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The Evolution of the Ombudsman Institution: An Academic Perspective

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Abstract: This article explores the historical development, institutional evolution, and contemporary relevance of the Ombudsman institution, focusing on its role as a mediator between citizens and public authorities. Originating from early administrative practices and formally institutionalized in Sweden, the Ombudsman has become a key mechanism for safeguarding individual rights and promoting governmental accountability. The study examines the expansion of the Ombudsman model globally, with particular emphasis on its emergence in post-communist states as part of democratic transitions. The article also addresses the absence and potential role of such an institution in authoritarian regimes, with a specific focus on North Korea. Through analysis of political, legal, and social contexts, it argues that the establishment of an independent Ombudsman requires systemic political transformation, highlighting the challenges and prospects of implementing this institution in repressive environments. The work concludes by reflecting on the Ombudsman's enduring significance in fostering transparency, justice, and citizen empowerment in diverse governance frameworks.

Keywords: Ombudsman institution; citizen rights; government accountability; post-communist transition

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1. Introduction

Throughout history, societies have faced the challenge of balancing authority and individual liberty. As states grew in complexity, so did the need for institutional mechanisms that could mediate between the administrative apparatus and citizens. The Ombudsman, often translated as “representative of the people,” has emerged as one such mechanism, designed to safeguard citizens’ rights in their interactions with public authorities (Kaufmann & Franck, 2012). Though the modern Ombudsman model originated in Sweden, the concept of an intermediary authority predates this formalization and can be observed in various ancient civilizations (Heywood, 2013).

2. Historical Origins and Precedents

The origins of the Ombudsman can be traced to early administrative structures where rulers appointed officials to address grievances from the public. In ancient Egypt, designated individuals received and processed complaints from citizens on behalf of the pharaoh (Bunson, 2002). Similar practices were evident in the Roman Empire, where tribunes acted as intermediaries between the people and state officials. Although these early forms lacked the formal legal structure of the modern Ombudsman, they served a similar function: to ensure fairness and accountability within governance. (Mulgan, 2003).

2.1. The Swedish Model: Formal Institutionalization

The institutionalization of the modern Ombudsman began in Sweden during the reign of King Charles XII. Following military setbacks, the king, while exiled in the Ottoman-controlled territories of present-day Moldova, sought a means to maintain oversight over public officials from a distance. In 1713, he issued an ordinance establishing the office of the High Ombudsman, tasked with supervising the legality of administrative conduct in his absence. This early form of the Ombudsman was primarily an instrument of the monarchy.

A significant transformation occurred with the inclusion of the Ombudsman in the Swedish Constitution of 1809. This change marked a shift from royal oversight to parliamentary control, reflecting the broader movement toward constitutionalism and the separation of powers. The Ombudsman became an independent authority answerable to the legislature, empowered to investigate complaints and ensure that laws were applied fairly and consistently by the administration (Tomasz, 2015).

2.2. Institutional Maturity and Global Expansion

The Swedish model served as a prototype for other nations, especially in Scandinavia. Finland adopted a similar institution in 1919, establishing both a Parliamentary Ombudsman and a Chancellor of Justice, each with distinct but complementary functions. The model gradually spread beyond Northern Europe, particularly after World War II, when the need to protect human rights and rebuild public trust in government institutions became urgent.

In the 1950s and 1960s, countries such as Denmark, Norway, and New Zealand institutionalized their own Ombudsman offices. The idea gained further traction in democratic nations like Canada and Australia, and eventually in transitioning democracies across Eastern Europe, Latin America, and parts of Africa and Asia. Each adaptation of the Ombudsman has reflected the specific legal culture and political environment of the adopting country.

3. The Absence of Legal Recourse in a Totalitarian Context. The Case of North Korea

In North Korea, all branches of power are subordinated to the ruling party, and there are no independent mechanisms to monitor administrative abuse or human rights violations. Citizens have no legal avenues through which to challenge government decisions or appeal to neutral authorities. The lack of judicial independence, combined with pervasive surveillance and ideological control, ensures that the state remains unanswerable to its population. In such a context, the concept of an Ombudsman is virtually non-existent, not only institutionally but even conceptually within state discourse.

3.1. The Function of an Ombudsman in Authoritarian Contexts

In theory, an Ombudsman could serve as a neutral intermediary, tasked with investigating complaints of administrative injustice, abuse of power, or violations of fundamental freedoms (Linz, 2000). For North Korea, such an institution would need to be rooted in legal guarantees of independence and transparency and protected from political interference. However, the authoritarian nature of the regime makes the implementation of such safeguards highly improbable under current conditions. Thus, while an Ombudsman could represent a structural safeguard for citizens, its viability requires systemic transformation.

Personal accounts from former North Korean citizens reveal a consistent pattern of arbitrary detention, lack of due process, and widespread abuse by state agents. Individuals have described extrajudicial imprisonment, forced labor, and routine violations of privacy and bodily integrity. These testimonies, although unofficial in legal terms, provide valuable insight into the daily consequences of unchecked power. The absence of an Ombudsman-like institution means there is no buffer between the citizens and the state's coercive apparatus, leaving individuals entirely exposed to abuse.

Introducing an Ombudsman within the DPRK's current political system is unlikely, given the regime's dependence on absolute control. Attempts to create independent institutions would be perceived as threats to state authority. As such, the creation of a meaningful Ombudsman body necessitates not just legal reform, but political transformation. A post-totalitarian transition—whether gradual or abrupt—would be essential to laying the groundwork for a structure that defends human rights and supports citizen-state mediation.

