

A WORLDWIDE SURVEY OF OMBUDSMEN

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Donald C. Rowat*

The main reason for doing a worldwide survey of ombudsmen at this time is that there has been a rapid spread of legislative or classical ombudsman systems since the second edition of my book, *The Ombudsman Plan*, in 1985. There has also been a rapid growth of complaint officers on the executive side of government and in the private sector who are also called ombudsmen. As a result, there are now many more ombudsmen of many more types.

The International Ombudsman Institute has kept good track of the spread of legislative ombudsman systems, and until 1986 it compiled information on other types of complaint systems in its annual *Survey*. But because of an office overload it abandoned the *Survey* after 1986. It continued the publication of its annual *Directory of Ombudsman Offices* and its *Ombudsman Office Profiles*, but these listed mainly the classical legislative ombudsmen and not the many other complaint offices that were taking on the title of ombudsman. Because some of these are now so different and depart so far from the original ombudsman concept, there is now a need to classify the various types of complaint officers who are now called ombudsmen, and to determine their nature, number and location.

This paper therefore has two objectives: first, to classify and explain the nature of the various types of ombudsmen in the world and, second, to determine where possible the number and location of each type.

The Classification of Ombudsmen

Regarding the classification of the various types, I believe that they should be classified according to how far they depart from the original classical ombudsman system. This system has four essential characteristics or requirements that distinguish it from other types of complaint or appeal bodies. These requirements are:

- first, it is set up by a country's constitution or by a law or by-law of the legislative body, in order to ensure its permanence, neutrality and independence from the administrative organization being complained against;

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- second, it receives and investigates complaints from the public against any part of the whole administration at the level of government concerned, though in many schemes it can also start investigations of alleged maladministration on its own initiative;
- third, it is an appeal body in the sense that usually it will investigate a complaint only after the complaint has been made to the agency concerned and the complainant is still dissatisfied;
- fourth, when it finds a complaint to be justified, it recommends a remedy to the agency and, if the recommendation is not accepted, makes its recommendation to the chief executive and in a published report to the legislature—but it does not make binding decisions, and this is what distinguishes it from a court, tribunal or arbitrator.

Using these four requirements of the classical system as measuring sticks, the existing ombudsman offices can be broadly divided into two categories: those in the public sector and those in the private sector. Within these two categories they can be classified according to how far they depart from the four distinguishing characteristics. As we shall see, some meet only three of these requirements, some meet only two and some meet only one. Within each category I have identified each class by appropriate descriptive adjectives. Thus, within the public or governmental category I have identified the following four types: general legislative ombudsman systems, specialty legislative systems, general executive ombudsmen and specialty executive ombudsmen. Within the private sector, I have classified the ombudsmen into three types: corporate ombudsmen for customers or clients, corporate ombudsmen for employees and industry-wide (or association) ombudsmen for customers or clients.

Public-Sector Ombudsmen

The first type in the public category, the general legislative system, is the classical one. It meets all four requirements, and may be set up by national or regional legislatures or by municipal councils. The second type, the specialty legislative system, is very closely related to the classical system because it meets all four requirements except that it handles complaints only in a particular area of administration, such as corrections or access to information. This type has expanded so much in recent years that a special listing for it was provided in the 1995 directory of the International Ombudsman Institute.

The third type, the general executive ombudsman, satisfies the last three requirements but not the vital first one: the office is set up by the chief executive or local mayor rather than by the constitution, legislature or local council. This type is not as independent because the chief executive is in charge of the whole administration against which the complaints are made and thus is in a position to influence the ombudsman to support the administration's action that caused the complaint. The office may therefore be suspected of bias, especially since the chief executive usually represents a political party and often appoints the ombudsman on a partisan basis. In any case, the ombudsman owes his or her job to, and will therefore be tempted to please, the chief executive. For this reason I favour calling only legislative schemes ombudsman "systems," in order to distinguish them more clearly from other complaint handlers who may be

called ombudsmen but whose independence and neutrality are not ensured by legislation. Otherwise, the importance of protecting the independence of the office in the constitution, a law or by-law may be overlooked.

The fourth type, the specialty executive ombudsman, is like the general executive one, but departs further from the classical concept because the ombudsman is usually part of the particular agency being complained against. He or she is usually appointed by, and reports to, the head of the agency, and thus is not as independent. The general executive ombudsman, being in the chief executive's office, can at least be somewhat independent of the particular agency being complained against. Also, often the specialty executive ombudsman is not an appeal body for complaints against the decisions of the agency, but instead handles initial or first-time complaints. Thus, the office may satisfy only the fourth requirement of the classical ombudsman system, and even then not fully: it makes non-binding recommendations, but only to the head of the agency. If they are not accepted, they are not likely to be made public and so there is no public pressure to accept them.

A sub-type of specialty ombudsmen, whether legislative or executive, are those that handle complaints only from the inmates or clients of public institutions, such as prisons, institutions for long-term care, schools, universities or hospitals. If they have been set up and are controlled by a law or by-law of the legislative body or board concerned, they may be independent enough of the institutions they supervise to be classed as legislative. But often it is difficult to tell which class they belong to without a detailed study of their method of creation and their relation to the institution. Although I have classified most of them as executive, the argument can be made that more of them should be classified as legislative.

