
EVOLUTION OF THE CONCEPT OF OMBUDSMAN: A COMPREHENSIVE ANALYSIS

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ABSTRACT

The institution of ombudsman has become cornerstone of modern administrative accountability and citizen redress. Originating in Sweden in the early 19th Century, the ombudsman model has been successively adapted in other Nordic countries, transplanting into common-law jurisdictions such as New Zealand, the United Kingdom, and Australia, and more recently adapted in developing democracies including India. This paper traces the historical evolution of the concept, compares its principal institutional models, and analysis how local legal traditional have reshaped its powers, procedures, and jurisdiction. It argues that while the core function of investigating maladministration and recommending remedies remains stable across jurisdictions, contemporary governance challenges such as, the expansion of regulatory state, digital administration, and jurisdictional contestations, necessitate reforms to strengthen independence, clarify powers, and enhance transparency. The paper concludes with recommendations for improving the effectiveness of ombudsman institutions in light of contemporary challenges.

1. INTRODUCTION

The concept of ombudsman has been a significant conceptual and practical milestone in the domain of administrative law. On conceptual level, it is a remarkable institution that has played an instrumental role in reshaping administrative accountability across the globe. Rooted in the Scandinavian tradition of governance and administrative practices, the institution embodies principles of transparency, accountability and fairness in public administration. Post its adoption in Sweden, it was not only embraced by neighbouring Scandinavian countries: Finland and Denmark, but gained a wider acceptance and adaptation in the common-law jurisdictions, particularly, the United Kingdom, Australia and New Zealand. It is quite remarkable that this institution has also found its place beyond homogenous and economically advanced democracies into diverse and developing countries.

The ombudsman is an independent office designated to protect citizens from violation of their rights by the administrative machinery and to ensure cordial functioning of the administrative structures. The growth of administrative apparatus in recent decades, largely attributed to the expanding role of the welfare state, as well as emerging challenges posed by globalisation and technological advancements, which have necessitated greater administrative oversight.

It is an obvious fact that, in its due course of adaptation and global diffusion, the concept has undergone several institutional transformations from its initial Swedish model, particularly, in its adaptation to the common law countries. These changes, while not revolutionary, are substantially significant. In the midst, India's adoption of the concept, although comparatively recent, reflects both continuity with the global tradition and important departures shaped by domestic political and constitutional considerations. This paper undertakes a detailed analysis of the origins of the ombudsman in Scandinavia, its evolution in common-law countries, and its contemporary manifestation.

2. OMBUDSMAN: ORIGINS IN SCANDINAVIA

The office of Ombudsman was first created by the Swedish Constitution Act of 1809.¹ Article 96 of the act states that, the *Riksdag* (i.e., the Swedish Parliament) shall appoint two citizens of known legal ability and outstanding integrity: one as Ombudsman for Civil Affairs and the

¹ Donald C. Rowat, *The parliamentary ombudsman: Should the Scandinavian scheme be transplanted?*, 28 INTERNATIONAL REVIEW OF ADMINISTRATIVE SCIENCES 399 (1962).

other as Ombudsman for Military Affairs, to supervise the observance of laws and statutes in the capacity of representatives of the *Riksdag*, and as per the instructions issued by the *Riksdag*.²

The office of King's Chancellor of Justice between 1766-1772, resembled an early precursor to the ombudsman. When Swedish Constitution was enacted in 1809, the *Riksdag* decided to appoint an additional officer, the Ombudsman, as its own defender of the law.³ A principal reason for placing the office under the parliamentary control was that the public would feel freer to present its grievances to a person appointed by the Parliament rather than to an official appointed by the King.⁴ The precise historical genesis of the institution remains contested. However, the Swedish term, '*Ombud*' broadly denotes a representative, agent, intermediary, or a delegate.⁵

The ombudsman is a public official appointed by the legislature for purpose of receiving and investigating complaints filed by citizens against acts of administrative power.⁶ The ombudsman is an independent authority under the Parliament. They institute proceedings before the appropriate courts against any public official or employee who, in his judgment, acted illegally or improperly in the execution of official duties.⁷

