

Dragana M. Ćorić
University of Novi Sad
Faculty of Law Novi Sad
D.Coric@pf.uns.ac.rs
ORCID ID: 0000-0001-5485-5176

OMBUDSMAN/WOMAN/PERSON OR ELSE- A GENDER SENSITIVE DISPUTE*

Abstract: *In an era of the greatest opportunities and the widest range of human rights and freedoms, their implementation is becoming increasingly questionable. It is forgotten that the existence and implementation of one person's rights is limited by the existence and implementation of the same or another right of another person. This does not mean that rights are in any way divided or diminished, but that the holders of rights must be aware that they are members of a community, within which everyone is equal in rights and obligations.*

One of the mechanisms for establishing full equality between men and women is the use of gender-sensitive terminology, which is primarily reflected in the use of nouns that are designated – in the feminine gender, which prevents discrimination and gives the impression and invitation to women to enter professions that have traditionally belonged exclusively to men.

The paper discusses one such debate, which directly concerns people who work in area of the protection of human rights, and how human rights defenders themselves, as well as other lawyers and linguists, view this subtle, yet significant linguistic change in the designation of this important profession. Also, in this paper we raise some methodological questions, and we point out some paradoxes that arise when strictly applying this (or any other) right and obligation (meaning here, while using gender-sensitive terminology).

Keywords: *ombudsman, ombudswoman, ombud, gender sensitive, language.*

* This paper is the result of the work of the author in scientific project "Legal tradition and new legal challenges" (*Pravna tradicija i novi pravni izazovi*), which is financed by The Faculty of Law in Novi Sad.

GENERAL REMARKS ON OMBUDSMAN'S ROLE AND THE USUAL NAMES OF THE INSTITUTION

Ombudsmans, or protectors of citizens' rights are usually appointed by national, regional or parliaments of the municipality, depending on the territory on which they are entitled to work¹. Their independency is guaranteed through this way of selection, because parliaments are constituted from people's representatives, so, indirectly ombudsmans are elected from the people, for the people. In some countries they are appointed by governments or by presidents of the countries² (for example in Russia the Ombudsman for Children is appointed directly by the president of the country³), which, in a way, regarding ways of electing those state bodies and officials, means indirectly inclusion of the people (citizens) in the election of ombudsmans.

The main activity of ombudsman is to identify problems in functioning of system on the state, regional or local level of authority and to help citizens who had or would have difficulties in exercising one's rights or fulfilling one's obligations due to inadequate, bad or illegal work of those competent authorities. Ombudsman usually starts investigation on the basis of a suspicion of a violation in the work of a competent authority in executive branch, that threatens the realization of a human right or in any other way undermines the confidence of citizens in the strength and objectivity of the work of the competent authorities. The investigation is not solely directed towards executive bodies, but also to institutions that perform tasks entrusted to them by executive authorities in that territory, such as schools, health centers, social work centers, gerontological homes, etc. The Ombudsman investigates such situations either directly on the basis of the complaint of those whose rights have been violated (or think that their rights have been violated) by such work of the competent authorities or when someone else (the third party) has that knowledge (of possible violation of human rights); or on his/her own initiative, based on direct knowledge of such a violation or the possibility of a violation.

¹ For example, in Republic of Serbia, there are ombudsmans on all three level of territorial organization: republic (Закон о Заштитнику грађана, "Службени гласник РС", број 105 од 8. новембра 2021.), provincial (Покрајинска скупштинска одлука о Покрајинском заштитнику грађана – омбудсману, "Сл. лист АП Војводине", бр. 37/2014) and local, ie municipality level (Закон о локалној самоуправи, „Службени гласник РС“, бр. 129 од 29. децембра 2007, 83 од 5. августа 2014 – др. закон, 101 од 16. децембра 2016 – др. закон, 47 од 20. јуна 2018, 111 од 25. новембра 2021 –др.закон).

² This must be noted as general remark. We don't find it relevant here to discuss more in details all the ways of appointing ombudsmans, even in European countries, because, in our opinion, it would distract us a lot from the topic we are dealing with in this paper.

³ The last Presidential Commissioner for Children's Rights was appointed in 2021 : *Путин назначил Марию Львову-Белову уполномоченным по правам ребенка*, available on : <https://tass.ru/obschestvo/12781201>, 01.03.2024.

Some ombudsman's investigations could be urgent, because any further delay can lead to even greater damage to someone's rights⁴. This investigation should not be viewed as a criminal investigation⁵, but rather as the procedure of establishing the facts on the basis of which could be determined whether a violation has occurred or not, and if so, recommends how irregularities in the procedure should be corrected. Recommendations and opinions of the ombudsman are not binding, but a larger number the ombudsman has the authority to propose the dismissal of the head of the competent body or another person who should have acted on their recommendation or opinion and did not act. Although the procedure is mainly aimed at reconciliation between two potentially conflicting parties, the citizen and the competent authority. Nevertheless, ombudsman is more on the side of citizen(s), because with its work he/she protects their interests and rights, while at the same time draws the attention of state authorities on how to do their work better and avoid the following similar situations.

Synonym for ombudsman's name is also *protector(s) of citizens' rights*, but it is also *Raonador del Ciutadà*⁶ (Andorra), *Defensor del Pueblo de la Nación* (Argentina)⁷, *Human Rights Defender* (Armenia)⁸, *Mediator* (France⁹, Bulgaria), *Commissioner for Fundamental Rights* (Alapvető jogok biztosa) in Hungary, *Lokpal or Lokayukta* in India, *People's Advocate* in Romania, *Defensoria* in Peru, *Provedor de Justiça* in Portugal. Situation in Belgium is specific, because it has one federal and four regional statutory ombudsman agencies, all covering the normal range

⁴ For example, possible negligence of institutions in cases of domestic violence, which did not have the lethal or any other serious consequences yet, but are caught in the beginning of domestic dispute and still can be prevented can be the subject of an ombudsman's procedure – during which it may be found that, for example, an employee of a social work center has denied assistance to a person suffering from domestic violence on the basis of his personal prejudices regarding one of the status characteristics of the person seeking assistance (poverty, nationality, etc.)

