



ombud

NEW BRUNSWICK • NOUVEAU-BRUNSWICK

The Ombudsman institution and its role

Presentation to a joint seminar of the Francophonie association of ombudsman and mediators and the international association of francophone prosecutors

Tirana, Albania – June 2025

Table of contents

- An essential role
 - Fairness, good governance and respect for rights
 - Origins
 - Many names
 - Complementary functions
 - International conventions
- Mode of operation
 - Primary characteristics of the role
 - Core values
 - Early and informal resolution
 - Investigations, recommendations and reports
 - Other types of work
- In summary
 - Supreme Court of Canada perspective
- Questions?
 - Contact us



An essential role

Fairness, good governance and respect for rights

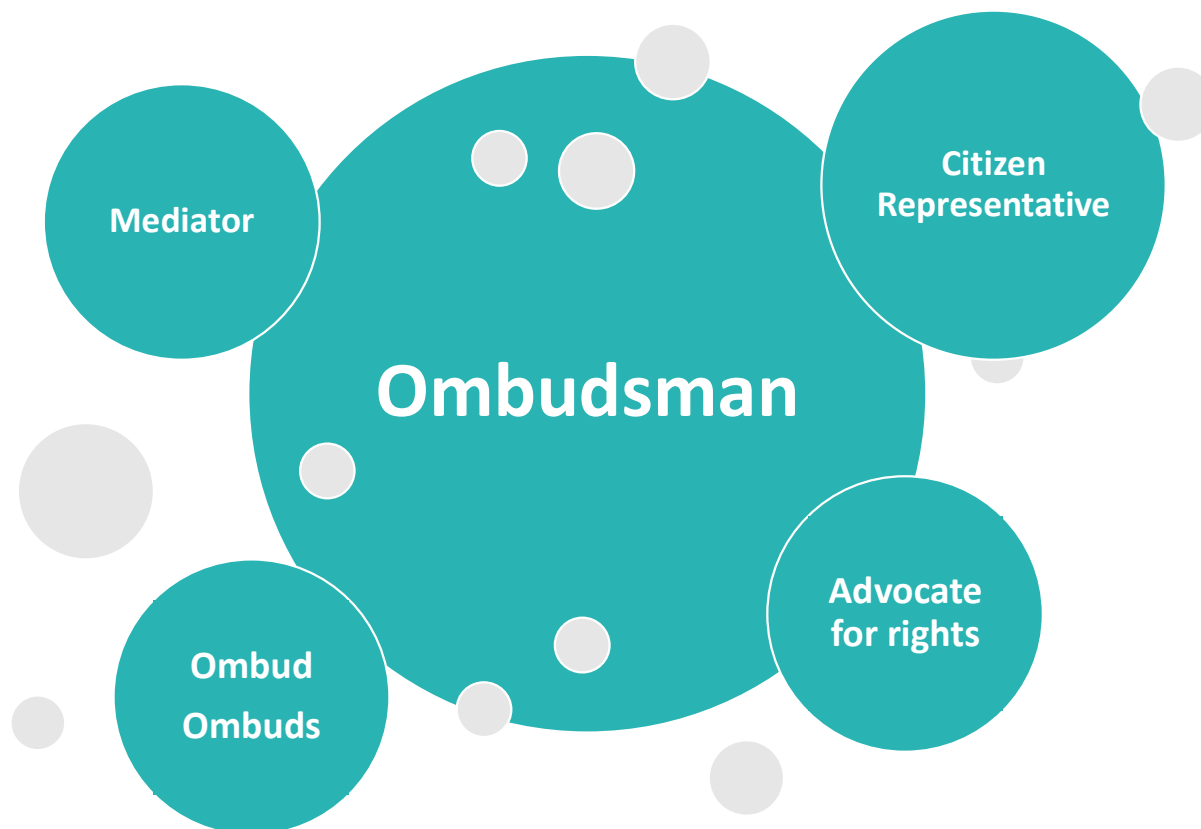
- The Ombudsman ensures that government organizations:
 - respect their own rules
 - treat citizens fairly
 - respect citizens' rights
- The Ombudsman protects the public interest by:
 - helping government organizations improve
 - strengthening public confidence in democratic institutions
- The Ombudsman is an independent and impartial expert in conflict resolution who:
 - receives complaints from the public concerning government organizations
 - tries to resolve complaints informally whenever possible
 - conducts investigations