Other states transitioning from authoritarianism to more open forms of governance have shown that independent institutions often play a key role in post-conflict reconciliation and institutional rebuilding. While the cultural and political specificity of North Korea presents unique challenges, experiences from post-communist states and transitional justice frameworks offer conceptual models for the phased introduction of oversight institutions, including Ombudsman offices, once fundamental political reforms take place (Diamond, 1999).

The institution of an Ombudsman represents more than a legal mechanism; it is a symbol of the state's willingness to be held accountable by its citizens. In the case of North Korea, the absence of such a mechanism underscores the broader denial of civil and political rights. Establishing an Ombudsman would require a radical transformation of the political system, beginning with the dismantling of the regime's authoritarian structure. Only through systemic change can institutional accountability, citizen empowerment, and the protection of fundamental rights become viable within the country.

4. The Evolution of the Ombudsman Institution in Post-Communist States: A Comparative Perspective

Following the collapse of communist regimes in Eastern Europe and Central Asia, many post-authoritarian societies undertook significant reforms to establish

democratic governance and protect individual rights. Among the newly introduced institutions was the Ombudsman, envisioned as an independent authority capable of mediating between the state and the citizen. The post-communist transition presented an opportunity for states to reconfigure their public institutions in alignment with democratic norms. Among the institutions introduced or restructured was the Ombudsman, often referred to as the public advocate or human rights commissioner. This role was critical in contexts where citizens had previously lacked formal channels to challenge administrative abuse or arbitrary state action.

4.1. Key National Case Studies

Poland

Poland was among the earliest post-communist countries to establish a functioning Ombudsman institution. Created in the late 1980s, prior to the full democratic transition, it served as a bridge between authoritarian legality and emerging democratic practice. In the following decades, the institution gained public trust through active investigation of citizen complaints and consistent reporting to Parliament.

Hungary

Hungary adopted a dual model with specialized Ombudsmen, each focusing on a specific area such as civil rights, minority protection, or environmental concerns. While this specialization allowed for targeted oversight, coordination challenges sometimes limited their collective impact. Over time, reforms streamlined the system into a unified authority, although political pressures occasionally tested its autonomy.

Ukraine

The establishment of the Ukrainian Parliamentary Commissioner for Human Rights signaled the country's effort to align with European human rights standards. While the institutional framework was robust on paper, the actual performance of the office depended heavily on the political climate. External partnerships, especially with European organizations, played a vital role in supporting the capacity and legitimacy of the Ombudsman.

Georgia

Following its independence, Georgia introduced the Public Defender institution as part of a broader democratic reform package. Its mandate expanded over time to include investigations into abuse by law enforcement, conditions in detention facilities, and systemic human rights issues. Although the institution faced resistance from segments of the political elite, civil society support contributed to its resilience.

Romania

In Romania, the establishment of the Ombudsman—known as the People's Advocate—was a significant step in the post-communist transition toward democracy. Enshrined in the 1991 Constitution, the office became operational in 1997. Its primary role has been to mediate between citizens and state authorities, addressing complaints related to human rights violations and maladministration (Deleanu, 2003).

Initially, skepticism surrounded the institution's effectiveness in a society still adjusting to democratic norms. However, its importance has grown steadily as it has demonstrated the capacity to address grievances and promote accountability. The Romanian Ombudsman has engaged in preventive and educational roles, raising public awareness of rights and advocating for institutional reforms (Vlad, 1998).

5. Challenges to Implementation

Despite constitutional guarantees, many post-communist Ombudsman institutions struggled with issues such as inadequate funding, limited enforcement power, and political interference. The lack of a deeply embedded culture of accountability also impeded Ombudsman's effectiveness in some countries. In several cases, high public expectations were met with institutional limitations, leading to disillusionment with the office.

International actors, particularly European institutions and human rights organizations, influenced the development of Ombudsman offices in post-communist countries. Participation in regional Ombudsman associations, adherence to UN principles, and compliance with EU accession requirements often encouraged institutional reform. Such engagement not only enhanced visibility but also provided technical assistance and training.

6. Contemporary Role and Future Directions

Today, the Ombudsman is recognized as a cornerstone of democratic governance. Its functions include receiving complaints, initiating investigations, reporting on systemic issues, and recommending legal or administrative reforms. The institution's effectiveness relies on its independence, accessibility, and authority to act without fear of political interference.

Despite the progress, challenges remain. In some jurisdictions, Ombudsman offices suffer from limited mandates, insufficient funding, or political pressure. Efforts to enhance institutional capacity, ensure functional autonomy, and foster public trust are ongoing.

Furthermore, the digital age presents new opportunities and risks. The Ombudsman must now address grievances related to digital governance, data protection, and algorithmic decision-making. As such, the institution must evolve to remain relevant in an increasingly complex administrative landscape.

7. Conclusion

The Ombudsman institution has undergone a significant transformation from its early conceptual forms to its contemporary role as a guardian of legality and human rights. While it originated in Sweden, its global adoption underscores its adaptability and relevance. In both mature and emerging democracies, the Ombudsman serves as a vital link between the governed and those who govern. As new challenges emerge in public administration and governance, the Ombudsman will continue to evolve, reinforcing the principles of accountability, transparency, and justice.

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