In Sweden, the ombudsman and his deputies are appointed by the Parliament for a period of four years by a committee of forty-eight Members of Parliament. He relies on three sources primary sources of information: complaints of citizens, public press and reports from organisations and, public decisions including meetings of supreme or administrative court. He is empowered to request the assistance of public officials in investigation and to access to all files and documents relevant in the course of his inquiry.⁸ He can also initiate prosecution of administrative official and judges for violation of their duty or for misconduct, but two areas lie outside his powers: government corporations and government ministers. Although, the ombudsman cannot change a decision already delivered by a court or an administrative

² Swedish Constitution Act (Regeringsformen) of 1809, art. 96.

³ *Id.*

⁴ Lester B. Orfield, *The Scandinavian Ombudsman*, 19(1) ADMIN. L. REV. 7, 8 (1966).

⁵ Mirlinda Batalli, *Role of ombudsman institution over the Administration*, ACADEMIC JOURNAL OF BUSINESS, ADMINISTRATION, LAW AND SOCIAL SCIENCES 232, 233 (2015).

⁶ *Id.* at 233.

⁷ Albert H. Rosenthal, *The ombudsman-swedish "grievance man"*, 24 PUBLIC ADMINISTRATION REVIEW 226, 228 (1964).

⁸ *Id.* at 228.

agency,⁹ he may identify flaws with the laws and procedures. The constitution encourages him to comment on deficiencies in laws and regulations and to make proposals for legislative amendments.¹⁰

Since 1915, Sweden has also had a military ombudsman whose work is confined to overseeing the administration of laws concerning military matters¹¹ and their observance by officials. In addition, there is a special ombudsman appointed by the government. They are subject to supervision of parliamentary ombudsman and have duties of surveillance in their respective domains.

Finland adopted a similar model in 1919. The model introduced in Finland was quite similar to the Swedish one. The powers of the Finnish Ombudsman were relatively more extensive, including the authority to initiate criminal proceedings against chairpersons of the supreme and highest administrative courts, and to act as a public prosecutor against senior state officials, in particular, members of the State Council and the Chancellor of Justice.¹²

Denmark and Norway adopted this institution in 1953 and 1961, respectively, incorporating it in their constitution. Their models differ from the Swedish and the Finnish archetypes in that the ombudsman's jurisdiction is less extensive than their Swedish and Finnish counterparts. The Danish model presents the ombudsman primarily as an investigator, and not as a prosecutor.¹³ He may order for initiation of prosecution, while in Norway the ombudsman may only recommend it. Both Denmark and Norway permit the ombudsman to criticise judicial decisions if they find it unreasonable. While, Sweden and Norway have a separate military ombudsman which the other two States do not. In other respects, the role remains largely similar across all four Nordic countries: the ombudsman is appointed by the Parliament, is independent of the executive, is empowered to initiate investigation into maladministration.

3. OMBUDSMAN IN COMMON LAW COUNTRIES

It was the Danish model in the 1950s that marked the beginning of the international diffusion

⁹ Alfred Bexelius, *The Swedish ombudsman*, 17 THE UNIVERSITY OF TORONTO LAW JOURNAL 170 (1967).

¹⁰ *Id.* at 173.

¹¹ Stig Jagerskiold, *The Swedish ombudsman*, 109 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1077, 1082 (1961).

¹² Mirlinda, *supra* note 5, at 234.

¹³ Jan-Erik Lane, *The Ombudsman in Denmark and Norway*, in RIGHTING WRONGS: THE OMBUDSMAN IN SIX COUNTRIES 145–167 (IOS Press 2000).

of the ombudsman concept. Besides Norway, it served as the blueprint for New Zealand, the first country outside Scandinavia to establish an ombudsman. The introduction of an ombudsman in New Zealand, in 1962, generated significant interest in the institution in other parts of the world.¹⁴ Thereafter, several common-law countries, including the United Kingdom and Australia, adopted their own versions of ombudsman. By early 1980s, most Western European countries had established ombudsman offices, and in 1995 with the establishment of the European Union (EU), the office of the ombudsman for EU was created. The United States remains a notable exception to this trend.