⁵ The term that ombudsmen use when starting this investigation is “the examination procedure” (ispitni postupak), which terminologically can resemble as to “the investigative procedure” (istražni postupak), which is a preliminary procedure in relation to the initiation of criminal proceedings. The general public, who do not necessarily know legal terminology well, or even know it at all, often confuse these concepts, and in their requests for the protection of rights, citizens ask the ombudsman to initiate an investigation, which materially does not correspond to the scope of activities that the ombudsman can undertake. Republic Ombudsman therefore, lately has been using the term “control procedure” more to avoid misunderstanding regarding the process being carried out, for example : <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/8179-p-sh-lic-isp-i-u-sluc-p-r-dicn-g-n-silj-n-d-d-n-p-liluli>, 01.06.2025.

⁶ Raonador del Ciutadà (Andorra), <https://www.raonadordelciutada.ad/>, 01.03.2024.

⁷ Defensor is more in the sense of *defending actively from someone's "attack"*, <https://web.archive.org/web/20080621110007/http://www.defensor.gov.ar>, 01.03.2024.

⁸ This institution celebrated its 20th Anniversary in 2024 , https://www.ombuds.am/en_us, 09.01.2025.

⁹ From 2011, it is called *Défenseur des droits* (the one who protects the law as legal system), <https://www.defenseurdesdroits.fr/>, 01.03.2024.

of complaint-handling, investigation and mediation within the respective jurisdictions of their founding legislature. Three regional ombudsmen are dedicated to help citizens in specific linguistic communities: *The Vlaamse Ombudsdienst* was established by the Flemish Parliament¹⁰, the *Walloon Ombudsman* (*Médiateur de la Région Wallonne*), established by the Walloon Parliament¹¹, and there is *Ombudsman of the German-Speaking Community* (*Ombudsmann der Deutschsprachigen Gemeinschaft*)¹².

In some countries ombudsmen's office hold not one, but more persons who have the same right and obligations regarding protection of citizens' rights, such as in Austria (three-member *Ombudsman Board-Volksanwaltschaft*, literally People's Representatives), in Taiwan (The 29 Members of *Control Yuan* are nominated by the President and confirmed by the Legislative Yuan¹³) or in Uruguay (*Instituto para los Derechos Humanos y Defensoria del Pueblo*¹⁴ consists of five members appointed by the president of the country and confirmed by the parliament). In some countries there are no specific ombudsman's offices, but some other governmental bodies take their role, jurisdiction and powers, such as in Mexico (*National Human Rights Commission*¹⁵) or NGO's doing the same, as in Chile (*Capítulo Chileno del Ombudsman*¹⁶, an organization lobbying for the constituting of a national ombudsman).

There are also special ombudsmen's offices, which deal with specific issues, such as pensions (Pensions Ombudsman service in Belgium¹⁷), for the victims of crimes (Canada)¹⁸, for consumers' rights (Denmark)¹⁹, etc.

Besides all those different names of the institution, the aims of constituting are the same- to have efficient and (politically) independent control of executive branch and to bring its work closer to citizens, in order to gain their confidence.

¹⁰ More on website : <https://www.vlaanderen.be/vlaamse-ombudsdienst>, 01.03.2024.

¹¹ More on website : <https://web.archive.org/web/20070204054438/http://mediateur.wallonie.be/>, 01.03.2024.

¹² More on website: <https://www.dg-ombudsmann.be/>, 01.03.2024.

¹³ There are five branches in Taiwan, as well as in China. Control Yuan is the ombudsman's part : Constitution of the Republic of China (Taiwan) , Chapter IX is about the forming of Control Yuan and its jurisdictions, , more on : <https://law.moj.gov.tw/ENG/LawClass/LawParaDeatil.aspx?pcode=A0000001&bp=9>, 01.05.2024. The official website of Control Yuan : <https://www.cy.gov.tw/en/>, 01.05.2024.

¹⁴ More on website: <https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/>, 05.06.2024.

¹⁵ Official website: <https://www.cndh.org.mx/>, 05.06.2024.

¹⁶ More about the work of this organization: https://www.cconstituyente.cl/comisiones/verdoc.aspx?prmid=1317&prmtipo=documento_comision, 07.06.2024.

¹⁷ Website of this ombudsman is on four languages: <https://www.ombudsmanpensioen.be/>, 05.06.2024.

¹⁸ Office of the Federal Ombudsperson for Victims of Crime: <https://www.victimfirst.gc.ca/>, 05.06.2024.

¹⁹ Forbrugerombudsmanden , official site : <https://forbrugerombudsmanden.dk/>, 05.06.2024.

THE CHANGE OF PARADIGM- USE OF GENDER SENSITIVE TERMINOLOGY

But during the 90s of the 20th century, with the emergence and subsequent expansion of the narrative of the use of gender-sensitive terminology as a way of showing respect for women and abolishing any form of gender discrimination by using all job titles in the feminine grammatical gender, the existence of the ombudsman institution seems to have added another goal: the additional empowerment of women and the encouragement of women to assume the position of ombudsman through the use of the gender-sensitive term ombudswoman. The term ombudsman itself has been questioned as to whether its original linguistic form contained the initial prohibition for women to engage in this function, and is therefore unacceptable in the modern era; whether and to what extent the defenders of human rights truly advocate for permanent gender equality and whether they are ready to demonstrate this by their personal example. The promotion of the importance of the existence of the ombudsman, as well as the activities he undertakes in order to achieve the full efficiency of the work of the executive authorities, seem to have fallen into the background. The existence of the ombudsman received a new narrative, considering the form and not so much dealing with the essence of the work of this institution; all other segments of work were curtailed, and only the gender segment, that is, the fight against discrimination against women, gained importance, and all other issues, such as the rights of children, the elderly, national minorities and other vulnerable social groups, seemed to lose their importance. So it became very important whether you are ombudsman, ombudswoman or just Ombud²⁰.

