Victorian Ombudsman Norman Geschke's 1994 Special Report: Issues, Context, and Legacy (1987–1999)

Introduction

In February 1994, Victoria's Ombudsman Charles Norman Geschke tabled a **Special Report on relinquishing office**, capping 14 years in the role. This report was unusually frank and **scathing in its assessment** of problems in public administration and oversight. It raised serious concerns about conflicts of interest, procedural fairness, potential abuses of power, and the integrity of government administration. This analysis examines Geschke's findings in detail and compares them with themes from other Victorian Ombudsman reports in the late 1980s and 1990s. It also explores the legal and doctrinal context – how these issues align with Australian constitutional principles (such as separation of powers and judicial integrity) and international standards (notably the *International Covenant on Civil and Political Rights* (ICCPR)) – and assesses the impact of these revelations on reforms and public administration practices.

Findings of the Norman Geschke 1994 "Relinquishing Office" Report

Norman Geschke's final special report (tabled as *VPARL1992-94 No.90*) distilled **lessons from thousands of investigations** and **14 annual reports**. Key findings and concerns included:

- **Selective Use of Legal Advice & Evasion of Oversight:** Geschke observed that departments often claimed to act "on legal advice" to justify questionable decisions, only to refuse sharing that advice. Upon pressing for the actual legal opinions and briefing instructions, he **frequently discovered that the advice had been quoted out of context or didn't truly support the action under scrutiny**. He described this non-cooperation as *"a play on semantics, backed by legal game-playing"* – a tactic that impeded accountability. In one instance, he noted that a request for legal advice could essentially be translated as *"The Ombudsman has us over a barrel, how do we get out of this?"*. Such **manipulation of legal advice** not only suggested **potential abuse of power** by senior officials but also undermined procedural fairness and honest administration. Geschke's stance eventually became that he would **no longer accept a simple claim of "acting on legal advice" unless he could see the advice itself**, a rigor that "would have saved" others from scandals like the later *Robodebt* affair.
- **Conflict of Interest & Integrity of Administration:** Geschke's reports emphasized the importance of integrity in public office and highlighted cases where it was at risk. He **"contested entrenched practices"** and called out authorities for deliberately ignoring legislation or the Ombudsman's own statutory powers. For example, he noted instances where **bureaucrats**

prioritized their own interests or department's image over impartial service. In one vivid anecdote from his tenure, he recounted how *"balances of probability, fantasies, oddball dictionary meanings"* were marshaled by agency lawyers to defend *"indefensible"* actions. This wordplay signaled a **loss of integrity** – public officials were, in effect, placing departmental self-protection above their duty to the public. Geschke plainly deplored such conduct, showing *"no time for obfuscation of any kind."*.

- **Procedural Fairness vs. Legal Technicalities:** A recurring theme was Geschke's insistence on **fairness and reasonableness**, even when the law technically permitted a harsh outcome. He remarked that as Ombudsman, *"I am not confined solely to the law; I am also concerned with considerations of fairness and reasonableness."*. For example, in a school property theft case, the Education Department denied liability for a stolen bicycle on legal grounds. Geschke agreed the legal position was debatable, but he looked deeper at **whether the agency had taken all reasonable steps to prevent the loss**. Concluding it had not (e.g. leaving bicycles unsecured with minimal supervision), he found it *"neither fair nor reasonable"* for the victim to bear the loss alone. This exemplified how he upheld **procedural fairness and equitable outcomes** over mere technical compliance. Geschke lamented that too often *"compassion and right are subservient to bureaucratic or legislative technicalities"*, and he strove to invert that priority.
- **Independence and Abuse of Power:** Geschke's final report voiced alarm about **erosion of the Ombudsman's independence** by the executive government. He detailed a *"gradual eroding of the independence of the role"* over his tenure. One "major battle" had been with the Department of Premier and Cabinet (DPC) over budget control – after he criticized DPC's handling of a personnel matter, the Premier's department initiated a review of the Ombudsman's Office (an implicit retaliation). Geschke feared bureaucratic influence in selecting his successor (a fear soon realized). He also bemoaned chronic **resource constraints**, noting that his small office faced budget cuts that *"must suffer"* the quality of investigations. In his concluding words, he warned that he leaves *"with a number of issues still to be resolved"*, and that while he had hoped to reduce the causes of complaints, many remained. His successor would inherit new problems but *"with reduced resources"* to address them. These parting observations underscored concerns that **political and administrative power was being wielded to constrain oversight** and **limit accountability**, threatening the integrity of Victoria's public administration. Indeed, shortly after Geschke's retirement, the State Government moved to **limit the Ombudsman's term to 10 years**, a change widely seen as a reaction to the discomfort his long tenure caused governments.