3.1 Ombudsman in UK

In the United Kingdom, the Whyatt Committee was established to examine the feasibility of adopting the Ombudsman system, inasmuch as its Scandinavian operations had recently been reported on with varying degrees of clarity and inasmuch as the system had been successfully transplanted onto New Zealand's parliamentary system.¹⁵ After several deliberations and debates in the parliament, the ombudsman, officially known as the Parliamentary Commissioner for Administration (PCA) was created by the Parliamentary Commissioner Act, 1967.¹⁶

The British ombudsman is appointed by the Crown on the recommendations of the Prime Minister and holds office during his good behaviour or until the age of 65 years. Removal from the office requires an address by both Houses of the Parliament.¹⁷ In addition to the PCA, devolved jurisdictions have established their own offices, including the Northern Ireland Ombudsman, Public Services Ombudsman of Wales and Scottish Public Service Ombudsman, respectively, in light of the devolution of the political and administrative powers of the central government.¹⁸

Section 10(4) of the Act requires the Commissioner to lay an annual report before each House of Parliament, a general report on the performance of his functions under the Act, and also,

¹⁴ Mary Seneviratne, *Ombudsmen 2000*, 9 NOTTINGHAM LAW JOURNAL 13 (2000).

¹⁵ Geoffrey Marshall, *The British parliamentary commissioner for Administration*, 377 THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 87, 89 (1968).

¹⁶ M.P. JAIN, *PRINCIPLES OF ADMINISTRATIVE LAW* (Lexis Nexis 2017).

¹⁷ Marshall, *supra* note 15, at 94.

¹⁸ By Richard Kirkham, *The Ombudsmen of Northern Ireland, Scotland and Wales*, 27 JOURNAL OF SOCIAL WELFARE AND FAMILY LAW 79, 80 (2005).

from time to time, such other reports with respect to those functions as he thinks.¹⁹ The annual report shows that he is accountable to the parliament. The Commissioner is also independent of the government, and his recommendations cannot be overruled by ministerial authority.

Two features of the British model are particularly noteworthy. First, Section 4(4) of the Act includes ministers and their departments within the jurisdiction of the ombudsman, although, certain matters involving dominant considerations of national or public interest are excluded.²⁰ Second, the act establishes a 'restricted access' (as was also stipulated in the Whyatt Committee Report) through the 'MP filter'. Unlike the easy access by public in Scandinavia or New Zealand, Section 5(1) of the Act restricts invocation of the Ombudsman's jurisdiction to a member of the House of Commons; a member of the public cannot approach him directly.²¹ There is no requirement, statutory or otherwise for a Member of Parliament to refer a case to the Ombudsman. Although, a constituent may, approach another MP, if their own MP declines to forward the complaint,²² the mechanism has been criticised for limiting direct public access.

The PCA entertains complaints of injustice caused by maladministration by the government departments or other public bodies. Complaints relating to maladministration may be made by any individual, or by anybody of persons.²³ When the complaint is received, the ombudsman's office follows a three stage investigation process: jurisdiction test, formal investigation and the issuance of a report.²⁴ The jurisdiction test is to ensure that the ombudsman has the power to investigate the issue. In case he is not eligible, he informs the MP on the same; if he has the competence, he informs the MP of the same and proceeds with the investigation. The ombudsman's jurisdiction encompasses UK's government departments and non-departmental public bodies.²⁵ The ombudsman possesses powers akin to those of a court to summon witnesses and require any minister, officer or any other person to furnish any information or document necessary for investigation.

Following the investigation, the ombudsman, if he finds in favour of the complainant, may

¹⁹ Parliamentary Commissioner Act 1967, c. 13, § 10(4) (UK)

²⁰ JAIN, *supra* note 16.

²¹ Parliamentary Commissioner Act § 5(1).

²² LUCINDA MAER & SARAH PRIDDY, THE PARLIAMENTARY OMBUDSMAN: ROLE AND PROPOSALS FOR REFORM, 2018, Briefing Paper No. CBP7496 (UK).

²³ David Williams, *Statutes*, 30 THE MODERN LAW REVIEW 547, 550 (1967).