So, who is right and who might be wrong while using or just debating or advocating for use of some other titles than ombudsman? Is ombudsman truly that patriarchal term²¹, and does its use really contribute to the disparagement of women who perform this function? Will a woman, as the current holder of that office, be more visible in public, with all her knowledge and abilities, if she uses a gender-sensitive expression for the office she holds? Or can this antidiscriminative mechanism become opposite of its purpose and make the public start to think that a woman is in the position of ombudsman only because she is a woman and not because she is truly capable of performing that function, which could be considered discrim-

²⁰ In german language can be found the next doublets: ombudsfrau (as ombudswoman), ombudsleute (as ombuds), and ombudspersonen (as ombudspersons). All are equally used, as the person holding the office wants to be adressed to.

²¹ The use of the name of a profession only in the masculine grammatical gender does not always mean that there will be only men in that profession, but it always means that there are also women in that profession who were not mentioned and were made invisible due to male linguistic chauvinism, see: Svenka Savić, “Žena sakrivena jezikom medija: kodeks neseksističke upotrebe jezika”, http://www.e-jednakost.org.rs/site/wp-content/uploads/2015/05/Kodeks_Svenka.pdf, 23.04.2025.

ination against men who have the knowledge and skills to perform the same job? Having in mind that ombudsman is for more than two centuries synonym for protection of human rights and symbol of thriving citizens' rights in general, we find this dispute about the gender sensitive name of this institution rather interesting, because of various legal opinions presented in this dispute.

We also point out that in accordance with the amendments to the *Law on gender equality*²², that entered into force in May 2024, the use of gender-sensitive terminology in official communication was mandatory (even when the woman herself does not want to be addressed that way). But, Constitutional Court of Republic of Serbia, with its decision Nr. IY3-85/2021 from the 28.06.2024.²³, **suspended the application of this law, ie. suspended the execution of only individual acts or actions undertaken on the basis of all provisions of the Law on Gender Equality**. Since 2021. till 2024. even 8 constitutional initiatives against this law were submitted by citizens, as well as the initiative from the Protector of Citizens of Republic of Serbia, as an authorized proposer of such initiative. The last initiative seems to have been crucial; after its submission the Constitutional Court resorted to the measure of suspension of the application of the law, as already stated, until it makes a decision or opinion regarding all submitted initiatives. So, **the application of this law, in the part of use of gender sensitive names is not obligatory**, but lots of state institutions²⁴, as well as representatives of the media are using it.

WHY GENDER SENSITIVE/GENDER NEUTRAL TERMINOLOGY IS SO IMPORTANT

“Gender-neutral language is a generic term covering the use of non-sexist language, inclusive language or gender-fair language. The purpose of gender-neutral language is to avoid word choices which may be interpreted as biased, discriminatory or demeaning by implying that one sex or social gender is the norm. Using gender-fair

²² Закон о родној равноправности, “Службени гласник РС”, 52/2021.

²³ Decision available on : <https://stanjestvari.com/wp-content/uploads/2024/07/Odluka-Ustavnog-suda-gender.pdf>, 01.08.2024.

²⁴ We refer to some of the guides and manuals for the use of gender-sensitive language in domestic literature: Svenka Savic ,Marjana Stevanovic, *Vodic za upotrebu rodno osetljivog jezika u javnoj upravi u Srbiji*, Organizacija za evropsku bezbednost i saradnju, Misija OEBS-a u Srbiji, 2019; Hristina Cvetinčanin Knežević, Jelena Lalatović, *Priručnik za upotrebu rodno senzitivnog jezika*, Centar za ženske studije, 2019; Svenka Savić , „Uputstva za standardizaciju rodno osetljivog jezika“. u: *Rod i jezik*, Novi Sad, 2008, 301-320. There is also recommendation given by the Commissioner for the Protection of Equality of the Republic of Serbia : *Preporuka Generalštabu Vojske Srbije i Ministarstvu odbrane Republike Srbije za uvođenje rodno diferenciranih naziva činova Vojske Srbije i stvaranja uslova za upotrebu rodno diferenciranog jezika u službenoj komunikaciji*. del. br. 1279/2011

*and inclusive language also helps reduce gender stereotyping, promotes social change and contributes to achieving gender equality”.*²⁵

Ombudsman is a word that comes from the old Swedish language and is gender neutral²⁶-at least, the Swedish native speakers say so. It means a person who was previously appointed by the king, and now it is appointed by the parliament, at a certain territorial level, with the aim of controlling the effectiveness and correctness of the work of (executive) state bodies on that territorial level, to which are granted certain powers to establish a stronger bond between citizens and competent state authorities through its work and to restore faith of the same citizens that the protection of their rights still exists.

The main issue in this dispute is the different interpretation of the word “man” within the term “ombudsman”. Therefore, some consider it related to the meaning of “man” in English, which is a person of the male gender, while the original speakers of Swedish and other Scandinavian languages claim that it has nothing to do with the male gender²⁷. The argument that in the past this function was performed only by men, so that “man” means only male person cannot be taken as logical one. Unfortunately, many positions in the society were not available to women for a long time. The use of the original name of the institution today does not prevent women from being precisely what this position means – protectors of the rights of citizens. The ending “man” in “ombudsman” is not related to the English word “man”, speakers of Scandinavian languages firmly claim²⁸. Despite all linguistically evidences of the gender neutrality of the term “ombudsman”, the debate continued, which makes it definitely a political and not an essentially linguistically issue.

