Ombuds as Civic Professionals

By Shannon Lynn Burton, Ph.D.

As an idea that burst into popular vernacular in the 1900s, “ombudsmen” have existed as far back as the 1700s. According to the ABA, “Ombuds protect: the legitimate interests and rights of individuals with respect to each other; individual rights against the excesses of public and private bureaucracies; and those who are affected by and those who work within these organizations.”¹ In its earliest iterations, an ombuds was trusted with keeping “an eye on bureaucracy --- especially the judges and tax collectors.”² While King Charles XII of Sweden first outlined this concept, the Swedish Parliament also saw the value of the role in its political structures and followed suit, outlining the ombuds concept in its Constitution of 1809.³ While the idea has expanded to include different types of ombuds: classical, advocate, organizational, among others; at the center of this role is attending to fairness and due process within systems and organizations.

Attention to power balance also solicited the interest of the authors of the Constitution and Bill of Rights. In crafting the Constitution, they too sought ways to check power and authority within the governmental system by outlining three bodies to maintain balance: Executive, Legislative, and Judicial. They also allowed the States to outline their own laws to keep the balance of power. In the Bill of Rights, the Amendments make reference to the importance of impartiality, as well as the importance of a balance between the government and the rights of its citizens to maintain particular freedoms. While the branches of government are tasked with addressing the balance of these rights, organizations and institutions often found that they also needed a place that attended to these concerns in their own structures and administrative processes, especially given that many individuals feel that “The hidden curriculum of our culture portrays institutions as powers other than us, over which we have marginal control at best.”⁴ Hence, balancing this power becomes essential to democratic processes and the role of the ombuds helps to keep this balance.

With the adaptation of the ombuds model here in the United States, these organizations and institutions created a space where individual members of their communities could address their concerns in an impartial manner without the system of checks and balances as outlined by the Constitution. Beginning in the 1960s, during tumultuous times related to civil rights, protest and free speech, many organizations began to adopt the idea of an ombudsman and adapt to their specific needs. This truly hearkens back to the Bill of Rights for Michigan State University as its creation is due, in part, to the case of Schiff vs. Hannah, 282 F. Supp. 381 (W.D. Mich. 1966). In this case, Schiff believed that he had been unduly dismissed from the university due to his political activity on campus rather than his failure to make academic progress. Ultimately, the court determined that it would not hear the case and referred it back to the university for consideration:

There are issues of fact which should be resolved, and as will appear in the course of the Court's opinion, the Court has concluded that this matter can be disposed of without the interference of the United States Courts… It is the opinion of the Court that this matter should be handled by the authorities at Michigan State University without a court order,
except as later developments may point out the necessity for action by this or some other court.

However, it began discussions on campus regarding the creation of structures that would attend to due process and lessen the alienation felt by its students, or citizens of its community. Thus, the Office of the University Ombudsperson was formed in 1967 and is outlined in the Student Rights and Responsibilities document as Article X. According to James Rust, Michigan State University’s first ombuds, as their governmental counterparts, university ombuds were “concerned with complaints about arbitrary and capricious enforcement of regulations, with requests for help in a variety of situations, with explaining the meaning of regulations and the necessity of their existence.” Essentially, their power lie in the ability to state their views openly and honestly to the organization, as well to the visitors to their office. Rust also noted that the ombudsmen’s principle power was expressed in a Danish statute citing “In any case the Parliamentary Commissioner [ombuds] may always state his views on the matter to the person concerned.” Given the charge of addressing concerns related to fairness, due process and conflict from the lens of a third party not engaged in the initial dispute between the organization and its community, the ombuds fills a space as a civic professional and continues to “keep an eye on bureaucracy.”

Coined in recent years, a civic professional is an individual who works “with citizens rather than acting on them”. They are able to take a step back and allow those that they work with to engage in the processes themselves, thereby building their social capital and capacity to resolve concerns and address systemic concerns on their own. Civic professionalism addresses the education of individuals who understand the civic responsibilities that accompany their decisions and actions in the world of work, school or in other communities. As a facilitator of learning about conflict resolution skills, and more broadly, engaging our democratic, and organizational, processes proactively, an ombuds as a civic professional is further supported by adult learning theory, in particular, the work of critical theory centering on Paulo Freire. In his work, Pedagogy of the Oppressed, he outlines emancipatory learning in such a way as to transform structures and create a more equitable and just world. Emancipatory learning centers on the ideas that everyone is interrelated, words have meaning and transformative power, and that we seek to re-humanize both the oppressed and the oppressor. In the work of ombuds, there are moments where one addresses the human connections and focuses on not just what is said, but how it is said. Ombuds examine those spaces where individuals might interact on level ground and engage the members of their communities in engaging in not just talk, but deep conversation to address concerns. It is in this space that they seek to transform structures and make the space more equitable… where ombuds seek to build civic capacity and rebuild connections among community members.

Given this perspective, what does this mean for the work of an ombuds? How can ombuds better position themselves to serve those broader democratic principles in a time of increased partisanship and incivility? As with emancipatory learning, ombuds offer individuals a space to reflect on their concerns and, through behavioral modeling, create an opening for individuals to learn about their role in engaging conflict and systems in a productive manner. Additionally, their ability to criticize and question structures with the focus of fair and equitable spaces opens room for visitors to give voice to their concerns directly. In the vein of civic
professionals, given their well-versed and practical roles in mediation and conflict resolution, ombuds are uniquely positioned to facilitate conversations related to finding common ground on issues when groups are inherently divided. They can work within their role and scope to show individuals how to advocate for themselves and their views when differing views/opinions arise, and how to listen to the other side of that issue. By the very existence of a third party within an organization, regardless of their adherence to neutrality, ombuds help to create understanding of issues and of people within the organizational community itself.

Shannon Lynn Burton, PhD became the University Ombudsperson at Michigan State University in July 2018 after serving previously as both the Assistant University Ombudsperson and later Associate University Ombudsperson. Dr. Burton serves the broader professional community through her work as one of IOA’s inaugural co-chairs for the Research and Assessment Committee and as Co-editor for the Journal of the IOA (JIOA). She earned her PhD in Higher, Adult and Lifelong Education with a Specialization in Global Urban Studies from Michigan State University. She also has a Master of Science in Academic Advising (Kansas State University), a Master of Arts in Student Affairs Administration (Michigan State University), as well as a Bachelor of Arts in Sociology, and a Bachelor of Arts in Spanish (Grand Valley State University). In 2018, she also completed a graduate certificate in Dialogue, Deliberation and Public Engagement (Kansas State University). She can be reached at sburton@msu.edu

2 James Rust, A Campus Ombudsman Looks at His Job, OMBUDSMAN PAPERS; AMERICAN EXPERIENCES AND PROPOSALS, Berkeley: Institute of Governmental Studies, University of California (Stanley V. Anderson, ed. 1969).
3 Id.
6 Rust, supra note 2 at 327
7 Rust, supra note 2 at 322