²⁴ M.P. Jain, *The First Year of Ombudsman In England*, 14 JOURNAL OF THE INDIAN LAW INSTITUTE 159, 166 (1972).

²⁵ MAER, *supra* 22.

recommend the appropriate remedy (such as, compensation or apology) but cannot enforce the same nor can he alter it. The report is then sent to the MP who referred the matter and is presented before the Parliament. Although, the ombudsman's recommendations are not binding, they are ordinarily accepted by government departments. For instance, in *Debt Honour Case*, involving a formal payment to a former Japanese POW and civilian internees, the government established an ex gratia compensation scheme. The Ministry of Defence (MoD) was tasked with the scheme. The ombudsman found maladministration in how the MoD handled the scheme, noting that the criteria for including people were poorly thought out and unfairly applied. Subsequently, the MoD, offered apologies to the affected individuals and paid compensation. In *R (Bradley) v. Work and Pensions Secretary*, the Court held that, the rejection of ombudsman's findings of maladministration must be rational and adequately reasoned; it is not sufficient to simply reject such findings.²⁶

3.2 Ombudsman in Australia

The ombudsman concept was introduced in Australia in the 1970s, inspired by the developments in Scandinavia and the UK. In 1971, the Kerr Committee initially recommended the establishment of a 'General Counsel of Grievances'. Later, the Bland Committee examined the feasibility of an ombudsman, and were critical of the institution. Ultimately, the Commonwealth Ombudsman system was established by the Ombudsman Act, 1976.²⁷ The Explanatory Memorandum to the Ombudsman Act 1976 describes the essential features of the Ombudsman: to investigate complaints made to him about administrative functions of officials.²⁸

Australia's federal structure has produced a two tier ombudsman system: a Commonwealth ombudsman at the national level with each state having its own separate ombudsman.²⁹ The ombudsman system consists of, a Commonwealth Ombudsman, three Deputy Commonwealth Ombudsman, and a Defence Force Ombudsman. In addition, there are other sector-specific ombudsmen with special mandates at federal level, structurally amalgamated with the Commonwealth Ombudsman.³⁰ Under Section 21 of the Act, the ombudsman is

²⁶ *R (Bradley) v. Work and Pensions Secretary* 2008 EWCA Civ 36.

²⁷ JAIN, *supra* note 16.

²⁸ Anita Stuhmcke, 'Each for Themselves' or 'One for All'? *The Changing Emphasis of the Commonwealth Ombudsman*, 38 FEDERAL LAW REVIEW 143, 148 (2010).

²⁹ JAIN, *supra* note 16.

³⁰ MICHAEL FRAHM, AUSTRALASIA AND PACIFIC OMBUDSMAN INSTITUTIONS MANDATES, COMPETENCES AND GOOD PRACTICE 104 (Springer 2013).

appointed by the Governor-General.³¹ Deputy ombudsmen are also appointed by the Governor-General. Both hold office for a period not exceeding seven years and are eligible for reappointment.³² Removal requires the assent of both the Houses of Parliament, and is limited to grounds of misbehaviour or incapacity.

The ombudsman office's jurisdiction extends to all agencies of the federal government, including the Australian Federal Police,³³ and includes oversight of freedom of information complaints. Non-governmental contractors performing public service are also subject to its jurisdiction. Though, private persons, ministerial actions, public service employment actions, decisions of court and tribunals, and acts of intelligence agencies are excluded from the jurisdictional purview.

Investigation process may be initiated either upon complaint from an individual or company, or *suo motu*. The ombudsman possesses broad investigation powers. Under Section 7(1)(A) of the Act, he may conduct a preliminary inquiry to affirm jurisdiction. If he believes formal investigation is warranted, he or she shall inform the head of the agency concerned.³⁴ He has powers to call any person to give evidence or compel production of documents. Failure to comply with the process is an offence.³⁵ In *Botany Council v. The Ombudsman*, the New South Wales Court of Appeal emphasised upon the breadth of the ombudsman's investigatory authority.³⁶ After giving an opportunity of rebuttal to the agency, a final report is prepared and sent to the agency seeking details on actions the agency intends to take in light of recommendations.