“Studies have indicated that using job titles that are not gender-specific²⁹ promotes greater participation of female candidates and reduces gender stereotyping

²⁵ *Gender neutral language in European Parliament*, European Parliament, 2018,4.

²⁶ Tim Moore, “Ombudsman Gender Neutral?”, *Research and Information Service Briefing Paper*, Paper 81/15, 2015 NIAR

²⁷ Ibid.

²⁸ Istvan Posta, “Review of the organizational Ombudsman services across the United Nations system”, *Joint Inspection Unit*, Geneva 2015, https://www.unjiu.org/sites/www.unjiu.org/files/jiu_document_files/products/en/reports-notes/JIU%20Products/JIU_REP_2015_6_English.pdf, 10.12.2024.

²⁹ It is interesting to find out how this feminization of the language is done in Spanish language, since it is one of the gendered languages: “In languages with gendered nouns, like Spanish, job titles and professions undergo a slow process of feminisation after one or more women have reached a position previously occupied only by men. The natural process is divided in three steps: first, the masculine noun and article are used when referring to a woman (el juez); second, the noun maintains its masculine ending but adopts a feminine article (*la juez); and third, a new feminine form is created of a previously masculine only noun (la jueza). An exception is made when the noun is invariable and therefore only the article needs changing (la periodista). In between these

and discrimination”³⁰. Also, “word choices often carry unconscious assumptions about gender roles. The use of terms only referring to males is not accepted anymore, as excluding women is considered an offence”³¹.

We can agree to some extent with those statements. A lot of women today, who are fully aware of their capacities and the possibilities of their professional and intellectual development, would not accept to be seen further only as women because this special treatment would remind them of how vulnerable they can be, and how calling on that vulnerability may prevent them from achieving all their goals and achieving what they deserve. Women, as well as men, are much more than their biological gender- they can be equally respected scientists, fearless warriors, good and devoted friends. So, some women would not see the job titles, that are not gender-specific, as an obstacle for achieving their goals; it is more possible that they won't even notice that, or find it important or discriminative. It raises some questions- are these women then victims of discrimination and refuse to admit it to themselves, or perhaps discrimination does not actually exist?

Opposite of the gender-sensitive or gender –neutral language is *sexist language*, which is defined as “*that ignores women, describes women as being inferior to men, and is stereotyping and humiliating women*”³². *The biological role of a woman, as important as it was for the continuation of the species, was often placed as a burden on her. Psychology created models of “healthy” and “problematic” women, which were based on a prejudice, of how the women should look, behave, and valued them only if they were willing to obey the norms harmonized by the social system that was against them, and also because of their reproductive abilities. Even in time of Hippocrates, we find traces of these stereotypes and gender roles, as well as suggested states of mind “reserved” only for women. For example, only females were entitled to have “hysteria”, the “treatment” of which, over the centuries, ranged from the application of tranquilizers, to electroshocks and removal of the uterus, as “the source of all anxiety in women”*³³. ***These stereotypes formed a special fund of words that belittled women as a being, her abilities,***

steps we can also find the addition of the adjective *mujer* (female or woman) to the masculine or feminine noun and the feminine article (**las mujeres jueces, las mujeres juezas*). The trend in Spanish is to gradually feminize roles and professions carried out by women and the language academy constantly adds these feminine endings to the dictionary should therefore be used with a high degree of precision.” *Ibid*.

³⁰ “Two offices to be given gender-neutral names”, https://www2.gnb.ca/content/gnb/en/departments/women/news/news_releases.2016.12.1182.html, 01.04.2024.

³¹ Nouhad Hayek, “Gender sensitive language-guidelines”, *United Nations*, 2019.

³² Maria Lopez Medel, Madam Ombudsman, “Use and Translation of Masculine Job Titles for Women in the EU”, in: “Gender, Language and Translation. Representations and Transcodifications”, Michele Sala (ed.), 2022, 229. Here we see another specificity- female holder of o=the office of ombudsman has kept the original name, but added the title of “**madam**”, indicating her gender.

³³ Ksenija Perišić, Ana Bukvić, „Feminizam i psihologija“, available on : https://pescanik.net/wp-content/PDF/9ksenija_ana.pdf, 01.09.2024.

emotions and existence in general. When listening again to disparagement of herself, often accompanied by the similar actions of other people, the woman often blamed herself for all kinds of things that she was not really guilty of, and increasingly retreated and shied away from any struggle for herself and her rights³⁴.

As it was used against women, language can equally be used today to fight against their discrimination and restore the true and full status and importance of women in the modern society. The language is the most powerful tool for battle against suppression and humiliation. Gender sensitive language, or else gender neutral language, might be a mechanisms for realizing that all have equal chances and opportunities and that no one should have prejudices about anyone else regarding their gender, age or any other characteristic. It is the common reason why many women decide to use the gender-sensitive name of their profession, because in this way they raise their visibility in those professions, empower other women to engage in those professions, and by their actions, which seem banal at the moment, significantly reduce the denial of women's access to those professions. So, the gender sensitive language could be taken as silent, yet efficient "weapon" against the experience of decades of humiliation of women³⁵ and tool for their efficient empowerment.

On the other hand, we must also understand the arguments of those women who do not want to use the gender-sensitive names of their professions, because they do not consider that they were ever threatened in their path to conquering that profession, but that they had the same initial chances as men and that they were not were challenged or belittled during their education or professional advancement because they are women. Their voice and their right to choose how they wanted to be addressed must be also heard and respected; otherwise, we deny them the existence of those rights and deny also themselves.

The dispute that we are going to discuss here refers to the name of the ombudsman. All the previously mentioned diversity of names has never brought the function of the ombudsman into question, nor the underlying and basic logic of its existence. So the discussion about gender sensitive word for protector of citizens was developed also among ombudsmans, aiming on how to best respond to the demands of non-discrimination policy, to support women holders of these offices and ensure that the very function and importance of the existence of the Ombudsman

³⁴ Ibid. It seems that society depicted women as problem, not as a part of solution, for a long time, and used often language as suitable mechanism for their deprivation. Belittling women and their personality, as well as their true capabilities was for a long time considered as effective tool for controlling them. And it was all done by using the language.

