

Leadership and Ombudsing: Four Faces of Influence
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The title of your conference indicates an intention to explore the role of an academic ombudsperson as leader and shaper of your institutions. As ombudspersons, your influence is exercised within a variety of organizational structures, mandates and constraints. Some of your offices may resemble the “classical” model and others may be executive ombuds models. Rather than engaging in discussion of the relative merits of your various models in terms of their ability to positively shape your institutions, I would like to invite you to explore four facets of influence that you all may share.

Four Common Features of College and University Ombudspersons

Before doing that, let me suggest four features of your work that you may have in common. First, I expect all of you are likely to incorporate in your processes some forms of investigation, recommendation and reporting.¹

Second, you likely all adhere to three essential characteristics of ombudstry—independence, impartiality and confidentiality. Your various structures may provide different challenges to the perfect maintenance of these principles, particularly independence.

Third, you are all specialists in post-secondary academic institutions, which are relatively complex in that there are multiple stakeholders, including students, faculty, administrators at various levels and governance bodies. The list of stakeholders also needs to include family and friends of students, alumni, future employers, donors and funding bodies, government officials of various sorts, human rights commissions and provincial ombudsman’s offices, the media, and the public at large in the case of publicly funded institutions. Depending on your mandate and particular cases, you may engage some of these stakeholders directly, and others indirectly. While the culture of each institution may be unique, academic institutions tend to be affected by similar types of conflicts. To avoid going into these details, it may suffice to say that the issues that dominate your work may differ from those faced by an airline ombudsman, a banking ombudsman, a children’s commissioner or a legislative ombudsman.

A fourth thing you may have in common is your aspiration – and some form of mandate –

¹ Ombudspersons differ considerably concerning their role as dispute resolvers and their styles of dispute resolution.

towards the promotion and implementation of principles and practices of administrative fairness within your institution. This is far from a “lowest common denominator”—it is the very *raison d’etre* of an ombudsperson.

Four Faces of Influence

With these features in mind, I invite you to consider four faces of influence that may help you foster administrative fairness in your institution. When I was asked to speak to you, I noticed the metaphor of “faces” in the title of your conference, which accounts for the title of this address.

I considered beginning with the image of Janus, the Roman god of beginnings. He looks back to the past and forward to the future. Janus also maintains the balance between war and peace. Perhaps this image is fitting for the ombudsperson, who is usually in the middle of conflict trying to help parties move out of the past to a better future, but I wasn’t sure that the idea of a two-faced ombudsperson had a very good ring to it.

Then I thought of the face of the Roman and Greek goddess of justice who impartially hears arguments of parties and balances them on her scales before adjudicating. But then I looked at the sword of the state, which doesn’t quite fit the visage of the ombudsperson who does not have powers of binding adjudication. Also, the blindfold does not fit the ombudsperson’s image of inquiry and investigation.



Brian Dimarucot photo

Then, among the images that paraded into my mind came the majestic temples at Angkor Wat in Cambodia with its many examples of the four-faced image of Preah Prohm² which I have seen a number of times at the Bayon Temple near Siem Reap, Cambodia in the course of my visits to Cambodia over the past decade.³ The Preah Prohm has historic meaning in Cambodian culture. In fact, four-faced beings have deep symbolic value in several of the world’s major religions.⁴ It is

² Photo by Brian Dimarucot. The copyright holder of this image allows anyone to use it for any purpose including unrestricted redistribution, commercial use, and modification. Image available: <http://commons.wikimedia.org/wiki/Image:Bayon.jpg>.

³ See, e.g. Catherine Morris. "Case Studies in Religion and Peacebuilding." In *Religion and Peacebuilding*, edited by Harold Coward and Gordon Smith. New York: State University of New York Press, 2003; Alex Grzybowski, Catherine Morris, Harley Johnson and Stephen Owen, eds. *Building Democratic Institutions and Practices in Cambodia: Proceedings from the Cambodia Commission on Human Rights Capacity Building Project*. Victoria, B.C.: Institute for Dispute Resolution, University of Victoria, 1998.

⁴ I understand that the Preah Prohm image depicts the four faces of the God-King in Cambodia – which might suit one’s predilections at times, even though as ombudspersons you are neither gods nor rulers. But I also read that in Cambodia the four faces depict the love, compassion, justice and blessings for those who do good. This

tempting to digress, but it will suffice to use this image simply to illustrate that our perspective changes depending on the direction in which we face. Also, we may present different faces to different people and in different situations. We all hope that people will see the marks of ombudsmen, independence, impartiality and integrity in our profiles and also when they look at us face on.