In sum, Norman Geschke's final report painted a portrait of an Ombudsman fighting against complacency and resistance in the bureaucracy. It highlighted how **conflicts of interest, procedural unfairness, and defensive bureaucratic tactics** can flourish without robust oversight, and it implicitly challenged Parliament to bolster the Ombudsman's independence and mandate. Geschke's legacy, as noted by a later Ombudsman, was that he *"epitomised the role"* by redressing the imbalance of power between the individual and the state. His 1994 report serves as a blueprint of the **systemic issues** that needed correction moving forward.

Comparative Themes in Ombudsman Reports (1987–1999)

The issues identified by Geschke did not exist in isolation – similar themes arose in other Victorian Ombudsman investigations from the late 1980s through the 1990s. Across annual reports and case investigations, several **recurring problems** were evident:

- **Conflicts of Interest in Public Offices:** Ombudsman inquiries repeatedly uncovered situations where public officials had **personal ties or dual roles that compromised impartial decision-making**. For instance, in a 1999–2000 investigation, the Ombudsman found a *"glaring conflict of interest"* involving a Department of Human Services (DHS) officer. The officer's wife was employed by a community services agency that the officer was responsible for funding and placement decisions – and the couple even lived in a house owned by that agency. While no corrupt intent was proven, the arrangement *"clearly created a conflict of interest"* for the official. The Ombudsman warned that such situations erode public trust and recommended DHS establish strict agreements and ensure staff are not placed in positions where *"a potential conflict of interest may exist."*. This led the department to accept new conflict-of-interest safeguards. Similarly, another case exposed a senior ambulance service manager who sold discarded equipment to a private buyer with whom he had undisclosed business dealings – effectively **blurring personal business with public duty**. The Ombudsman speculated the buyer *"was doing the manager a favour"*, leaving the manager *"indebted to the builder"* – a serious ethical compromise. These examples show that **maintaining integrity** was a constant challenge; the Ombudsman's vigilance was often the only check on loyalties divided between private interest and public service.
- **Procedural Fairness and Due Process Violations:** Ombudsman reports from this era abound with cases where citizens suffered because an agency denied them basic fairness or due process. A notable example involved a prison visitor who was **banned from contact visits without proper evidence or a hearing**. The visitor was accused of verbally abusing a prison officer *outside* the prison, and despite her denial and a witness supporting her, authorities imposed a blanket four-week no-contact order at all prisons. This punitive action – taken *"even though the alleged abuse took place away from prison"* – disregarded the lack of corroboration and the visitor's right to respond. It was only after the Ombudsman's intervention, highlighting the absence of proof and the witness testimony, that the **unfair ban was lifted** and replaced with a suspended penalty. In other cases, **prisoners' rights and disciplinary processes** were scrutinized, as were **administrative decisions affecting welfare recipients and students**, to ensure individuals had an opportunity to be heard and decisions were reasonable. These investigations reinforced the principle that **public power must be exercised with due regard to fair process**, not arbitrary fiat. The Ombudsman often served as a de facto guarantor of natural justice in instances where internal mechanisms failed. Indeed, the **tension between legal authority and fairness** was a running theme: the Ombudsman would push agencies to go

beyond *“strict legal entitlements”* and consider what was just in the circumstances. Such insistence on **procedural fairness** helped prevent minor administrative decisions from snowballing into serious injustices.