While the recommendation is not legally binding, if no action is taken in reasonable time, Prime Minister and thereafter, the parliament may be informed of the same. Later, ombudsman issues certificate enabling tribunal review.

4. POSITION IN INDIA

The concept of ombudsman was first proposed in India during the 1960s by the then Minister

³¹ Ombudsman Act 1976 (Cth) § 21 (Austl.).

³² *Id.* at § 22.

³³ FRAHM, *supra* note 30, at 107.

³⁴ *Id.* at 110.

³⁵ Dennis Pearce, *Ombudsman in Australia*, in RIGHTING WRONGS: THE OMBUDSMAN IN SIX CONTINENTS 91, 96 (IOS Press 2000).

³⁶ New South Wales Court of Appeal in *Botany Council v. The Ombudsman* 1995 37 NSWLR 357.

of Law, Ashok Kumar Sen. It was in 1966, however, that the Administrative Reforms Commission (ARC) of the Government of India, chaired of Morarji Desai, in its interim report on Problems of Redress of Citizens' Grievances, came with a strong recommendation to establish an ombudsman institution in India.³⁷

Subsequently, partly premised upon these recommendations, the Lokpal and Lokayuktas Bill, 1968 was introduced by L.M. Singhvi. It proposed a two-fold system. At one level, the Lokpal was to investigate any action taken by or with the general or specific approval of a minister or a secretary or any other public servant notified by the central government in consultation with Lokpal on this behalf. At the second level, the Lokayukta was to investigate any action taken by or with the general or specific approval of any public servant.³⁸ The Lokpal was to be appointed by the President of India and the CJI while Lokayukta by President in consultation with the Lokpal. The bill, however, failed to secure parliamentary approval.

The Lokpal Bill was introduced in the parliament on eight occasions between 1968 to 2011 but it was never passed.³⁹ Ultimately, the Lokpal and Lokayuktas Act, 2013 was enacted by the parliament, received Presidential assent and was notified in January 2014. Pursuant to the Act, Justice Pinaki Chandra Ghose was appointed in March 2019 as the first Chairman of the Lokpal along with other eight members. Following the completion of his tenure in 2022, Justice Pradip Kumar Mohanty held additional charge. In March 2024, Justice A. M. Khanwilkar, former judge of the Supreme Court, was appointed as the current chairperson of the Lokpal.

The Lokpal is a multi-member body consisting of a Chairperson and up to eight members, of whom half must have judicial backgrounds and half must be drawn from Scheduled Castes, Scheduled Tribes, Other Backward Classes (OBC), minorities and women. Members are appointed by the president on the recommendation of a selection committee⁴⁰ comprising the Prime Minister, Leader of Opposition in the Lok Sabha, the Speaker of the Lok Sabha, the Chief Justice of India, and an eminent jurist nominated by the President.

The Lokpal's jurisdiction extends to the Prime Minister, Ministers, Members of Parliament,

³⁷ Rajani Ranjan Jha, *India's Anti-corruption Authorities: Lokpal and Lokayukta*, 64 INDIAN JOURNAL OF PUBLIC ADMINISTRATION 502, 504-5 (2018).

³⁸ *Id.*

³⁹ Yash Dhawan & Vidhi Marwaha, *Position of Ombudsman in India*, 3 INT'L JL MGMT & HUMAN 641, 646 (2020).

⁴⁰ Rajani, *supra* note 37, at 511.

government officials, and non-governmental organisations receiving foreign donations exceeding the statutory threshold. The armed forces and the judiciary are excluded from its purview. The Act establishes an Inquiry Wing and a Prosecution Wing under the Lokpal and grants it supervisory authority over investigative agencies such as the Central Bureau of Investigation in matters referred to it.⁴¹ Investigations are ordinarily complaint-driven; unlike the Australian Model, the Lokpal does not possess a general suo motu investigative power. Under Section 20(1) of the Act, the Lokpal may conduct a preliminary inquiry to determine whether a prima facie case exists.⁴² If a prima facie case is established, the Lokpal may order an investigation agency or proceed with filing chargesheet or a departmental inquiry. The agency submits the investigation report to Lokpal and the respective court. The Lokpal possesses search and seizure powers and may sanction prosecution or initiate departmental inquiry under Section 27 of the Act. If the complaint is found to be false or vexatious, the Lokpal may initiate proceedings against the complainant.