This is the case, for example, with the long-term care ombudsman programs in the American states. Though they have been mandated by a federal law, their nature and position in the state administration varies from state to state and it is difficult to say which ombudsmen are independent enough to be classed as legislative. For instance, the *Ombudsman Office Profiles* (1988), which listed the long-term care ombudsman for Kansas, classed the Kansas office as executive/legislative. The federal law on long-term care specifies that willful interference with representatives of a state office is unlawful, but as a recent evaluation of the state programs points out: "The imposition of a state's routine chain of command on the ombudsman can significantly constrain his or her independence."¹

Similarly, a school or university ombudsman for students may be set up by a by-law of a school board or by a university's board of governors or senate, and in a university the office may be operated and financed jointly by the university and the student council, as in Carleton University, Ottawa. In these cases the ombudsman may be independent enough for the scheme to be classified as a legislative one. Otherwise, it is likely to have been set up simply by or on the recommendation of the school administrator or university president and to have no guaranteed independence or continuity. In these cases, neutrality must depend on the shaky foundation of unwritten tradition.

Many hospitals in North America have complaint officers who are usually called patient representatives but who may be called ombudsmen. For instance, in Canada's province of Quebec,

many patient representatives are called ombudsmen. Patient representatives are specialty executive ombudsmen in the sense that they handle patient complaints and are usually appointed on the recommendation of, and report to, the hospital administrator. Often they have other administrative duties that may compromise their independence and neutrality. In my view, they are not much different from university ombudsmen appointed by the president, and can just as legitimately be called ombudsmen, although few of them have joined The Ombudsman Association or have been listed in its new directory. This is partly because in the United States they have their own national association. In Ontario they have recently formed an association for that province, and may do so in other Canadian provinces.

Some institutions for long-term care and some universities and hospitals are in the private sector, yet they are invested with a strong public interest. Because it is difficult to determine which institutions are private, I have classed all of their ombudsmen as specialty legislative or executive ones for purposes of estimating their number.

Another sub-type of specialty executive ombudsmen are those that depart even further from the classical model by handling only complaints from employees of a government agency. Examples are the ombudsman in Canada's Department of Foreign Affairs and the ombudsman for the Panama Canal Commission. It is impossible to tell from the listings in The Ombudsman Association's directory how many there may be of this sub-type. But no doubt there are a number in the public sector. Also, several United Nations organizations have such an ombudsman. Because they are so different from ombudsmen who receive complaints from the public, I propose that they should always be referred to as executive employee ombudsmen. Their difference will be explained more fully when we discuss the private-sector ombudsmen.

Private-Sector Ombudsmen

The appearance of numerous ombudsmen in the private sector is a fairly recent development. The idea has become popular in Canada and the U.S. with the appointment of so-called corporate ombudsmen by individual business firms to handle complaints from employees and/or customers. Like specialty executive ombudsmen, usually they are appointed by and are responsible to the chief executive officer, and receive complaints in the first instance rather than as an appeal against a firm's decision. Like most university ombudsmen and patient representatives in hospitals, they are part of the organization's administration and so are not independent outsiders. Hence they satisfy only the fourth requirement of the classical system.

The great majority of corporate ombudsmen are exclusively for employees. Because of this, their nature and interests are quite different from other ombudsmen. The typical organization is a strict hierarchy, with the employment lives of all employees controlled by the next higher levels in the hierarchy and, ultimately, by the chief executive officer. Employees are thus captives of the organization and are likely to fear retribution if they complain. Even the ombudsman may fear retribution for siding with the complainant. For this reason, employee ombudsmen put great emphasis on the confidentiality of complaints and on the need for protection against having to give evidence about them in court. This enables them to be more independent and impartial in the handling of complaints.

American advocates of corporate ombudsmen, in their enthusiasm for the ombudsman idea, regard classical, executive and corporate ombudsmen as much the same and either do not recognize, or fail to stress, the basic differences that I have explained.² It is true that they distinguish between classical and other ombudsmen by using the term “organizational ombudsmen” for the others. But they lump all of the others together under this term, which hides the differences between general executive, specialty executive, and corporate customer and employee ombudsmen. As a result, the founders formed an association that defines the “organizational” ombudsman to include them all. This is The Ombudsman Association (TOA), whose membership includes executive ombudsmen and overlaps the original U.S. Ombudsman Association, which consists mainly of legislative ombudsmen. Since most members of TOA are either university or corporate ombudsmen, the effect has been to obscure the fact that governmental ombudsmen are different from corporate ones. In the case of corporations in the private sector, customers who feel they have been dealt with unfairly by a corporation can in most cases refuse to deal with it by taking their trade elsewhere. But in the public sector, citizens are captives of the government, which has the power to enforce its decisions. Hence the need for absolute fairness and impartiality in dealing with its citizens, and hence the need for protecting the independence and neutrality of ombudsmen by legislation or by-law. However, laudably, TOA has promoted the independence of its members by insisting that they should be designated as neutrals, and by developing a code of ethics and standards of practice, according to which its full members are expected to be objective and impartial, like legislative ombudsmen.

A sub-type of the corporate ombudsman is the news ombudsman, appointed by a newspaper to handle complaints against the paper by its readers. When the ombudsman idea became popular in the 1970’s, many newspapers and even some TV programs in North America, Australia and Europe appointed ombudsmen to handle complaints from readers or listeners against governmental or commercial bureaucracies. These ombudsmen wrote up the most interesting cases in a column usually called either “The Ombudsman” or “Action Line,” while TV ombudsmen presented important cases on their programs. However, this kind of ombudsman has almost died out in recent years, perhaps partly because governments have been setting up their own ombudsmen, and we are left mainly with the corporate news ombudsmen, who have formed their own worldwide association. Both the Canadian and British Broadcasting Corporations now have an ombudsman of this type.