- **Arbitrary Detention and Treatment of Individuals in Custody:** Although Victoria in the 1990s did not face “arbitrary detention” in the sense of extrajudicial imprisonment, Ombudsman reports highlighted related issues – particularly the **conditions and legality of detentions under state authority**. A striking systemic issue emerged in the late 1990s: due to prison overcrowding, convicted prisoners were being held in police station cells for extended periods. The Ombudsman’s 2001–02 Annual Report revealed that the prisoner population had **exceeded prison capacity**, and *“some prisoners [we]re serv[ing] their whole sentence in police cells”*, with **20–30 days in a cell** not uncommon

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  . This practice raised serious concerns. Police lockups are intended for short-term holds and **lacked proper facilities for long-term detention**, making it *“difficult, if not impossible”* to segregate different categories of inmates (remandees, women, juveniles, mentally ill detainees, etc.) as required

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  . Cells in many stations were antiquated, cramped, devoid of natural light and outdoor space, with lights left on 24/7 for surveillance

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  . Prisoners stuck in these conditions grew desperate and resorted to **self-harm or misconduct simply to get transferred to proper prisons**

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  . The Ombudsman explicitly recognized that *“overcrowding and excessive periods of time in police cells”* led to unrest and risked **breaching basic human rights** in detention

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. He deemed it in the public interest to investigate and pressed for action

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. This scenario – individuals effectively *detained in punitive conditions not sanctioned by any court sentence* – borders on **arbitrary or unlawful detention** in a broad sense. It underscored how administrative arrangements (or failures, like insufficient prison infrastructure) could lead to outcomes incompatible with the **right to humane treatment**. The Ombudsman's findings added pressure on the government to accelerate prison expansion and improve detention standards. Likewise, in the field of mental health or child protection, the Ombudsman examined cases of **detention or removal of individuals without proper grounds** – for example, children held in care or psychiatric patients restrained – ensuring that any deprivation of liberty was lawfully and justly administered. These efforts echoed fundamental legal safeguards: no person should be deprived of liberty *"except on such grounds and in accordance with such procedure as are established by law."*

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In other words, **arbitrary or undue detention, even when administrative in nature, was firmly challenged** by the Ombudsman's office as the 1990s progressed.

- **Administrative Misconduct and Resistance to Accountability:** Another theme was general **administrative malpractice**, ranging from incompetence to willful misconduct, and the **institutional reluctance to face scrutiny**. Ombudsman Perry (Geschke's successor from 1995) encountered cases of **regional authorities defying central directives**. In one 2000 case, a DHS *region* charged with child protection essentially refused to accept the findings of a departmental review into a set of at-risk siblings. The Ombudsman recounted this as *"some of the worst excesses of regionalisation"* – the region's managers paid "little heed" to the head office review and even stated they *"would not implement the reviewer's recommendations even if directed to do so."* This **insubordination** posed a direct threat to the children's welfare and to orderly administration. Only after *"vigorous intervention"* by the Ombudsman – effectively forcing DHS headquarters to re-assert control – were decisive steps taken to review the case properly and replace several senior regional staff. The incident highlighted a side effect of 1990s public-sector trends: increased **devolution of authority to regional offices** and outsourcing could **dilute accountability** and result in fragmented standards. As the Ombudsman wryly noted, he often found himself *"swimming against the tide of ever increasing devolution"* in that era. While local empowerment can be beneficial, the Ombudsman warned it must be coupled with **robust monitoring by central agencies** to prevent local mismanagement or parochial interests from harming the public. Other misconduct cases included

misuse of government databases (e.g. police officers misusing the LEAP computer system for personal reasons) and **improper handling of public resources**. These were investigated through sample audits and specific complaints, leading to disciplinary actions and tighter controls. Across the board, a **pattern of bureaucratic defensiveness** emerged: agencies might respond to Ombudsman inquiries with minimal compliance, delay, or legalistic justifications – just as Geschke experienced. However, persistence by the Ombudsman's office yielded results. By shining light on misconduct and demanding explanations, the Ombudsmen of this period helped instill a greater culture of **administrative accountability** in Victoria.