³⁵ Even the different words depicting unmarried woman (miss) and married woman (Mrs.), not just in english language were directed towards discriminating women according to the marital status, while at the same time man always stays- mister (Mr.). Sophia Smith Galer, "The languages with built-in sexism", BBC, 9 April 2021, <https://www.bbc.com/future/article/20210408-the-sexist-words-that-are-harmful-to-women>, 01.12.2024.

is not diminished or lost sight of. It is important to emphasize that some languages, such as German³⁶ and Italian, have their own unique grammatical suffixes to indicate the female gender in the context of some professions, if they do not already have a word of a completely different word root and form that indicates a woman who performs a certain profession.

OMBUDSMAN/WOMAN/PERSON/PEOPLE?

In 2015, in the Northern Ireland Assembly started a reform of the public sector in area of protection of human rights, with suggestion that ombudsmen should now be called ombudsperson(s), as it is gender neutral and cannot cause any feeling of suppression to woman holding that office³⁷. This suggestion was made even after lots of statements of Swedish Parliamentary Ombudsman, whether “ombudsman“ is gendered or not: “Government’s linguistic experts had stated that ombudsman and other similar words with the suffix –man. i.a. [sic] talman, talesman, fortroendeman, are gender neutral in the Swedish Language”³⁸.

Here „man“ in „ombudsman“ was taken as it refers to the exclusively male gender and the possible dissuasion of women from running for such a position because; that continuation „man“ gives an impression that this office is reserved exclusively for men, so that women are not allowed to perform here. It is also said that in 21st century, we became more aware of cultural changes that continuously reshape our world and that it is now easier to recognize patterns of subjugation of women and, therefore, it is easier to prevent such patterns from being repeated.³⁹ Making it possible to name the office just as *ombud office*, or giving the full right to the woman holding that position to use the title of ombudswoman in order to strengthen both herself and those who will come after her in the same position, is the least that an enlightened community can do.

Ombudsman’s offices around the world changed their title in a time, in order to comply with the requirement to prevent discrimination. Some have a long history of fostering a gender-neutral name of the institution, such as The UC Berkeley Staff Ombuds Office (which uses this name since the founding of the office in 1984⁴⁰).

³⁶ As noted in footnote 19.

³⁷ Available on : <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/non-executive-bills/session-2015-2016/public-services-ombudsperson-bill/efm---as-introduced.pdf>, 10.12.2024.

³⁸ Varda Bondy and Margaret Doyle, „How an attempt to introduce a gender-neutral title was rejected by the legislature“, *Ombuds Research Studying the work of ombuds men and women and complaint handlers*, <https://ombudsresearch.org.uk/2017/04/25/how-an-attempt-to-introduce-a-gender-neutral-title-was-rejected-by-the-legislature/>, 03.01.2025.

³⁹ Ibid.

⁴⁰ <https://staffombuds.berkeley.edu/>, 10.12.2024.

Some, as International Ombuds Association, adopted the title Ombuds just in 2022⁴¹, showing a deep understanding of the importance and impact that words can have on some people.

„This name change does not mandate other offices to change the way they identify themselves as professionals nor their office, but hopefully it will influence other Ombuds and offices to expand their name to be more inclusive of a more diverse community of Ombuds professionals”⁴². “Using a gender-neutral term reflects the reality of our work and the people who do it. Everyone benefits when we avoid gender stereotypes in the workplace”⁴³,

said the Ombud of New Brunswick (Canada) , Charles Murray, in 2016. As the society evolves, said Murray, language must be ready to describe all the changes that are happening in society. Failure to create a new terms in language, in order to describe the changes in attitudes and behavior within society, especially towards women, also fails to support the fight of women for their equality with men. So, gender sensitive terminology is a logical consequence of social development.

In Australia, despite the lively debate that was conducted in the parliament and outside of it about changing the name of ombudsman to ombud, the name remained the same – ombudsman. A new name – **ombudsmans** – came into use because the ombudsman is understood as a singular, and nouns in the English language (mostly, if they are not exceptions and have different plural form of the word) receive the suffix “-s“ when they denote plurals of the same noun⁴⁴. It was said that this does not in any way diminish the importance of women who performed the function of ombudsman, but that it is necessary that the name of the institution must remain original, and that each holder of the position can choose for himself/herself left to their will how to present themselves personally⁴⁵.

⁴¹ “As Ombuds, we deeply understand the power of words. Words inform our perceptions, influence our behavior, and shape our worlds. Recognizing that words communicate our values, we are changing the way we communicate and describe our profession, thereby creating a more inclusive platform for diverse interests and opportunities in the Ombuds arena. Having a gender specific title not only dissuades diverse interest and application into our field, but it also fails to accurately reflect the population we serve. More so, research has showed that gendered language narrows professional opportunities for women and more broadly it widens the gap of social inequity”, *International Ombuds Association Adopts Gender Inclusive Language*, <https://staffombuds.berkeley.edu/news/international-ombuds-association-adopts-gender-inclusive-language>, 10.12.2024.

⁴² <https://staffombuds.berkeley.edu/news/international-ombuds-association-adopts-gender-inclusive-language>, 09.11. 2024.

⁴³ *Two offices to be given gender-neutral names*, https://www2.gnb.ca/content/gnb/en/news/news_release.2016.12.1182.html, 09.11.2024.

⁴⁴ Melissa Coade, “Language lessons revive question about the term ‘ombudsman’”, <https://www.themandarin.com.au/156372-language-lessons-revive-question-about-the-term-ombudsman/>, 10.12.2024.

⁴⁵ Ibid.