Origins

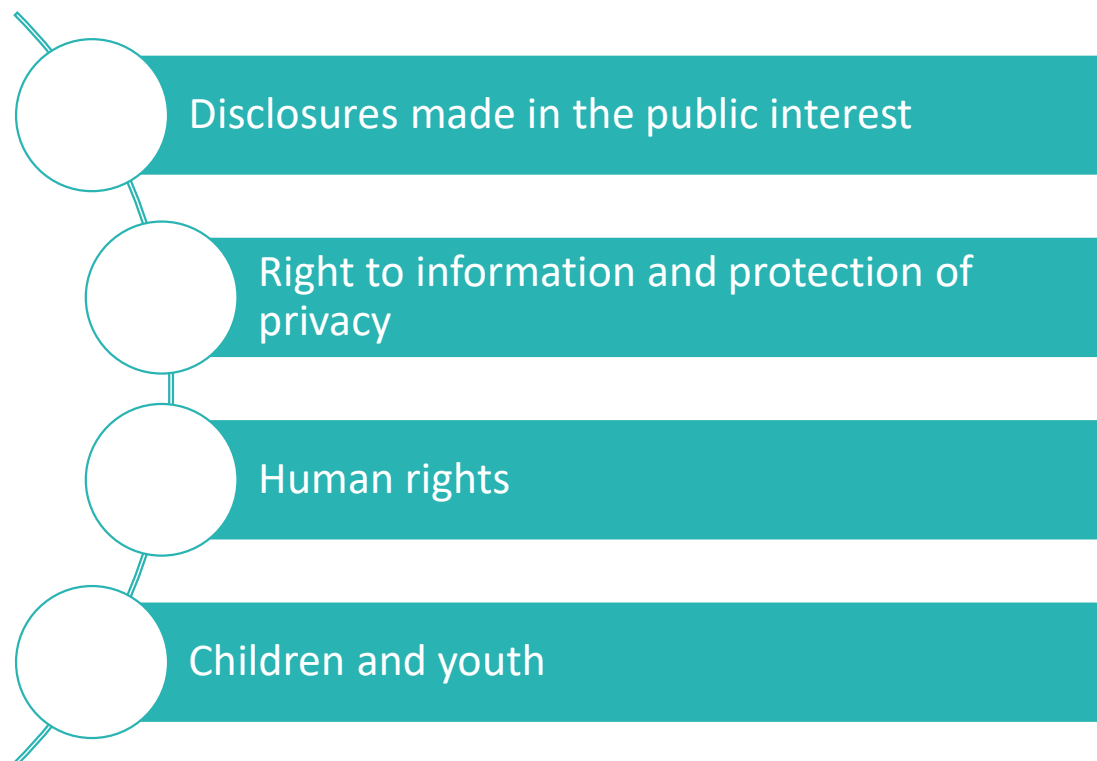
- “Ombudsman” is a Swedish word meaning “representative of the people”
- 1809:
 - Sweden is credited with establishing the first statutory ombudsman for a legislative assembly
- The concept of an official mediator for complaints against the state/monarchy has been observed in several cultures over the centuries

AN ESSENTIAL ROLE

Many names



Complementary functions



An institution protected by international conventions

Venice Principles (2019)

- *Principles on the Protection and Promotion of the Ombudsman Institution*, adopted by the Venice Commission of the Council of Europe
- Establishes a global standard for defining, promoting and protecting the role of the Ombudsman Institution to strengthen democracy and the promotion of fundamental rights

UN Resolution (2024)

- Latest version of the Resolution on *The role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law*, adopted by the United Nations General Assembly
- Endorses the Venice Principles and key tenets of ombudsman institutions, including independence, objectivity, transparency, fairness and impartiality
- Encourages member-states to ensure appropriate protections for their respective ombudsmen against retaliation, intimidation or recrimination and the unwarranted abuse of judicial procedures in relation to tasks performed in the course of their activities and legal obligations