Notwithstanding its statutory mandate, the Lokpal faces significant limitations. It is not a constitutional body, its appointment process has been criticised for susceptibility to political influence, and its jurisdiction excludes higher judiciary.⁴³ Procedural constraints and resource limitations have further impeded its effectiveness.

5. CONTEMPORARY DEVELOPMENTS AND EMERGING CHALLENGES

The institution of ombudsman operates in a far complex governance environment. Contemporary developments have expanded the ombudsman's remit while simultaneously exposing institutional limits and legal tensions. This section provides a critical, research-oriented legal analysis of the most salient developments and emerging challenges, situating them within the comparative framework of the paper and identifying implications for institutional design and reform.

5.1 Independence, Appointment and Political Capture

⁴¹ Lokpal and Lokayuktas Act, 2013, No. 1, Acts of Parliament, 2014 (India).

⁴² Lokpal and Lokayuktas Act, 2013, § 21, No. 1, Acts of Parliament, 2014 (India).

⁴³ Anjali Bhardwaj and Amrita Johri, *Undermining the Lokpal*, 54 ECONOMIC AND POLITICAL WEEKLY (2019).

A perennial legal question for ombudsman institutions concerns independence⁴⁴: both formal (statutory guarantee, tenure, removal procedures) and practical (budgetary autonomy, political insulation). Comparative evidence shows divergent approaches to achieving independence. Constitutional or parliamentary appointment mechanisms, high removal thresholds, and multi-year fixed tenure are often advanced as safeguards.⁴⁵ Yet empirical and doctrinal critiques reveal persistent vulnerabilities, including executive control over appointments, informal pressures, and delayed or politicised filling of vacancies⁴⁶ undermine operational autonomy. The consequence is twofold: first, a credibility gap that affects public trust and complaint intake; second, legal disputes that test the boundary between executive prerogative and institutional autonomy.

For countries with newly established or statutory ombudsmen (such as India's Lokpal), the risk of ineffectiveness prevails. As some scholars argue, the institution still has a long way to go to substantially achieve its objective.⁴⁷ Moreover, concerns regarding political capture is acute when appointment processes are dominated by incumbent political actors or lack adequate multi-party or judicial participation. Legal reforms that embed cross-branch participation in selection committees, legislate minimum appointment standards, and secure independent budgetary allocations are empirically associated with stronger perceptions of independence. The Venice Principles and comparative guidance have amplified these reform norms by emphasising transparent appointment processes and robust safeguards against premature removal.⁴⁸

5.2 Enforcement and the Soft-Law Problem

A central legal weakness of many ombudsman institutions is the non-binding nature of their recommendations. Where ombudsmen issue findings of maladministration, they typically rely

⁴⁴ Chris Gill, OMBUD INDEPENDENCE AND THE VENICE PRINCIPLES GAC (2024), https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/ombud_independence-independance_ombudsman.aspx?lang=eng (last visited Jan 15, 2026).

⁴⁵ Dean M. Gottehrer & Michael Hostina, ESSENTIAL CHARACTERISTICS OF A CLASSICAL OMBUDSMAN USAO (2019), <https://www.usombudsman.org/essential-characteristics-of-a-classical-ombudsman/> (last visited Jan 15, 2026).

⁴⁶ Julia Dahlvik, Axel Pohn-Weidinger & Martina Kollegger, *Independence despite political appointment? The curious case of the austrian ombudsman board*, 13 NISPACEE JOURNAL OF PUBLIC ADMINISTRATION AND POLICY 181 (2020).

⁴⁷ T. Sadashivam and Shala Tabassum, *India's Anti-Corruption Ombudsman – Lokpal: An Analysis* 70 INDIAN JOURNAL OF PUBLIC ADMINISTRATION 55 (2024).