D. Rasch thinks that when using “ombudsman” or “*ombudswoman*” seems to put the sex of the person before the role, instead of their capability to work on that position⁴⁶. Although this word was not gendered in Swedish, it is in English⁴⁷, so when using word “ombudsman” it seems to put the gender of the person holding the office before the role and activating all prejudices and stereotypes about women that always circle around. “It is possible to honor the roots of profession and also honor the emerging realities of our present moment in history”.⁴⁸ So the change of the title to gender neutral, or gender sensitive version seems to be inevitable. Or, in words of David G. Schwartz, “if dropping the “man” from “ombudsman” makes even one person feel better about reaching out to the office, it is well worth it”⁴⁹.

Also, Schwartz stated that “ombudsman” sounds a “bit distant and intimidating, with vague overtones of authority and consequence—the last thing you want for an office that people can visit for informal discussions”⁵⁰. Yet it remains unclear how Ombud, which is as difficult to pronounce as the root word ombudsman, can express more understanding and empathy that a party can receive in the office than they have received so far.

Suzanne Belson, serving as Ombudsperson at the Concordia University (Canada) explained her reasons for using gender neutral noun:

“Although I am very committed to the title ombudsman – because of all the word meant to me after having done the job for so long (and because it bugged me that so often men get to be men and women get to be persons) – I decided to change to ombudsperson for two fairly practical reasons: one, I found myself repeatedly having to justify, explain and support the rationale for using ombudsman and it was getting tedious; and two, in my view the etymology of the word becomes irrelevant at some point if we’re talking about modern English usage at a time when we know the effects of non-gender-neutral language. (This seemed especially important given the work we do.)”⁵¹

Her reasons for change are legitimate, yet not that supportive as she thought they would be. Even if the use of gender-sensitive terminology is made mandatory, it may cause additional odium on the part of the public, which does not consider that the acquisition of certain titles or positions does not depend on

⁴⁶ David Rasch, “A meatball by any other name”, *Journal of International Ombudsman Association*, https://www.ombudsassociation.org/assets/docs/JIOA-2018-6_PDF_A-Meatball-by-Any-Other-Name.pdf, 11.11.2024.

⁴⁷ Which is wrong, because this word was originally taken from Swedish language and it can't be observations in the context of the language rules of another, English language.

⁴⁸ David Rasch, *ibid*.

⁴⁹ David G. Schwartz, “Why I’m Not the Ombudsman”, 4.novembar 2023, <https://www.unlv.edu/announcement/ombuds-office/why-im-not-ombudsman>, 10.12.2024.

⁵⁰ *Ibid*.

⁵¹ Bondy, Doyle.

gender at all, but only on the knowledge and skills that a person possesses. Having in mind all abovementioned, we find interesting to share “*Linguistic recommendation from the Translation Bureau in Canada*”⁵². On their official website, this Bureau has a lot of free tools for improving English and French, two official languages in Canada, and also a dictionary with an incredible number of words and their correct form, pronunciation, synonyms and contexts in which the word can be found. So, there is a specific recommendation, done in order to standardize the use of the term ombudsman in the federal public service in both languages.

*“In the federal public service, the Translation Bureau recommends the use of the English term ombudsman, regardless of the gender of the person who holds the position”*⁵³.

Going through the examples given here, we see that when depicting the woman who is holding the office is defined as “*woman ombudsman*”, and that all offices of protector of human rights in different areas are called –ombudsman’s offices. Further, the recommended plural form in English is ombudsmen, as they acknowledged “man” is “ombudsman” as English word. Also, Bureau states that all other terms, such as ombudswoman, ombudsperson and ombud are also correct, but not highly recommended for use, because they can create sort of confusion.

The same situation is when using French language- the Bureau recommends the use of the term *ombudsman*, regardless of the gender of the person who holds the position, and in plural-*ombudsmans*. As other terms that are correct and possible to use are:

- *Ombud* (not highly recommended)
- *protecteur* (for example: protecteur du citoyen)
- *défenseur* (for example: défenseur des droits de la personne)
- *médiateur* (for example: médiateur de l’Université)⁵⁴

It is specifically stated that the word *ombudspersonne* should be avoided in French, because the ending *-personne* is not customarily used in French job titles.⁵⁵

When in 2014 Vardy, Hirst and Doyle conducted a research, they came to interesting thoughts of “a much-respected former ombudsperson(not ever indicating who was he/she and where from). That ombudsperson stated that

⁵² The Translation Bureau is a federal institution within the Public Services and Procurement Canada portfolio. It supports the Government of Canada in its efforts to help citizens and foreigners to communicate with in both official languages (English and French), Indigenous languages, foreign languages as well as sign languages. Available on : https://www.btb.termiumplus.gc.ca/tpv2guides/guides/wrtps/index-eng.html?lang=eng&lettr=indx_catlog_o&page=90r4D-cSnF5I.html#zz90r4D-cSnF5I, 01.12.2024.

⁵³ Ibid

⁵⁴ Ibid.

⁵⁵ Ibid .

“the term ombudsman has been *‘de-masculinised elsewhere as in the South African FAIS Ombud and US university Ombuds, while it is not making much head-way in Europe or the [rest of the] Commonwealth. One of the problems that was noted was using a plural noun, because the term ‘ombudsmen’ clearly denotes that the singular ‘man’ part of the word is masculine, as opposed to being an integral part of the combination of sound “ombudsman”. We find this argument not quite valid, because it could be used the plural noun “ombudswomen” as well to note women holding the office of ombudsman*⁵⁶.

But we find important to share further thought of this ombudsperson regarding use of the term “ombudsman” (as stated in article of Vardy, Doyle, 2015, as cited before):

“His proposed solutions included:

Avoid using the generic plural ‘ombudsmen’. ‘Ombudsman should be con-fined to use either as a non gender specific noun, or as an adjective.’

When referring to entities or services, use ‘ombudsman schemes, offices, or services’.