As I have observed the work of several of ombudspersons, I have noticed four faces of influence.⁵

- The influence of your office itself;
- The way you frame the issues you are addressing;
- Your relationships within the institution;
- Your moral courage.

The influence of the office

The first face of influence of an ombudsperson is, of course, the mandate of your office and the nature of an ombudsperson's work. The very existence of an ombuds office lends you authority and potential influence.

The authority to investigate and make findings of fact based on evidence may be among the most important faces of influence you have. Other types of conflict resolvers, such as mediators, are generally not given authority to investigate and make findings of fact, and, compared to the influence of an ombudsperson, a conflict resolution office may have significantly less influence for change in an academic institution.

Another traditional mandate of an ombudsman is the power to recommend. However, recommendations have positive influence only to the extent that they are made on strong foundations of evidence determined by good investigation by a person generally viewed as impartial and fair.

Ombudspersons who are mandated only to investigate complaints (or only certain kinds of complaints), with no mandate to initiate investigations or systemic audits, may have limited power to address systemic concerns within an institution. Consider a case of a woman graduate

sounds good, and I'm sure ombudspersons often wish they could deliver these noble gifts to those they serve. In fact, Cambodia does not have an ombudsman's office, and it would be difficult to see how Cambodia's current situation would allow the creation of an office that would meet the standards of independence, impartiality and confidentiality required for an effective ombudsman. The image of four faces is used in several religious traditions, including Hindu thought in which the four faces depict the four vedas of Hindu scripture, and it is said that the divine Brahma is endowed with four faces that look in four directions simultaneously. In the Jewish scriptures, the book of the Hebrew prophet Ezekiel depict four-faced angels who bear up the throne of God. The Christian scriptures repeat this image in the book of Revelations. Each angel has four faces— lion (symbolizing authority), ox (symbolizing sacrifice and servanthood), eagle (symbolizing divine transcendence), and human (depicting humanity).

⁵ I expect there are many more than four.

student/sessional lecturer coming to your office to express her concerns about perceived mistreatment by a department head, with whom an acrimonious relationship has now developed. She declines to make a formal complaint, because she fears harm to her reputation as well as deterioration of relationships or retaliation from the department head and others to whom the Department Head may gossip. What she does not know is that you are aware of several other persons in similar roles with similar concerns, and all of them are reluctant to make formal complaints for similar reasons. As you will know from your work, retaliation can take very subtle forms, including various degrees of “cold shoulder” treatment that cannot be easily investigated but which can affect a person’s wellbeing and career opportunities very significantly. People often fail to complain because of fear of retaliation, a fear that may well be warranted, despite attempts to control it through prohibition.⁶

People’s reluctance to report or make formal complaints means your office may see only a fraction of problems within your institution. In cases involving workplace discrimination, research reported in 2003 by the UN Special Rapporteur on Violence against Women indicated that while 45 to 81 percent of women experience gender-based workplace harassment, only about five to 22 percent of women ever make a report.⁷ This finding is similar to research findings in the early 1980s in the United States that showed that people in several American cities went to lawyers in just over ten percent of their grievances, but when the grievances involved discrimination, fewer than three percent of people went to lawyers.⁸

What this means is that the confidentiality of your office may be a double-edged sword. The promise of confidentiality gets people in your door, but may hinder you from addressing concerns that you begin to suspect are systemic in a unit or sector of the institution. This is where the power to do a systemic investigation or audit on your own motion might come in handy. An ombudsperson who does not have—or does not exercise—the power to initiate a systemic investigation may end up with an office that is effectively inaccessible to many people who have

⁶ Mary Rowe and Corinne Bendersky, “Workplace Justice, Zero Tolerance and Zero Barriers: Getting People to Come Forward in Conflict Management Systems,” in *Negotiations and Change, From the Workplace to Society*, edited by Thomas Kochan and Richard Locke, Cornell University Press, forthcoming, 1999, available <http://web.mit.edu/ombud/documents/zero.pdf>; Patricia A. Gwartney-Gibbs, and Denise H. Lach. 1992. "Sociological Explanations for Failure to Seek Sexual Harassment Remedies." *Mediation Quarterly* 9(4) (1992): 365-373; D.H. Lach & P. A. Gwartney-Gibbs, "Sociological Perspectives of Sexual Harassment and Workplace Dispute Resolution" (1993) 42 *Journal of Vocational Behavior* 102; Mary P. Rowe. "People Who Feel Harassed Need a Complaint System with both Formal and Informal Options." *Negotiation Journal* 6(2) (April, 1990).