⁴⁸ Eur. Comm'n for Democracy through Law (Venice Commission), *Principles on the Protection and Promotion of the Ombudsman Institution* ("The Venice Principles"), CDL-AD(2019)005 (May 3, 2019).

more on moral suasion, publicity, parliamentary pressure, and political accountability to compel compliance⁴⁹; methods that can be effective in consolidated democracies but are fragile where executive responsiveness is limited.

The legal question, whether and how to convert soft recommendations into enforceable obligations, poses a tension: granting binding authority risks judicialising an institution designed for informal redress and may invite legal challenges about due process and separation of powers. The policy trade-off thus requires careful calibration: procedural safeguards, graduated compliance mechanisms (e.g., formal response requirements, referral to prosecutorial bodies, enforceable follow-up reporting), and parliamentary oversight can increase effectiveness while preserving the ombudsman's core restorative character.

5.3 Jurisdictional Boundaries and Judicial Independence

The relationship between ombudsmen and the judiciary is legally fraught. Ombudsman mandates typically exclude judicial decisions, reflecting the doctrine of judicial independence and finality of judicial determination. Yet factual overlap arises when complaints allege administrative misconduct by court administrators, delays, or institutional failures within judicial administration. Moreover, some jurisdictions have faced controversies over whether an ombudsman may investigate allegations against serving judges or senior judicial officers.⁵⁰ The legal balancing act requires distinguishing between (a) conduct and administrative acts falling within the managerial remit of judicial institutions, which may be legitimate targets of oversight, and (b) adjudicatory functions and judicial decision-making, which must remain insulated to protect judicial independence. Clear statutory drafting that delimits investigative scope and procedural protections for independence and due process is essential to avoid institutional conflict and to preserve public accountability in judicial administration.

5.4 Resource Constraints and Institutional Capacity

Ombudsmen confront resource shortfalls that limit investigative reach, timeliness, and depth.⁵¹

⁴⁹ Victor Ayeni, *The Role and Effectiveness of the Ombudsman Institution*, NDI RULE OF LAW RESEARCH SERIES 1, 1 (2005), https://www.ndi.org/sites/default/files/1904_gov_ombudsman_080105_5.pdf.

⁵⁰ Krishnadas Rajagopal, SUPREME COURT TO CONSIDER WHETHER LOKPAL HAS POWERS OVER JUDGES OF CONSTITUTIONAL COURTS THE HINDU (2025), <https://www.thehindu.com/news/national/supreme-court-to-consider-if-lokpal-has-jurisdiction-over-judges/article69343586.ece> (last visited Dec 28, 2025).

⁵¹ Kalayu Equar, *Challenges and Roles of Ombudsman Institution in Protecting Human Rights: A Case Study of Addis Ababa City* 9 J POL SCI PUB AFF 4 (2021).

Legal frameworks that fail to guarantee predictable budgets or that subordinate financial allocations to executive discretion risk turning ombudsmen into symbolic rather than substantive accountability mechanisms.

Capacity constraints not only slow case resolution but also reduce the ability to pursue systemic investigations, undertake research, and build expertise in complex regulatory domains. Strengthening institutional capacity requires legal guarantees for budgetary adequacy, staffing autonomy, and access to independent technical expertise (forensic accounting, data analysis, and specialised legal teams).

5.5 The Challenge of Digital Governance

One of the most urgent contemporary challenges is the rise of automated decision-making and AI in public administration. Algorithmic systems are increasingly used for welfare eligibility, tax assessment, immigration control, fraud prevention and streamlining internal operations.⁵² These technologies raise distinctive legal issues for ombudsmen: the opacity of proprietary algorithms; difficulties in establishing the causal chain between input data and adverse outcomes; the need for technical expertise to review complex code and datasets; and questions of remedial redress where harm is systemic rather than the result of a single official's action.⁵³

Ombudsman offices must therefore develop procedural innovations such as, powers to access training data and algorithmic logic; the right to commission independent technical audits; protocols for safeguarding sensitive data and protecting privacy during investigations; and mechanisms for recommending systemic reform of algorithmic governance. Legislative reform may be required to grant explicit inspection rights over automated systems while safeguarding trade secrets and national security considerations through tailored safeguards.