When referring to those who lead ombudsman offices, use ‘heads of ombuds-man offices’ or ‘ombudsman post-holders’.

When referring to individuals who perform ombudsman decision-making functions, in formal speech or writing, use ‘ombudsman decision makers’.

When referring to a mixed group of those heading or working in ombudsman schemes, in more informal or light-hearted speech or writing, use terms such as ‘ombuds-folk’, ‘ombuds-people’ ‘ombuds-workers’ or ‘the ombudsman commu-nity’.”⁵⁷

It is not quite clear how ombudsman should be adjective, when it is obviously a noun? It is the name of the profession. The only form of this word, that could be taken as adjective is with ‘s, as it is the regular way of forming possessive adjectives.

The word that seems to be the most gender neutral and respect all genders that could be in position to be a holder of the office of ombudsman, *is ombudsperson*. It is sufficiently connected with the original wording in its first part (“ombud”) and at the same time indicates due respect and neutrality towards each holder of that function, not highlighting his/her gender, but exclusively the function itself. In this situation, the job, ie. the function that is performed, is placed in front of the gender marker, which is irrelevant in relation to the knowledge and skills that the holder of this function must possess in order to successfully deal with it.

⁵⁶ Bondy, Doyle.

⁵⁷ Ibid.

Ombudsperson is recommended in *Max Planck Encyclopedia of International Public Law*⁵⁸ as “a gender neutral synonym of ‘ombudsman’ ”⁵⁹. *Using this expression gives a sense of security to every person that they will not be belittled, taken for granted and that they will be truly respected for their knowledge, skills and merits and not because of their gender.* “Gendered languages that classify nouns [as either masculine or feminine] are associated with more regressive gender attitudes.⁶⁰”

CONCLUDING REMARKS

Gender sensitive terminology is one of the best examples of the mutual influence of language and events in society. A society that is constantly in motion and constantly changing (at least in some part), creates an obligation for language to follow these changes and define them. On the other hand, language can also create new terms that denote phenomena that have not yet happened but are possible to happen in some period – thus, it goes a few steps ahead of the actual pace of development of society.

In the course of its mission to do good deeds and empower women to be who they truly are and what they truly want, gender-sensitive terminology also establishes the paradoxes that we have presented in this article. What is striking is precisely the willingness of the holders of an important social and state function – the protectors of citizens’ rights, to actively reflect on their own name, realizing that it is not just the name of their function that is at stake, but the opening of a new world with many opportunities, for new generations of women (and men) who have yet to come. Therefore, although the debate about the name of the ombudsman itself seems not so important – it is actually one of the most significant discussions on the use of gender-sensitive language, because the most is expected from the protectors of citizens’ rights and their personal enlightenment and readiness to revive the principles of human rights through their work.

⁵⁸ <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1737?prd=OPIL>, entry of Ombudspersons by Alberta Fabbriotti, Chiara Venturini, 2019, 01.12.2024.

⁵⁹ *Ibid.*

⁶⁰ Linda Zhu, “Why Gender Neutral Language Is SO Important”, 2022, <https://www.thewomens.network/blog/why-gender-neutral-language-is-so-important>, 01.12.2024.

REFERENCES

Literature:

Books, articles, and other publications:

- Bondy, Varda; Doyle, Margaret, „How an attempt to introduce a gender-neutral title was rejected by the legislature“, *Ombuds Research Studying the work of ombudsmen and women and complaint handlers*, <https://ombudsresearch.org.uk/2017/04/25/how-an-attempt-to-introduce-a-gender-neutral-title-was-rejected-by-the-legislature/>, 03.01.2025.
- Gender neutral language in European Parliament*, European Parliament, 2018
- Hayek, Nouhad “Gender sensitive language-guidelines”, *United Nations*, 2019.
- Lopez Medel, Maria, Madam Ombudsman, “Use and Translation of Masculine Job Titles for Women in the EU”, in : ” Gender, Language and Translation. Representations and Transcodifications”, Michele Sala (ed.), 2022, 229.
- Moore, Tim, “Ombudsman Gender Neutral?”, *Research and Information Service Briefing Paper*, Paper 81/15, 2015 NIAR
- Posta, Istvan, “Review of the organizational Ombudsman services across the United Nations system”, *Joint Inspection Unit*, Geneva 2015
- Rasch, David, “A meatball by any other name”, *Journal of International Ombudsman Association*, https://www.ombudsassociation.org/assets/docs/JIOA-2018-6_PD-F_A-Meatball-by-Any-Other-Name.pdf, 11.11.2024.
- Savić, Svenka, “Žena sakrivena jezikom medija: kodeks neseksističke upotrebe jezika”, http://www.e-jednakost.org.rs/site/wp-content/uploads/2015/05/Kodeks_Svenka.pdf, 23.04.2025.
- Savić, Svenka; Stevanović, Marjana, *Vodič za upotrebu rodno osetljivog jezika u javnoj upravi u Srbiji*, Organizacija za evropsku bezbednost i saradnju, Misija OEBS-a u Srbiji, 2019
- Savić, Svenka, „Uputstva za standardizaciju rodno osetljivog jezika“. u: Rod i jezik, Novi Sad, 2008.

Legal acts:

- Закон о Заштитнику грађана, „Службени гласник РС“, број 105 од 8. новембра 2021.
- Закон о локалној самоуправи, „Службени гласник РС“, бр. 129 од 29. децембра 2007, 83 од 5. августа 2014 – др. закон, 101 од 16. децембра 2016 – др. закон, 47 од 20. јуна 2018, 111 од 25. новембра 2021 – др. закон
- Закон о родној равноправности, „Службени гласник РС“, 52/2021.
- Poverenik za zaštitu ravnopravnosti Republike Srbije, Preporuka Generalštabu Vojske Srbije i Ministarstvu odbrane Republike Srbije za uvođenje rodno diferenciranih naziva činova Vojske Srbije i stvaranja uslova za upotrebu rodno diferenciranog jezika u službenoj komunikaciji. del. br. 1279/2011
- Покрајинска скупштинска одлука о Покрајинском заштитнику грађана – омбудсману, „Сл. лист АП Војводине“, бр. 37/2014

Public Services Ombudspersons Bill, <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/non-executive-bills/session-2015-2016/public-services-ombudsperson-bill/efm---as-introduced.pdf>, 10.12.2024.