⁷ Report of the Special Rapporteur on Violence against Women, E/CN.4/2003/75/Add.1 Estimates from six European studies suggest that the proportion of women experiencing workplace sexual harassment is between 45 and 81 percent, those reporting it is estimated at between 5 and 22 percent., [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.2003.75.Add.1.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.2003.75.Add.1.En?Opendocument) See other statistics at http://www.stopvaw.org/Prevalence_of_Sexual_Harassment.html .

⁸ Miller, R.E., and Austin Sarat. "Grievances, Claims, and Disputes: Assessing the Adversary Culture." *Law & Society Review* 15(3-4) (1980-1981): 525-66.

serious concerns about bad consequences of reporting abuse or maladministration.⁹

The third “leg of the stool” of a classical ombudsman is the power to report. Some ombudspersons have no authority to report, and thus they need to rely exclusively on skills of negotiation or mediation. However, even without the power to report, the gathering and reporting of statistics can provide a measure of authority to undergird recommendations for systemic change, or lead to the initiation of special investigative commissions within the institution.

I am guessing that some of you do not have sufficient powers of investigation or reporting to give your office serious clout for transformation within your institution. The mandate and structure of the office has a lot to do with the amount of influence—and the degree of fearlessness—an ombudsperson can have.¹⁰ Adequacy of funding is another factor; without adequate staff it is very easy to become overwhelmed with high case loads. Not only that, but ombudspersons are often vulnerable themselves to reprisals when they decide to address systemic unfairnesses within the institution. The power of an ombudsperson’s office may be stalled by budget cutbacks or reorganizations that eliminate or change the role of the ombudsperson.

Having said these things, it also needs to be stated that it may do no good at all to complain about vulnerabilities or inadequate mandates. Some organizational leaders may very well want the appearance of having a complaint mechanism in place, but may not want the office to be too accessible or have a great deal of power. Therefore, if you want to influence for change in your institution, it seems important to study and utilize the mandate you *do* have, and learn to use it strategically.

I would like to turn now to some forms of influence you may have where your official mandate leaves off. These forms of influence may be just as important as a good organizational structure and mandate or adequate staffing and budget.

Framing issues

When you become aware of a concern or a complaint within your institution, consider the way you frame it. Let’s go back to the hypothetical case of the woman graduate student/sessional lecturer. Her concerns about mistreatment may be classified in a number of ways. If she visits a “student counselling” office it may be framed as personal “psychological distress” or other stress warranting medical leave or other personal accommodations. If the same complaint went to a conflict resolution office, it might be classified as an “interpersonal conflict.” If there is no conflict resolution office, an ombudsperson may see many issues classified by complainants as “harassment,” “discrimination” or “administrative fairness” issues in order to fit them within the

⁹ It is acknowledged that an ombudsperson with a mandate to initiate investigations on her own motion may be reluctant to do so if it might compromise the safety of persons feared to be at risk within a given unit. Often, however, it is whole sectors, such as teaching assistants or sessional lecturers who are experiencing similar types of unfairness in various units across the campus.

¹⁰ For further reading on

mandates of some kind of complaint mechanism.¹¹

Over the past decade or so, ombudspersons and human rights commissions have increasingly considered trying to manage high caseloads with mediation schemes aimed at addressing people's individual complaints in ways that are satisfactory to the individual parties. The powers-that-be in an institution may be interested in having matters resolved individually through mediation, because individual complaint resolution may reduce tensions or manage conflicts caused by broader systemic concerns. Ombudspersons who mediate a lot of individual complaints may deal effectively with those complaints, but (without other measures such as gathering of statistics and reporting) may not be as influential as shapers of their institutions.

Problems may be framed either as individual concerns or as symptoms of systemic problems. Individual complaint resolution is vitally important, but it is equally important to address systemic sources of complaints.

The way you frame a problem has a great deal of power. The way you frame situations influences the ways people are invited to think about them and the ways you and others are then led to act. Naming and framing a complaint is an act of asserting power. Whose names and frames for issues are most potent in your institution? Is a complainant's concern about "unfair workload" or "systemic discrimination" as potent as a faculty member's or department head's characterization of the problem as "poor stress management," "work addiction," "skewed perceptions" or "unusual behaviours"?