The Association Ombudsmen

The creation in the private sector of industry-wide or association ombudsmen has been a significant new development in the Commonwealth countries and Western Europe. These ombudsmen are important because of their greater similarity to the classical ones. Unlike corporate ombudsmen, they are set up as independent appeal bodies for a whole segment of the private sector—for the customers of firms in an industry such as insurance, or the clients of a profession such as lawyers. In this sense they meet the most important requirement of the classical system: independence from the organization or professional being complained against. In Britain and Ireland their independence has been doubly ensured by means of a buffer council between the ombudsman and the association of firms or professionals. The council, which appoints the ombudsman and to which he/she is responsible, has a majority of lay members from outside the association. Also, in some cases, such as for pensions or building societies, they have been set up pursuant to statutory requirements. Industry-wide ombudsmen are so similar to the classical ombudsmen that the British

and Irish Ombudsman Association has admitted them to its membership because they have met its standards for admission, including the all-important standard of independence. Although industry-wide ombudsmen are often referred to as industrial ombudsmen, I propose that we call them association ombudsmen because each is appointed by a whole association of industrial firms or professionals. In this way we can distinguish them from ombudsmen appointed by and for single corporations and, at the same time, can include the ombudsmen for professional associations. However, since the ombudsmen for the legal professions in England and Scotland are governed by legislation, I have classified them as specialty legislative ombudsmen.

So far, association ombudsmen have been created mainly for complaints against financial firms, where taking a case to court can be costly and time-consuming. Like legislative ombudsmen, their services are informal, speedy and free to the complainant, the cost being charged back to the firms according to their number of complaints and/or their size. Thus, they represent a great advance over a complainant having to sue in court, and may be considered as part of the alternative dispute resolution movement. They have become so numerous in Britain that there are now association ombudsmen for insurance, banking, building societies, estate agents, investment companies, credit unions, pensions and even funeral associations.

The most popular industries for association ombudsmen are banking and insurance, where they exist not only in the United Kingdom but also in Australia, New Zealand and several European countries. The idea is new in North America, but in the fall of 1995 the Canadian Bankers' Association announced that it intended to create a banking ombudsman modelled on the existing ones. In March 1996, it ran a newspaper appeal for applications and appointed its ombudsman in May. Though the office was set up by the Association, the ombudsman issues annual reports to the federal Parliament. Each of the leading Canadian banks already has a corporate ombudsman for initial complaints, all or most of whom are members of The Ombudsman Association. The March 1996 newsletter of the International Ombudsman Institute noted that the National Association of Securities Dealers (NASD) in the United States has added an ombudsman to its Office of Internal Review. This officer may be independent enough from the NASD to be classed as the first genuine association ombudsman in the United States.

Since an alternative to the courts for appeals against the actions of private firms or professionals is so badly needed in common law countries, I believe that association ombudsmen ought to be advocated for the United States and Canada. The only caveat I have is against calling the Commonwealth ones ombudsmen, since most of them do not meet the fourth requirement of the classical ombudsman system—that of making only recommendations, not binding decisions. Most have the power to make binding financial decisions up to a maximum award of about \$100,000 and, hence, are a kind of arbitrator or administrative court. But one can argue that, since there are no cheap administrative courts for the private sector, the alternative burden and cost of court litigation, and the imbalance in power between the individual client and the giant corporation or the professional are so great, that association ombudsmen need this power. Unlike those in the Commonwealth, most of the association ombudsmen in Western Europe do not make binding decisions. This is probably because, under the Napoleonic code, if they did so they would be regarded as usurping functions of the courts.

A variation on association ombudsmen has been the development of private-sector complaints commissions in the Netherlands. It has complaints commissions for an impressive number of private-sector activities such as banking, public transport, utilities, telecommunications, travel agencies and garages. They have been set up by private-sector associations in cooperation with the Netherlands Consumers Organization, have members from both the associations and consumers organizations, and are united in a Foundation for Complaints Commissions. They perform functions similar to the association ombudsmen and, like the Commonwealth ones, their decisions are binding. Denmark has an arbitration board for banking complaints similar to these complaints commissions.

The Worldwide Survey

Having classified and discussed the various types of ombudsmen according to the extent to which they depart from the classical concept, my second objective in this paper is to give the reader some notion of the worldwide number, nature and location of each type, especially the legislative ombudsmen because they have been the prototype for most of the others.

Fortunately, a more accurate count can be made of the legislative ombudsmen, because for many years the International Ombudsman Institute (I.O.I.) has collected and published information about them. A large number of executive complaint-handling offices already existed in the world when the I.O.I. was formed, so it was forced at an early stage to identify the essential requirements of the classical ombudsman system and to list and admit to membership only those that satisfied the requirements. It did, however, list and admit the specialty ombudsmen because they were so similar to the classical ombudsmen and met all the other requirements.

The I.O.I. annual *Survey* covered ombudsmen and other complaint-handling systems, and gave a thumb-nail sketch of each office. The last survey, in 1986, identified 349 complaint-handling offices in the world. It classified them into general legislative systems (of which there were seventy-two and four other categories. Unfortunately these categories overlapped, and it did not classify the specialty legislative ombudsmen separately. So, to identify these I have had to rely on the thumb-nail descriptions in the 1986 survey and on their separate listing for the first time in the I.O.I. directory for 1995. The 1996 directory muddies the waters by listing with them some of the private-sector association ombudsmen. Also, the specialty listing for 1996 is incomplete and contains some errors. I have caught these where possible, but it means that my information on the number and nature of the specialty legislative systems is not as reliable as that for the general legislative ones.

