

*The first Ombudsman – the challenges of starting out*

*António Paisana*

AESOP, University of Minho, 22-26 May 2017

---

I would like to start by thanking the organization of this Seminar, in the person of Prof. Paula Cristina, for having invited me to address this first session.

I would like also to welcome you all to the Seminar and I am certain that you will take with you important notes and ideas that will help you in the future.

As has been noted, the post of an Ombudsman was first created in Sweden back in 1809, by the Swedish Parliament. The Ombudsman was intended to represent the people after the kidnapping of their king.

Also important is the year of 1960 as it is the date that the first organizational ombudsman was introduced in the USA. This was in opposition to the more traditional concept of Ombudsman, associated with complaints of the general public concerning specific areas of governance.

In Portugal, the creation of the post of the University Students Ombudsman dates back to a law of 2007, and it was implemented at the University of Minho in 2010.

As mentioned before, I was the 1<sup>st</sup> Minho University Student's Ombudsman and stayed in that post until 2015.

In today's Seminar I was asked to share with you some of the challenges posed and solutions found in my days as the student Ombudsman of this Institution.

The specific Minho University's Ombudsman Regulatory framework sets out the main guidelines in relation to the posts:

- A) relative standing in the overall University hierarchy (dependent only on the General Council and on the Rector),
- B) relationship with the University's organic units and services (namely the obligation to supply, in due time, all the data and information required),
- C) principles of operation. There are three fundamental ones namely  
Neutrality to ensure that every student can be heard without judgment.  
Confidentiality so that students can present sensitive information and  
Independence to assure that the ombudsman operates in the best interests of the organization as a whole.

In brief, the original and still current regulation sets out the conceptual and the organizational framework and, to a certain extent, the profile of the Ombudsman.

The thinking behind this implicitly recognizes the existence of faults in the system that are liable to affect people, i.e., the system is likely to let people down by not letting them be properly heard.

In this regard, let me quote the President of MIT after reading one of Mary Rowe's first (long) list of concerns as the MIT Ombudswoman. His comments were: "Mary, did MIT have any of these problems before you came?"

On the way out the door, he told her that she should help each person who came to her as well as she could and added, "Don't let any problem happen twice," a charge Rowe still sees as an integral aspect of her role.

Furthermore, the following is expected of an Ombudsman,

...she/he should offer all informal, interest-based, dispute resolution options: listening, coaching, informal intervention, "looking into a matter" informally, classic mediation, facilitating generic approaches to a problem, support to systems change, safe access for people with serious concerns, and confidential transmittal of information for those who need to "blow the whistle",

This highlights the importance of the post and of the challenges that it entails. I started realizing the real importance of the post and quickly appreciated the challenges that lay ahead.

The most immediate challenge that I faced was how to organize and put to work the Ombudsman office, and this involved:

In the first instance, gathering resources:

...finding a well-equipped office (the environment is important) and recruiting staff...I must recognize that I was fortunate to have had both provided in record time.

As far as 'being the Student Ombudsman was concerned, the initial challenge was how to design internal procedures in order to accommodate the widely different types of complaints that were expected.

In brief, and once the complaint was received via email, face to face, or phone call, accepted, and registered, the following actions were taken:

1stly...preparing the case: this involved classifying the issue, identifying the source, collecting data and information from others within the organization to assist in working the matter

2ndly...understanding and addressing the issue (interacting with the Institution), preparing the case (setting out outstanding points, building the case: considering resolution system options)

3rdly Initiating the process (face to face contact) and taking action (inform, forward, advise, mediate)

4thly Monitoring the progress (consider further actions)

5thly Drawing conclusions (approved, rejected)

6thly Making recommendations

However, and concomitantly, other functions had to be addressed, namely:

Designing an informatics tool to register all aspects of each complaint (types/methods of resolving/resolution types/timings), and other performance indicators

Building and establishing internal circuits (Organizational units / Service units) and adopting different types of approaches – more cooperative or more authority based

As for selling the service to the students (publicizing the post: its existence and functions) this was not an easy task. The means used were the University site (direct link to the Ombudsman page,) the Student Union's office and press interviews.

Finally, the Ombudsman activity was (is) accountable to the General Council of the University only once a year by means of presenting and discussing an annual report.

Having established the essential framework and the basis for the functioning of the Office, the next challenging stage was to gather momentum in terms of asserting its credibility with its users (students) and with the Institution providers (organizational and service units).

Gaining momentum **with the students** was built by being faithful at all times and circumstances to the three cardinal principles of operations - being neutral, confidential and independent. In fact Winangali has shown that some of the things that would make a complaint process easier and more attractive are:

- Having someone students know and trust to go to or call, preferably a person who understands their issues
- Being able to talk face to face, not via email, phone or the Internet
- Having written correspondence as a record of their complaint
- Being able to complain in a location they feel safe and confident

- Having confidence in the impartiality of the person they are complaining to
- Having confidence that making a complaint will make a difference

Gaining momentum with **university providers** on the other hand, was achieved by encouraging them to search for change.

Gaining momentum with **the students and the University providers was attained by jointly** accepting a system approach to problem solving. As Colin Neave - Commonwealth Ombudsman - pointed out, *although some issues have a one-to-one relationship between the problem and the individual, many others have a one-to-many relationship, i.e., a single administrative problem could be adversely affecting a large number of people and detracting from good public administration as a whole. The important point here is that it is weak systems that provide the opportunity for poor and unfair conduct and thus that systemic issues should be addressed.*

Finally, the success of the incumbent of any post should be measured by whether a better organization than the one found on arrival is left behind. In this regard, the student's Ombudsman faces important challenges.

As I pointed out in my inauguration speech to the 4<sup>th</sup> National Ombudsman Meeting in 2014, there are many skeptical stakeholders who share the idea that the student's Ombudsman only deals with a small part of a wide universe and that mistakes are inevitable anyway. In this regard, Colin Neave - the Commonwealth Ombudsman) – noted that an unsatisfied client will tell his/her experience to between 9 and 15 people – an indication of the power of word of mouth - and that it is 4 times more likely for a client to abandon an organization due to a problem related to the service provided than due to the price or the product itself.

Concomitantly, Mary Rowe pointed out that there is not only one scientific method to measure the cost benefit of the work performed by an organizational Ombudsman due to the difficulty of measuring the intangible benefits associated with the “informal and largely invisible” work functions performed.

I would like to end by reinforcing two points:

Firstly, the idea that, by nature, complaints are emotional exercises. In fact, as has been noted by Dr. Wagner, *an ombudsman knows from experience the relief many people feel from the opportunity to tell their story; the sense of dignity people acquire from being listened to without being judged; the empowerment people gain from having a range of options and being able to select their own preferences; the peace of mind people achieve from conciliation, apologies, forgiveness, restoring reputations and re-building trusting relationships.*

The fact is, that it is those users who complain, that value their relationship with the organization and want to help it improve. It is they who worry, and it is they who are giving the organization an opportunity to mend things.

Secondly, I strongly believe that, as Dr. Marsha Wagner of Colombia University pointed out, Universities are increasingly recognizing the role of the Student's Ombudsman in the development and implementation of a new conflict resolution system and in doing so they are making their Universities more inclusive, participative and fair.

Thank you for your attention.