If you are invited to frame a matter as an individual or isolated concern, you may also want to test to see how the picture looks when you consider framing it as part of an institutional pattern of systemic maladministration. Individual or broader systemic frames may give you different views about how a given matter should be handled. Individual complaint resolution processes such as mediation may not even touch broader problems of systemic maladministration. This is where the careful gathering and analysis of statistics and information about the nature of individual visits to your office can be strategically used for transformational purposes.

An ombudsperson needs to consider carefully and strategically how people in the institution tend to frame their concerns. An ombudsperson also needs to consider how she habitually frames the concerns of complainants and respondents, and how this may lead her to one path of action or another.¹² She needs to consider when and how to frame matters as systemic issues, and to frame issues in ways that invite positive change rather than defensive resistance to change.

¹¹ Interviews conducted in 2002 at a Canadian university about "best practices" for conflict management, December, 2002 (on file with the author). Note that I have omitted the legal frame of "constructive dismissal" which may result from a visit to a lawyer; persons who visit complaints offices in universities may not receive level advice.

¹² The pronoun "she" is used because it was noted at the ACCUO conference that the majority of ombudspersons present were women.

Institutional relationships

Astute framing requires astute knowledge of your institution. Knowing the institution can help an ombudsperson with strategic discernment about whether to deal with a case individually, or to try for systemic change.

How well do you know your institution? What do you see when you turn your face in various directions? Do you regularly turn to look in “all four directions” in your institution?

Ombudspersons with heavy workloads may despair about not having time to learn their institutions before caseloads overtake them. In the course of their case work, ombudspersons may get to know some persons and stakeholders in the institution quite well, and others little or not at all. The influence of an ombudsperson may easily become impaired by a reputation for bias against certain stakeholder groups or for building strategic alliances, and consequently, their impartiality becomes questioned.¹³

Perceived alliances can impair the effectiveness and power of an investigation, recommendation or report. Does this mean building relationships is a bad thing? I suggest it is not. Strong, *impartial* relationships are a strong foundation of influence in your institution.

One possible method of fast-tracking your institutional learning, building impartial relationships and understanding how stakeholders frame issues might involve setting aside time to meet all key stakeholders both at the outset of your term and regularly in a systematic way. Find out what each stakeholder sees as key characteristics of the institution that are relevant to your mandate. Ask if they are willing to share a “typical example” of situations they think are relevant to the ombudsperson’s mandate (remind them of your office’s mandate of confidentiality if they talk about a specific case). Ask them all who has influence in the institution and how they exercise their influence.

When listening, notice how stakeholders frame the issues they say are important – do they blame “the administration,” “unions” or certain individuals? When they are speaking, you can not only note the substantive things they say, but also make mental notes of the ways they frame situations. Do they describe problems as “ripples,” “waves” or “tsunamis” (assuming a nautical bent to their metaphors!) Do they frame problems as being caused by certain individual or group “troublemakers?” Do the metaphors they use indicate a systemic frame of reference, identifying “policy gaps” or lack of “integrated frameworks” for addressing complaints? Do they frame problems as “givens” or as “soluble?” Do they frame institutional characteristics as “sealed in stone,” “hopeless” or “the way things are?” Or do they see their institutions as subject to growth or transformation?

An ombudsperson’s profile, voice—and influence—as can be built through listening regularly to

¹³ Richard A. Russell. “The Ombuds Model.” In *Alternative Dispute Resolution Practice Manual*. Looseleaf Service, 2701-2781. North York, Ontario: CCH Canadian Limited, 1996, 2718.

key stakeholders in an impartial way and building non-partisan relationships—not alliances. Profile and relationships can also be built through giving regular talks in the institution about topics related to administrative fairness, human rights and effective conflict resolution. If you are well-known and respected for impartiality and fairness by all the stakeholders in the institution, you are more likely to be listened to by all stakeholders if you make unpopular recommendations or reports.

Moral courage

I will conclude by saying something about moral courage. Resistance to your reasonable recommendations can be very wearing. It is difficult to stand up to powerful groups if you know your job, your budget or your staff may be at risk. An ombudsperson needs moral courage to continue to stand up to injustice. The cornerstone of moral courage is a solid grasp of the ethics of ombudstry (independence, impartiality, confidentiality and integrity). Moral courage is also built on foundations of confidence in solid skills of investigation, recommendation, reporting and negotiating for change. Moral courage is built up from all sides with confidence in good knowledge and impartial relationships with all key stakeholders. At its pinnacle, moral courage is maintained by focussing constantly on the mandate of an ombudsperson, keeping eyes constantly focussed on the goal of administrative fairness in all directions you can see.