- **"Devolution" and Contracting Out – Challenges to Oversight:** The 1987–1999 timeframe in Victoria coincided with major governmental reforms – privatization, outsourcing of services, and devolution of decision-making – under both Labor and (especially) the Kennett Coalition government (1992–1999). Ombudsman reports show a keen awareness of how these changes could create **gaps in oversight**. For example, **contracting out welfare services** to non-government agencies raised questions about who was responsible when things went wrong. In the child protection case mentioned above, the children's care was managed by an external agency, yet DHS retained legal responsibility. The Ombudsman found that **DHS had failed to adequately monitor the agency** and intervene despite clear signs of problems (siblings engaging in sexualised behavior, caregivers potentially unsuitable). He recommended DHS **tighten its agreements and oversight** of contracted care providers to ensure the *"legal duty of care"* was met. Likewise, with **local councils** gaining more autonomy, the Ombudsman handled complaints ranging from improper by-law enforcement to conflicts in local governance. The Ombudsman's role expanded into these devolved areas, ensuring that the *same standards of fairness and legality* applied even when services were delivered at arm's length from the state. A **Good Practice Guide** issued years later reflected this, noting that encouraging and resolving complaints early within agencies promotes *"public sector values of integrity and accountability."*. In short, as public administration diversified, the Ombudsman served as a unifying check, insisting that **devolution of power must not devolve standards of justice**. His reports from the late '90s reinforce that **core principles – lawful, fair, rational decision-making – remain non-negotiable across all levels and models of service delivery**.

In summary, the late 1980s and 1990s Ombudsman materials reveal a **consistent set of challenges** in Victorian public administration: keeping officials honest and impartial, ensuring fair treatment for the public, preventing abuses of authority (however bureaucratic in form), and adapting oversight mechanisms to an evolving, decentralized government. These themes directly paralleled the concerns Norman Geschke voiced in 1994. The Ombudsman's work during this period functioned as an ongoing feedback loop to government, identifying where systems or behavior fell short of both **domestic legal standards** and **broader principles of good governance**.

Legal and Doctrinal Analysis: Australian Law and International Standards

Australian Constitutional and Administrative Law Context

Many issues flagged by the Ombudsman resonate with fundamental principles of Australian public law. While the Victorian Ombudsman operates as an independent statutory officer (creature of the *Ombudsman Act 1973 (Vic)*), his work is intertwined with concepts like the **rule of law, separation of powers, and natural justice**:

- **Separation of Powers and Judicial Integrity:** Australia's Constitution (at the Commonwealth level) enshrines separation of powers, and even though state constitutions like Victoria's are more flexible, the **integrity of judicial processes** is a protected value. The Ombudsman often found himself guarding against executive or administrative actions that encroached on what one might call the **judicial domain** – deciding guilt, imposing punishment, or depriving liberty without due process. A pertinent parallel in the 1990s was the High Court's landmark *Kable* case (1996). In *Kable*, the High Court struck down a NSW law authorizing detention of an individual by court order without a normal criminal trial, holding that it compromised the **"public confidence in the integrity of the judiciary."**

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  . This *Kable doctrine* established that state Parliaments cannot confer powers on courts that are incompatible with judicial independence and fairness

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  . The Ombudsman's protests against, for example, **indefinite police-cell detentions** or **punitive bans on prison visitors without evidence** reflected a similar concern for the **proper separation of functions**. Such matters, in spirit, belong under judicial supervision (with evidence tested and rights of reply), not left to unfettered administrative discretion. By championing fair and lawful procedures, the Ombudsman was upholding the same ideals later reinforced by *Kable*: that even in the name of public safety or administrative efficiency, authorities must not ride roughshod over due process and judicial oversight. His stance buttressed the notion that **executive action is subject to legal limits and scrutiny**, whether by courts or by watchdogs like himself. Notably, when Geschke encountered agencies shielding behind "legal advice" to justify actions, he effectively reinforced **rule-of-law values** by demanding transparency – if an action is truly lawful and proper, it should withstand disclosure of its legal basis. This aligns with the idea that **government should be rule-bound and accountable**, not arbitrary or secretive.

- **Procedural Fairness (Natural Justice):** A cornerstone of Australian administrative law is the requirement of procedural fairness in decision-making. Courts have long held that persons affected by certain decisions have the right to a fair hearing and an unbiased decision-maker (unless