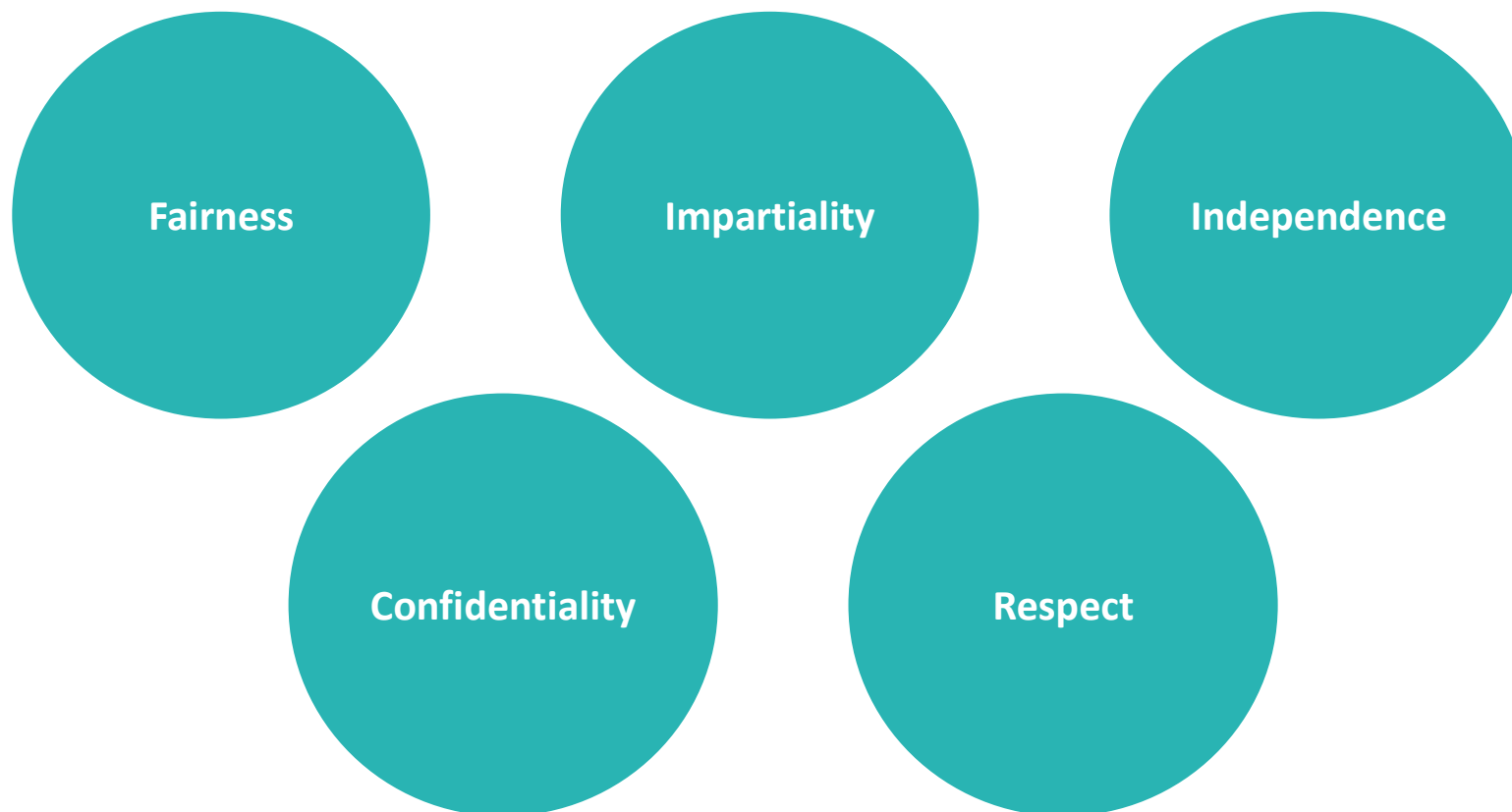
Mode of operation

Primary characteristics of the role

The Ombudsman:

- is appointed by a legislative assembly to hold office during good behaviour for a fixed term
- has powers conferred by law, including the power to conduct investigations of their own initiative and to publish reports
- acts independently, is in control of their procedures and must obtain adequate resources to carry out the work
- adheres to the principles of procedural fairness (the right to be heard, impartiality, etc.)
- offers all services free of charge and on a confidential basis
- sets an example by ensuring fairness, sound administration and transparency in all actions