Using mainly these I.O.I. sources, I have been able to construct statistical tables for 1996 on the general and specialty legislative ombudsmen. A similar table was constructed for the general legislative ombudsmen for the year 1983, and was published in the 1993 issue of the I.O.I.'s *Ombudsman Journal*.³ The new tables, along with ones I have prepared for the other classes of ombudsmen, appear as an appendix to this paper.

The General Legislative Systems

Table 1, which shows the number of general legislative systems in the twenty main western democracies at the national, regional and local levels of government, reveals the extent to which the

classical system has spread among the main democracies. It shows that there is now a national ombudsman in fifteen of the twenty countries. The only exceptions are Belgium, Canada, Italy, Switzerland and the United States. Belgium approved a national system in 1995, and all five have legislative ombudsmen at either the regional or local level, or both. The largest total of regional and local systems is in the United States, with twenty-one. The next largest totals are in Italy, with fifteen, and Canada, with ten. The United States also has the largest number at the local level, with fourteen. The next largest numbers are in the Netherlands, which has eight city ombudsmen, and Israel, with five. Altogether, in the twenty developed democracies there are now fifteen national, fifty-five state or regional and thirty-six local systems, for a total of 106. This includes one set up by the European Union, to which the previous Ombudsman for Finland has been appointed.

Table 2, which is a revision of the one for 1983, shows the total number of general legislative ombudsmen classified by world regions and for each country, at the national, regional and local levels of government. It reveals that Europe now has the largest number, with seventy-five, of which twenty-three are national systems. Europe is followed closely by North and South America, with sixty-six, but only eleven of these are national. The region of the world with the fewest systems is Oceania with only fifteen, of which only eight are national, but Asia has almost as few, with only seventeen, of which only six are national.

The total count shows that altogether there are now over 190 general legislative ombudsmen in the world. In 1983, the count was seventy-eight, so the number has considerably more than doubled in thirteen years, showing that there has been a worldwide resurgence of interest in the ombudsman idea and a virtual explosion of new adoptions. The biggest proportional increase has been in the number of national systems, which jumped from twenty-two to sixty-seven and thus more than tripled. The new democracies in Latin America and Eastern Europe account for many of the recent adoptions, a special characteristic of them being an emphasis on protecting human.⁴ Regional schemes more than doubled, from thirty-six to eighty-four, while local schemes doubled, from twenty to forty. Notice that the largest number of systems is at the regional or state level. It would be interesting to speculate as to why.

More than half of the general legislative ombudsmen in the world are in the twenty main western countries. The main reason for this is that, compared with the developing countries, the western ones are more democratic and decentralized, including several federations, and so have many ombudsmen at the regional and local levels of government. In contrast with this, Africa has none at these levels. Federal countries tend to have more because they have more independent regional and local governments. Thus, the United States has twenty-one, Mexico had fourteen listed in the I.O.I. directory for 1996, but by now probably has them in all states, and Canada has ten. Some of the western unitary countries also have several at the regional and local levels. Italy has fifteen regional systems, and Spain has eight. At the local level, the Netherlands has eight city ombudsmen and Israel has five.

The Specialty Legislative Systems

Regarding the specialty legislative systems, I have arranged the ones listed by the I.O.I. into tables broken down by level of government and specialty. Since over half of these systems are in the United

States, I have produced two separate tables, one for the United States and one for all other countries, with a summary table for all countries, to arrive at totals (Tables 3, 4 and 5).

My analysis of the specialty legislative systems reveals that there are now over 100 in fourteen countries, mainly the western democracies, and over half of them are in the United States—three federal, thirty state or regional, and twenty local. Outside the United States, many have titles other than ombudsman. They monitor a wide variety of about thirty specialties. The most numerous specialty is university ombudsmen, with the I.O.I. listing eight in the United States and five in Canada. These appear to be ones that have been set up formally as independent offices through by-laws of university senates and/or boards of governors and hence are in this sense legislative. The next most numerous specialty legislative ombudsmen are for long-term care (who are all in the United States), for police (all in other countries) and for schools (all in the United States). Next, are ombudsmen for access to information and the protection of privacy. These are all in other countries because in the United States appeals about freedom of information and privacy go to the courts. Other specialties listed with more than two legislative ombudsmen are corrections, consumers, hospitals and health, legal services, the armed services and business. Note that many of these specialties are ones in which there is a special need because they have a captive clientele, often confined within an institution, such as in prisons, homes for long-term care, hospitals, the armed services, schools and universities.

Police are worth a special mention because of the recent development in Canada and some other countries of complaints commissions or civilian review boards for police that have the essential characteristics of specialty legislative ombudsmen. In Canada there are now five, two of which are not yet listed in the I.O.I.'s 1996 directory. The International Association for Civilian Oversight of Law Enforcement (IACOLE) combines civilian commissions, which administer police forces, with complaints commissions. Several general legislative ombudsmen whose jurisdiction covers police are members of IACOLE. There is also the American Association for Civilian Oversight of Law Enforcement, and in 1995 civilian police agencies in Canada created CACOLE, the Canadian Association for Civilian Oversight of Law Enforcement.

