both Canadian and other jurisdictions.

As Hyson notes in the first chapter, the aim of *Provincial and Territorial Ombudsman* is to inform and challenge readers to ‘engage in the discourse on the Ombudsman in Canada’ — it does this, and more. The book provides a comprehensive snapshot and review of the Canadian jurisdictions, and is effectively a measurement against the principles and standards espoused by the late Professor Donald C Rowat, an early advocate for the Ombudsman Plan in Canada and a constant source of reference throughout the text. The book serves the local readership, providing material for discussion from all Ombudsman jurisdictions, however its interest to international readers lies in its ability to raise questions and provide management responses that are relevant to all nations that support Ombudsmen.

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