Core values



Early and informal resolution

- The objective is to try to resolve complaints informally and as early as possible
- Everyone benefits from an approach that is genuinely geared towards finding practical solutions to resolve the problems encountered
- The steps in an informal resolution include:
 - initial assessment (admissibility, dismissal or referral)
 - attempts at mediation/informal resolution
 - conclusion of complaint or proposal for investigation

Investigations

- If a complaint cannot be resolved informally, the Ombudsman *may* decide to conduct a formal investigation into the complaint
- Unresolved complaints do not automatically result in investigations
- The Ombudsman will consider a number of factors before proceeding with an investigation, including:
 - whether the complaint involves several people or organizations
 - the severity of the allegations
 - whether the allegations indicate a systemic issue or trend
 - whether more information, submissions from parties involved or analysis are required

Recommendations

- Once the investigation is complete, the Ombudsman determines whether formal findings and recommendations are required
- Recommendations may include:
 - changes to policies or procedures
 - improvements to communications with the public or other organizations
 - adoption of generally accepted best practices
- The Ombudsman does not have the power to force government organizations to comply with recommendations, but the reasoning provided encourages a favourable response on their part

Consider this...

“The inability to force change may be the central strength of the office. It requires that its recommendations be based on a thorough investigation of all facts, scrupulous consideration of all perspectives and vigorous analysis of all issues. This application of reason produces results that are more powerful than could be achieved through coercion. A coercive process may produce reluctant change in a particular instance, but it creates a “loser” who will be unlikely to embrace change in the future. By contrast, change that results from a reasoning process changes a way of thinking and the result endures, to the benefit of future users.”

Stephen Owen, former Ombudsman for
British Columbia (Canada)

Reports



- While all investigations are conducted on a confidential basis, in certain circumstances the Ombudsman **may** decide to publish the results of an investigation in a public report
- However, any public report **will not disclose** the identity of the complainant(s) or details that could identify them
- The Ombudsman's reasons for publishing the results of an investigation in a public report may include that:
 - recommendations have been issued as a result of an investigation
 - other organizations may benefit from the lessons learned through the investigation
 - it is in the public's interest to be informed of the results of the investigation

Other types of work

- While the main focus is to resolve individual complaints, the Ombudsman also has the authority to conduct other types of work, such as:
 - own motion investigations: these are initiated by the Ombudsman and not as a result of an individual complaint, usually to examine systemic issues
 - recommendation monitoring: this involves examining an organization's implementation of recommendations made following an investigation
 - awareness and outreach activities: this involves informing the general public, stakeholders and public sector organizations to make sure they are aware of the Ombudsman's services and to provide feedback on legislation from the perspective of an independent expert in fairness and good governance



In summary

Supreme Court of Canada perspective

*“The Ombudsman represents society’s response to these problems of potential abuse and of supervision. His unique characteristics render him capable of addressing many of the concerns left untouched by the traditional bureaucratic control devices. He is impartial. His services are free, and available to all. Because he often operates informally, his investigations do not impede the normal processes of government. Most importantly, his powers of investigation can bring to light cases of bureaucratic maladministration that would otherwise pass unnoticed. **The Ombudsman ‘can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds’:** Re Ombudsman Act (1970), 72 W.W.R. 176 (Alta. S.C.), per Milvain C.J., at pp. 192-93. On the other hand, he may find the complaint groundless, not a rare occurrence, in which event his impartial and independent report, absolving the public authority, may well serve to enhance the morale and restore the self-confidence of the public employees impugned.*

Supreme Court of Canada Chief Justice Brian Dickson in
British Columbia Development Corporation v. Friedmann (Ombudsman), [1984] 2 SCR 447



Questions?

Contact us

ombud@ombudnb.ca

Phone: + 1 506 453 2789

Fax: + 1 506 453 5599

Ombud NB
P.O. Box 6000
Fredericton, New Brunswick
E3B 5H1
Canada

ombudnb.ca



ombud

NEW BRUNSWICK • NOUVEAU-BRUNSWICK