It is also worth mentioning that I have listed three of the American federal specialty ombudsmen as legislative because they have been mandated by Congress and thus have some guarantee of continuity and independence. These are the Taxpayer Ombudsman in the Treasury Department, the Hazardous Waste Ombudsman in the Environmental Protection Agency and the Long-Term Care Program in the Department of Health and Human Services.⁵

If we add together the total figures for both the general and specialty legislative ombudsmen, we find that the I.O.I. now lists nearly 300 legislative ombudsman systems in the world.

The Executive Ombudsmen

As for the executive ombudsmen, it is next to impossible to arrive at an accurate current count of the general and special types. This is because executive complaint-handlers appear under so many titles other than ombudsman, and because the I.O.I. *Survey* stopped its executive listings with the issue of 1986. For counting these, I have had to rely on the survey of 1986 and the I.O.I.'s directory

of 1995. For the specialty type, I also relied on the new directory put out in 1995 by The Ombudsman Association (TOA), by picking out the ones in the public sector. As a result, I was able to compile a table listing general executive ombudsmen and one showing the main specialty executive ombudsmen (Tables 6 and 7).

Table 6 reveals that there are about 100 general executive ombudsmen in the world, the vast majority of whom (over eighty) are at the state and local levels in the United States. Table 7 shows that there are executive ombudsmen in a variety of specialties much like those for the specialty legislative ombudsmen, with a total of over 150, compared with about 100 of the legislative type. Nearly half of them are university ombudsmen in the United States and Canada, and many of the rest are accounted for by the long-term care ombudsmen in the American states.

It is often impossible to distinguish between a specialty executive ombudsman and an ordinary administrative office created to handle enquiries and complaints. The TOA listings are mainly only of those offices that use the term ombudsman as a title. There are no doubt hundreds of other specialized administrative offices set up to handle enquiries and complaints. In my view, if an executive complaint officer is to be called an ombudsman, key requirements should be that he or she is relatively independent of the organization being complained against and receives appeals against that organization's decisions rather than initial complaints.

The Corporate Ombudsmen

Similarly, corporate ombudsmen in the private sector who do not meet these two requirements may be virtually indistinguishable from the great many enquiry and/or complaint officers for customers or employees that are part of the normal administrative structure of corporations. For instance, Mary Rowe has said that there may be thousands of "ombudsman practitioners" in North America.⁶ Yet, TOA's 1995 directory lists only eighty-two corporate ombudsmen, seventy-five in the United States and seven in Canada (Table 8), and many of these are not called ombudsmen. The Organization of News Ombudsmen has fifty-eight members, of whom thirty-seven are in the United States, seven in Canada, and the rest in other countries. Only half of them are called ombudsmen, however, and the rest have various names, the most common being reader's representative, reader's advocate or defender.

Conclusions

From our analysis, we can see that in the United States there are large numbers of specialty executive and corporate complaint offices that have been given the title of ombudsman but which do not meet the four essential requirements of the classical system. For some mysterious reason, as Bernard Frank has said, "The USA has the characteristic of not liking the system but loving the name."⁷ However, if the word ombudsman is to mean anything different from an ordinary enquiry and complaint officer, we should at least reserve it for officers that are independent of an organization and hear only appeals against its actions. And to distinguish clearly between the various types of ombudsmen in North America, we should insist that they always be referred to with appropriate descriptive adjectives, such as legislative, executive, corporate, employee or association ombudsmen, and preferably identified as such in their formal titles.

The most important concept connected with the ombudsman system is that, because it is a complaint-handler of last resort, like the courts it should be, and be seen to be, impartial and, therefore, should be as independent as possible of the organization being complained against. One cannot have neutrality without independence. The early advocates of the ombudsman system argued that the word ombudsman should be restricted to schemes that have this characteristic. In New Zealand, legislation was passed in 1991 that prohibits the use of the word in the title of an office without permission by law or by the Chief Ombudsman.⁸ So far, he has given only two permissions, for the banking and insurance ombudsmen, and has prohibited its use by a newspaper.⁹

In North America, however, the widespread use of the word for executive and corporate complaint officers means that it is too late to control the use of the term in this way. Yet, because of the importance of independence for appeals, every effort should be made to transform executive and corporate ombudsman offices that hear appeals into independent offices. One of the best ways of ensuring their independence and continuity is through legislation, even if the appointment is still to be made by an executive officer. This can be done even for segments of the private sector, as shown by the ombudsmen set up by legislation for the legal professions in Britain and New South Wales. It may have been the fear of legislative action that caused the industrial associations in the Commonwealth and Europe to set up their own ombudsman schemes to meet the requirements of independence, neutrality and appeal. While a firm may have its own internal complaint office or corporate ombudsman, the industry-wide schemes hear only appeals and are independent of the firms complained against.

I have gathered enough information on these new schemes to compile a table on their locations and specialty areas. Table 9 shows that, excluding the Dutch complaints commissions, there are now over thirty association ombudsmen in thirteen countries. Most schemes are for banking and insurance, with twelve for banking and eight for insurance. There are also schemes in nine other industries, but so far these industries have schemes in only a few countries. We can probably take this as a good indicator that the areas in greatest need of association ombudsmen in North America are banking and insurance. I conclude with the thought that we ought to promote the idea of association ombudsmen in North America and that these two areas are the ones where we should start. This new development is so badly needed that I am willing to predict that association ombudsmen will come to cover an increasing portion of the private sector in an increasing number of the developed democracies.