Links-ombudsmans websites:

<https://www.cndh.org.mx/>, 05.06.2024.

https://www.cconstituyente.cl/comisiones/verdoc.aspx?prmid=1317&prmtipo=documento_comision, 07.06.2024.

<https://www.cy.gov.tw/en/>, 01.05.2024.

<https://www.defenseurdesdroits.fr/>, 01.03.2024.

<https://www.dg-ombudsmann.be/>, 01.03.2024.

<https://forbrugerombudsmanden.dk/>, 05.06.2024.

<https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/>, 05.06.2024.

<https://law.moj.gov.tw/ENG/LawClass/LawParaDeatil.aspx?pcode=A0000001&bp=9,>
01.05.2024.

https://www.ombuds.am/en_us, 09.01.2025.

<https://www.ombudsmanpensioen.be/>, 05.06.2024.

<https://www.raonadordelciutada.ad/>, 01.03.2024.

<https://staffombuds.berkeley.edu/>, 10.12.2024.

<https://www.vlaanderen.be/vlaamse-ombudsdienst>, 01.03.2024.

<https://www.victimsfirst.gc.ca/>, 05.06.2024.

<https://web.archive.org/web/20080621110007/http://www.defensor.gov.ar>, 01.03.2024.

<https://web.archive.org/web/20070204054438/http://mediateur.wallonie.be>, 01.03.2024.

<https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/8179-p-sh-lic-isp-i-u-sluc-p-r-dicn-g-n-silj-n-d-d-n-p-liluli>, 01.06.2025.

Other links:

Coade, Melissa, "Language lessons revive question about the term 'ombudsman'", <https://www.themandarin.com.au/156372-language-lessons-revive-question-about-the-term-ombudsman/>, 10.12.2024.

Galer, Sophia Smith "The languages with built-in sexism", BBC, 9 April 2021, <https://www.bbc.com/future/article/20210408-the-sexist-words-that-are-harmful-to-women>, 01.12.2024.

International Ombuds Association Adopts Gender Inclusive Language , <https://staffombuds.berkeley.edu/news/international-ombuds-association-adopts-gender-inclusive-language>, 10.12.2024.

Perišić, Ksenija; Bukvić, Ana, „Feminizam i psihologija“, https://pescanik.net/wp-content/PDF/9ksenija_ana.pdf, 01.09.2024.

<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1737?prd=OPIL>, 01.12.2024.

Пуїшин назначил Марию Львову-Белову уїолномоченным їо їравам ребенка, <https://tass.ru/obschestvo/12781201>, 01.03.2024.

<https://stanjestvari.com/wp-content/uploads/2024/07/Odluka-Ustavnog-suda-gender.pdf>, 01.08.2024.

"Two offices to be given gender-neutral names", https://www2.gnb.ca/content/gnb/en/departments/women/news/news_releases.2016.12.1182.html, 01.04.2024.

- Cvetinčanin Knežević, Hristina; Lalatović, Jelena, *Priručnik za upotrebu rodno senzitivnog jezika*, Centar za ženske studije, 2019.
- Schwartz, David G., “Why I’m Not the Ombudsman”, 4. novembar 2023, <https://www.unlv.edu/announcement/ombuds-office/why-im-not-ombudsman>.
- The Translation Bureau, https://www.btb.termiumplus.gc.ca/tpv2guides/guides/wrtps/index-eng.html?lang=eng&lettr=indx_catlog_o&page=90r4D-cSnF5I.html#zz90r4D-cSnF5I, 01.12.2024.
- Zhu, Linda, “Why Gender Neutral Language Is SO Important”, 2022, <https://www.thewomens.network/blog/why-gender-neutral-language-is-so-important>, 01.12.2024.

Драјана М. Ђорић
Универзитет у Новом Саду
Правни факултет у Новом Саду
D.Coric@pf.uns.ac.rs
ORCID ID: 0000-0001-5485-5176

Омбудсман/омбудсманка/омбуд особа или друго – родно осетљива расправа

Сажетак: У ери највећих моћности и најширеј сјектра људских права и слобода, њихова примена постоје све уједињенија. Заборавља се да је постојање и остваривање права једног лица ограничено постојањем и остваривањем истој или другој права другој лица. То не значи да су права на било који начин подељена или умањена, већ да носиоци права морају бити свесни да су чланови заједнице у којој су сви једнаки у правима и обавезама.

Један од механизма за успостављање јуне равноправности мушкараца и жена је употреба родно осетљиве терминологије, која се пре свега оледа у употреби именица које су назначене – у женском роду, чиме се сиречава дискриминација и ствара утисак и позивају жене да ступе у професије које су традиционално припадале искључиво мушкарцима

У раду се разматра једна таква дебата, која се директно илустрира људи који раде у области заштите људских права, и приказује како сами заштитници људских права, али и други правници и лингвисти, гледају на ову суштинску, али значајну језичку промену у означавању овој важној занимања. Такође, у овом раду постављамо нека методолошка питања и указујемо на неке парадоксе који настају при директној примени овој (или било којој другој) права и обавезе (овде се мисли на родно осетљиву терминологију).

Кључне речи: омбудсман, омбудсманка, омбуд особа, родно осетљив, језик.

Датум пријема рада: 7. 2. 2025.

Датум достављања коначне верзије рада: 18. 6. 2025.

Датум прихватања рада: 18. 6. 2025.