International bodies and regional ombudsman networks have begun to issue guidance on algorithmic accountability, but national legislation will be necessary to make these powers

⁵² OECD, *Governing With Artificial Intelligence: Are Governments Ready?*, OECD ARTIFICIAL INTELLIGENCE PAPERS 1, 5 (2024), https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/06/governing-with-artificial-intelligence_f0e316f5/26324bc2-en.pdf.

⁵³ NSW OMBUDSMAN, *The New Machinery Of Government: Using Machine Technology In Administrative Decision-Making* (2021), https://cmsassets.ombo.nsw.gov.au/assets/Reports/The-new-machinery-of-government-special-report_Front-section.pdf.

effective and defensible in domestic courts.

5.6 Proliferation of Specialised Oversight Bodies and Mandate Overlap

The last three decades have seen a proliferation of sectoral regulators and specialised oversight bodies, data protection authorities, human rights commissions, financial ombudsmen, and anti-corruption agencies. There are a broad range of variation of ombudsman institutions with varied organisational and operational structure, and specialised functional features, that have emerged in past few decades.⁵⁴ While specialization can improve subject-matter expertise, it also generates fragmentation and jurisdictional overlap. Complainants may face uncertainty about the correct forum, and institutions may respond with duplicative or inconsistent findings. Legally, harmonising mandates requires statutory clarity on primary jurisdiction, inter-agency coordination protocols, and formal referral mechanisms. Where overlap persists, legislatures should consider institutional mapping and consolidation or the creation of statutory ‘gatekeeper’ rules to streamline access to redress and prevent forum-shopping.

5.7 Cross-Border and Supranational Challenges

Globalisation of services and private-public partnerships means that maladministration often has cross border dimensions – data flows, transnational welfare schemes, and regional regulatory convergence. Supranational ombudsman models (for example, the European Ombudsman) offer templates for cross jurisdictional cooperation, complaint transfer, and joint investigations.⁵⁵ Yet national ombudsmen face legal limits in enforcing recommendations across borders and must rely on diplomatic channels, memoranda of understanding, and participation in regional networks to operationalise transnational accountability.

5.8 Legitimacy, Transparency and Access to Justice

Ombudsmen derive legitimacy from perceived impartiality, accessibility and demonstrable effectiveness. Legal design that restricts direct public access (for example, MP-filters) or that places onerous procedural hurdles can reduce uptake and public trust. Enhancing legitimacy

⁵⁴ JULINDA BEQIRAJ ET AL., *Ombudsman Schemes And Effective Access To Justice: A Study Of International Practices And Trends*, INTERNATIONAL BAR ASSOCIATION (2018), https://www.biicl.org/documents/2021_access_to_justice_ombudsman_report_2018_full.pdf?showdocument=1%C2%A0.

⁵⁵ THE EUROPEAN OMBUDSMAN INVESTIGATED: FROM OLD BATTLES TO NEW CHALLENGES, (Deirdre Curtin et al. eds., 2025).

requires transparent complaint-handling procedures, clear publication of decisions and follow-up actions, and accessible remedies. Additionally, the ombudsman's role as a complementary mechanism to courts should be emphasised; it offers faster, cheaper relief for administrative grievances but should not replace avenues for judicial review where legal rights require formal adjudication.

6. CONCLUSION

Comparative analysis demonstrates that the ombudsman retains a stable core function i.e., investigating maladministration and recommending remedies, even as its form varies widely across jurisdictions. The Scandinavian archetype emphasises parliamentary independence and proactive supervision; the British and Australian models illustrate how the office can be adapted to parliamentary and federal systems; and the Indian Lokpal represents a statutory, anti-corruption adaptation of the ombudsman idea. Contemporary challenges, including resource constraints, contested jurisdictional boundaries, and the governance of automated decision-making, require reforms that protect independence, clarify powers, and ensure transparency. Strengthening the ombudsman across these dimensions will help realise the institution's promise as an accessible and rights-protecting mechanism in modern administrative states.