TABLE 1

**General Legislative Ombudsman Systems
in the Main Western Democracies,
by Country and Level of Government, 1996**

<u>Country</u>	<u>National</u>	<u>Regional</u>	<u>Local</u>	<u>Country Totals</u>
European Union		1		1
Australia	1	7		8
Austria	1	2		3
Belgium		1	1	2
Canada		8	2	10
Denmark	1	1		2
Finland	1			1
France	1	1 ^A	1	3
Germany	1 ^B	1		2
Ireland	1			1
Israel	1		5	6
Italy		15		15
Japan	1			1
Netherlands	1		8	9
New Zealand	1			1
Norway	1			1
Spain	1	8		9
Sweden	1			1
Switzerland		2	2	4
United Kingdom	1	1	3	5
United States		7	14	21
TOTAL	15	55	36	105 ^C

Sources: International Ombudsman Institute, *Directory of Ombudsman Offices* (Edmonton: I.O.I., March 1996) and the Institute's *Ombudsman Office Profiles/Survey 1986* (Edmonton, I.O.I., 1986), updated for 1995.

^A See Table 2.

^B See Table 2.

^C Does not include the European Union Ombudsman.

TABLE 2

**General Legislative Ombudsman Systems Around the World,
by Region, Country and Level of Government, 1996**

<u>Region</u>	<u>Country</u>	<u>National</u>	<u>Regional</u>	<u>Local</u>	<u>Country Totals</u>
AFRICA					
	Gabon	1			1
	Lesotho	1			1
	Madagascar	1			1
	Malawi	1			1
	Mauritania	1			1
	Mauritius	1			1
	Namibia	1			1
	Nigeria	1			1
	Senegal	1			1
	Seychelles	1			1
	South Africa	1			1
	Sudan	1			1
	Swaziland	1			1
	Tanzania	1			1
	Tunisia	1			1
	Uganda	1			1
	Zambia	1			1
	Zimbabwe	1			1
	Africa Totals	18			18
AMERICA					
	Antigua and Barbuda	1			1
	Argentina	1	4	3	8
	Barbados	1			1
	Brazil			1	1
	Canada		8	2	10
	Colombia	1			1
	Costa Rica	1			1
	El Salvador	1			1
	Guatemala	1			1
	Guyana	1			1
	Honduras	1			1
	Jamaica	1			1

	Mexico	1	13 ^A		14
	Paraguay			1	1
	Peru		1		1
	Trinidad-Tobago	1			1
	United States		7	14	21
America Totals		12	33	21	66

Table 2 (cont'd)

<u>Region</u>	<u>Country</u>	<u>National</u>	<u>Regional</u>	<u>Local</u>	<u>Country Totals</u>
ASIA					
	Hong Kong	1			1
	India		10		10
	Pakistan	1 ^B	1		2
	Russian Federation	1			1
	South Korea	1			1
	Sri Lanka	1			1
	Taiwan	1			1
Asia Totals		6	11		17
EUROPE					
	European Union		1		
	Austria	1	2		3
	Belgium		1	1	2
	Bosnia-Herzegovina	1			1
	Croatia	1			1
	Cyprus	1			1
	Denmark	1	1		2
	Finland	1			1
	France	1	1 ^C	1	3
	Germany	1 ^D	1		2
	Hungary	1			1
	Iceland	1			1
	Ireland	1			1
	Israel	1		5	6
	Liechtenstein	1			1
	Lithuania	1			1
	Italy		15		15
	Malta	1			1
	Netherlands	1		8	9

Norway	1			1
Poland	1			1
Spain	1	8		9
Portugal	1			1
Slovenia	1			1
Sweden	1			1
Switzerland		2	2	4
United Kingdom	1	1	3	5
Europe Totals	23	33	20	75 ^E

Table 2 (cont'd)

<u>Region</u>	<u>Country</u>	<u>National</u>	<u>Regional</u>	<u>Local</u>	<u>Country Totals</u>
OCEANIA					
	Australia	1	7		8
	Fiji	1			1
	Cook Islands	1			1
	New Zealand	1			1
	Papua New Guinea	1			1
	Solomon Islands	1			1
	Vanuatu	1			1
	Western Samoa	1			1
Oceania Totals		8	7		15
WORLD TOTALS (72 countries)		67	84	41	191 ^E

Sources: International Ombudsman Institute, *Directory of Ombudsman Offices* (Edmonton: I.O.I., 1995), and the Institute's *Ombudsman Office Profiles/Survey 1986* (Edmonton: I.O.I., 1986), updated for 1995.

^A Regional commissions are being set up in the remaining nineteen states.

^B Classed as executive in the 1988 *Profiles*, but listed as a member of the I.O.I. in the 1996 *Directory*.

^C Ile de France; reported by Marten Oosting in the I.O.I. *Newsletter* (Feb. 1995), at 22.

^D Petitions Committee of the Bundestag (lower house).

^E Does not include European Union Ombudsman.

TABLE 3

**Specialty Legislative Ombudsman Systems
by Country,¹ Level of Government and Specialty, 1996**

<u>Country</u>	<u>Level of Government</u>	<u>Specialty</u>	<u>Title (if not Ombudsman)</u>
Australia	National	Privacy	Privacy Commissioner
	State (NSW)	Privacy	Privacy Committee
	State (NSW)	Legal Services	Lay Review Tribunal
Canada	National	Corrections	Correctional Investigator
		Information	Commissioner
		Language	Commissioner
		Police	Public Complaints Commission
		Police	External Review Committee
		Privacy	Commissioner
		Information and Privacy	Commissioner
	Provincial (Saskatchewan)	Farmers	Farmers' Advocate
	(Alberta)	Workers' Compensation	Fair Practices Advocate
	(Manitoba)	Police	Complaint Commissioner
	(British Columbia)	Police	Complaints Commissioner
(Ontario)	Police	Ethics Commission	
(Quebec)	Police	Commissioner	
	Territorial (NWT)	Language	Commissioner
	Local	University (5)	
Costa Rica	National	Consumers	Procurador Ombudsman
Denmark	National	Consumers	Ombudsman
France		Information	Commission on Access
Germany	National	Data Protection for Privacy	Commissioner
	National	Military	Commissioner
Hungary		Data Protection and FOI	Parl. Commissioner
		Minority Rights	Parl. Commissioner
Israel	National	Military	Complaints Commission
		Police and Prison Officers	Complaints Commission
New Zealand	National	Environment	Commissioner
Norway	National	Children	
		Consumers	
		Military	
Sweden	National	Children	

¹ But not including the United States; see Table 4.

		Consumers	
		Disability	
		Ethnic Discrimination	
		Equal Opportunities	
		Press	
Tanzania	National	Enforcement of Leadership Code	Commission
United Kingdom	National	Broadcasting	Complaints Commission
	Regional (England & Wales)	Police	Complaints Authority
	(England & Wales)	Legal Services	Lay Observer (Ombudsman)
	(Scotland)	Legal Services	Lay Observer
	(N. Ireland)	Legal Services	Lay Observer
	(N. Ireland)	Police	Complaints Board
	Local (Belfast)	Police	Complaints Board

Sources: International Ombudsman Institute, *Directory of Ombudsman Office* (Edmonton: I.O.I., 1996 and 1992), and the Institute's *Ombudsman Office Profiles/Survey 1986* (Edmonton: I.O.I., 1986), Ch.V of the *Survey*, with two additions for Australia (privacy and legal services), three for Canada (police) and one for France (information). The Information and Privacy Commissioners for British Columbia and Ontario have been omitted because they make binding decisions.

TABLE 4

**Specialty Legislative Ombudsman Systems in the United States,
by Level of Government, Location and Specialty, 1996**

<u>Level of Government</u>	<u>Specialty</u>	<u>Title (if not Ombudsman)</u>
<u>Federal (3):</u>		
Department of the Treasury	Taxpayers	
Department of Health and Human Services	Long-Term Care	Ombudsman Program
Environmental Protection Agency	Hazardous Waste	
<u>State (25):</u>		
Alaska	Long-term care Pipeline	
Arizona	Taxpayers	
Connecticut	Corrections	
Florida	Long-term care	Ombudsman Committees
Hawaii	Long-term care	
Kansas	Corrections	
Louisiana	Long-term care	
Maine	Long-term care	
Michigan	Corrections	
Minnesota	Mental health Families Crime victims Corrections	Ombudsperson
Missouri	Long-term care	
New Mexico	Long-term care State Corporations	Commission
New York	Corrections	Long term care
North Carolina	Corrections	Inmate Grievance Commission
Ohio	Workers' Compensation	
Oregon	Corrections	
Tennessee	Long-term care	Commission on Aging
Texas	Water supply Small business	

Wisconsin

Long-term care

Board on Aging and Long Term Care

Table 4 (cont'd)

<u>Level of Government</u>	<u>Specialty</u>	<u>Title</u> (if not Ombudsman)
<u>Regional (5):</u>		
District of Columbia	Long-term care Consumer services Minority business Public schools	
Puerto Rico	Long-term care	
<u>Local (20):</u>		
Ann Arbor, Mi.	Public schools	School ombudsman
Ann Arbor, Mi.	Schools	Human Relations Ombudsman
Ann Arbor, Mi.	University of Michigan	
Chicago, Ill.	Children's Memorial Hospital	
Dayton, Oh.	Schools	Joint Office of Citizen Complaints
East Lansing, Mi.	State University	
Ithaca, N.Y.	Cornell University	
Lincoln, Ne.	University of Nebraska	
Los Angeles, Ca.	University of California	
Montgomery County, Md.	Schools	
New Rochelle, N.Y.	Schools	
New York	Health	
Omaha, Ne.	Business	
Riverside, Ca.	University of California	
Rockville, Md.	Schools	
San Diego, Ca.	State University Housing Commission	
San Jose, Ca.	State University	
West Chester, Pe.	County hospital	
Wichita, Ka.	Schools	

Sources: International Ombudsman Institute, *Directory of Ombudsman Offices* (Edmonton: I.O.I., 1996), and the Institute's *Ombudsman Office Profiles/Survey 1986*, Ch.V of the *Survey*. Source for federal ones is D.R. Anderson and D.M. Stockton, *Ombudsmen in Federal Agencies: The Theory and the Practice* (Washington: Administrative Conference of the United States, 1990), updated by correspondence with the ACUS.

TABLE 5

**Specialty Legislative Ombudsman Systems
in the United States and Other Countries, by Specialty, 1996**

<u>Specialty</u>	<u>U.S.</u>	<u>Other Countries</u>	<u>Total</u>
University ¹	8	5	13
Long-term care	12	-	12
Police	-	9	9
Schools	9	-	9
Information and Privacy	-	8	8
Corrections	7	1	8
Consumers	1	4	5
Hospitals and Health	4	-	4
Legal Services	-	4	4
Business	3	-	3
Military	-	3	3
Children	-	2	2
Language	-	2	2
Taxpayers	2	-	2
Workers' Compensation	1	1	2
Discrimination	-	2	2
Other Specialties (one of each)	<u>6</u>	<u>7</u>	<u>13</u>
TOTAL	53	48	101

Sources: International Ombudsman Institute, *Directory of Ombudsman Offices* (Edmonton: I.O.I., 1996), and the Institute's *Ombudsman Office Profiles/Survey 1986*, Ch.V of the *Survey*, with the addition of three for Police and one for Information and Privacy.

¹ Estimates only.

TABLE 6

**General Executive Ombudsmen,
by Country and Level of Government, 1995**

<u>Country</u>	<u>National</u>	<u>Regional</u>	<u>Local</u>	<u>Title</u>	<u>Total</u>
Bulgaria	1			Procurator General	1
Canada			Edmonton, AB	Citizen Action Centre	1
China	1			Procuratorate	1
Finland	1			Chancellor of Justice	1
Ghana	1			Commission on Human Rights & Admin. Justice	1
Japan ^A	1			Admin. Inspection Bureau	1
Malaysia	1			Public Complaints Bureau	1
		Sarawak		Complaints and Suggestions Bureau	1
North Korea	1			Procurator	1
Philippines ^B	1			Tanodbayan	1
Sweden	1			Chancellor of Justice	1
Romania	1			Procurator General	1
Venezuela	1			Fiscal General	1
Subtotal	11	1	1		13
United States		19	64		83
TOTAL	11	20	65		96

Sources: International Ombudsman Institute, *Ombudsman Office Profiles/Survey 1986* (Edmonton: I.O.I., 1986), Chs.III and VI of the *Survey*, and the Institute's *Directory of Ombudsman Offices* (1996) and *Ombudsman Office Profiles* (1988).

^A Listed in 1995 *Directory*, but not classed as legislative in the 1988 *Profiles*, and not a member of the I.O.I.

^B Listed in 1995 *Directory*, but classed as executive in the 1988 *Profiles*, and not a member of the I.O.I.

TABLE 7

**Main Specialty Executive Ombudsmen
in the United States and Other Countries, by Specialty, 1996**

<u>Specialty</u>	<u>U.S.</u>	<u>Other Countries</u>	<u>Total</u>
University ¹	60	12(Canada)	72
Long-term care ²	39		39
Corrections	12	1	13
Schools ¹	5		5
Health and Human Services ³	3		3
Military	3		3
Consumer	2		2
Environment	2		2
Police		2	2
Taxation	2		2
Other specialties (one of each)	10	2	12
TOTAL	138	17	155

Sources: International Ombudsman Institute, *Ombudsman Office Profiles/Survey 1986* (Edmonton: I.O.I., 1986), Ch.V of the *Survey*; the Institute's *Directory of Ombudsman Offices* (1996); and The Ombudsman Association, *North American Ombuds Directory* (Issue 1, 1995); plus one for Corrections (U.K.).

¹ Low estimate: only those listed in TOA's *Directory*.

² State-level programs only; excludes regional and local officers. Estimate only.

³ In two cases includes long-term care (Kentucky and S. Carolina).

TABLE 8

**Main Private-Sector Corporate Ombudsmen
in the U.S. and Canada, by Type, 1995**

<u>Type</u>	<u>U.S.</u>	<u>Canada</u>	<u>Total</u>
Corporation s ^A	75	7	82
Newspapers B	37	7	44
Consultants	7	1	8
TOTAL	119	15	134

Sources: The Ombudsman Association, *North American Ombuds Directory* (Issue 1, January 1995), and Organization of News Ombudsmen, Membership List (June 1995).

^A Low estimate: only those listed in TOA's *Directory*.

^B There are also 14 members of the Organization of News Ombudsmen in other countries.

TABLE 9

Private-Sector Association Ombudsman Schemes
in the Commonwealth and Europe, 1996

<u>Area</u>	<u>Australia</u>	<u>Can.</u>	<u>N.Z.</u>	<u>U.K.</u>	<u>Belg.</u>	<u>Den.</u>	<u>Fra.</u>	<u>Ger.</u>	<u>Ire.</u>	<u>Neth.</u>	<u>Nor.</u>	<u>Swed.</u>	<u>Swit.</u>
Banking	1	1	1	1	1	1	1	1	1 ^B		1	1	1
Building Societies				1									
Estate Agents				1									
Credit Unions	1												
Funerals				1						1			
Insurance	2		1 ^A	1	1				1	2 ^C			
Investment	1			2									
Pensions				1						1 ^D			
Telecommunications	1												
TOTAL	6	1	2	8	2	1	1	1	2	4 ^E	1	1	1

Source: British and Irish Ombudsman Association, *Directory of Ombudsmen* (London: BIOA, 1995), updated and supplemented for 1996 by correspondence with the BIOA and association ombudsmen.

^A Includes savings companies.

^B Includes building societies.

^C Property and health insurance.

^D Includes life insurance.

^E Excludes the complaints commissions united in the Dutch Foundation for Complaints Commissions.

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3. Donald Rowat, "Why a Legislative Ombudsman is Desirable" (1993) 11 *The Ombudsman Journal* 127, at 135-36.
4. Linda Reif and Mary Marshall, "The Ombudsman: Maladministration and Alternative Dispute Resolution" (1995) 34 *Alberta Law Review* 215.
5. See D.R. Anderson and D.M. Stockton, *Ombudsmen in Federal Agencies: The Theory and the Practice* (Washington: Administrative Conference of the United States, 1990).
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