excluded by statute). The Ombudsman's interventions served as a **pragmatic extension of this doctrine**. In many cases he handled, there was no easy court remedy – the matters might be too minor or not justiciable – yet the *principle* of procedural fairness was clearly at stake. For example, the **prison visitor ban** case involved an internal corrections decision, not readily subject to court review, but the Ombudsman ensured the spirit of natural justice (the right to respond to allegations) was honored by prompting a re-evaluation of the ban. Similarly, when agencies denied claims or benefits strictly on technical grounds, the Ombudsman would ask if they had **exercised discretion properly** and treated the person fairly. In doing so, he echoed common law doctrines that require administrators to consider relevant factors, not act under dictation, and not reach blatantly unreasonable results. Indeed, the Ombudsman could recommend outcomes that a court, limited by law, might not mandate – effectively filling the gap by achieving *equity* where law alone fell short. This complementary role enhances the overall administrative justice system: **courts ensure legality, Ombudsmen promote fairness and best practice**. The Victorian Ombudsmen of this era often invoked **public law values** even when no specific legal rule was broken, thereby guiding agencies toward higher standards of conduct. Over time, some of these values became codified (for instance, Victoria's own **Charter of Human Rights and Responsibilities 2006** now legally requires public authorities to consider human rights in decisions, which is an idea foreshadowed by the Ombudsman's fairness-based approach). In essence, the Ombudsman's work reinforced **procedural fairness as a norm of governance**, closely aligned with – and sometimes ahead of – formal legal requirements.

- **Accountability and the Role of Parliament:** The Ombudsman is often described as an "agent of Parliament" and a **check on executive power**. Geschke's clash with the Premier's department over budget and oversight touched on constitutional principles of independence. By design, the Ombudsman reports to Parliament, not the government of the day, to avoid executive interference in investigations. When Geschke questioned whether Parliament had *"knowingly neglected its implied responsibilities"* under the Ombudsman Act, he was essentially asking if the legislature had done enough to defend the Ombudsman's independence and equip the office to hold the executive to account. His push for **adequate resources** and freedom from bureaucratic control resonates with the principle that **integrity bodies must be structurally protected** from political pressure. The Victorian experience in the 1990s – where legislation was amended to limit the Ombudsman's term and the executive sought reviews of the office – sparked debate about the proper **separation of powers at the state level**. Should an Ombudsman (or any watchdog) be subject to potential political retribution for vigorous investigations? The consensus in public law is that they should not; their **objectivity and fearless reporting** must be preserved. This is analogous to ensuring judicial independence or independent anti-corruption commissions. Thus, the events surrounding Geschke's departure underscore a constitutional norm: oversight officials require tenure and funding security to function effectively. Subsequent reforms in Victoria (and other jurisdictions) have more explicitly recognized this – for example, modern Ombudsman legislation often includes provisions for fixed terms and removal only by bipartisan parliamentary vote, insulating the office from unilateral executive

action. These developments echo the fundamental idea that maintaining the **integrity of oversight institutions** is part and parcel of a well-functioning separation of powers, even if that separation is conventional rather than constitutional. In summary, the Ombudsman's struggles and doctrines he championed (fair process, impartial administration, transparency, etc.) dovetailed with and sometimes anticipated the evolution of Australian administrative law. They acted as a **moral and pragmatic compass**, ensuring that the bureaucracy's immense powers were exercised in line with Australia's democratic and rule-of-law ideals.

International Human Rights Standards and Treaty Obligations

Many of the issues dealt with by the Victorian Ombudsman can also be examined through the lens of international human rights law. Australia in the 1990s was (as it is now) a party to major treaties like the **ICCPR**, and while these were not directly enforceable in domestic courts without implementing legislation, they set important benchmarks for government conduct. The Ombudsman's findings often implicitly reinforced these international standards:

- **Freedom from Arbitrary Detention (ICCPR Article 9):** Article 9(1) of the *International Covenant on Civil and Political Rights* provides that *"No one shall be subjected to arbitrary arrest or detention"* and that any deprivation of liberty must accord with *"such procedure as are established by law."*

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  . The Ombudsman's actions to highlight the plight of prisoners held interminably in police cells speaks directly to this protection. While those individuals were lawfully convicted or on remand (so not *illegally* detained), the **arbitrariness** arose when their continued holding in substandard conditions was due not to judicial sentence but to administrative convenience or resource shortfalls. International human rights jurisprudence interprets *"arbitrary detention"* broadly – detention can become arbitrary if it is unjust, unpredictable, or disproportionate, even if initially lawful. The Human Rights Committee (which oversees the ICCPR) has criticized practices where prisoners serve extra time in harsher conditions because of government inaction (for example, the Committee found Australia in violation of Article 9(1) in a case where a prisoner was kept in detention after his sentence under a preventive detention law)

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  . The Victorian Ombudsman's reporting on the police cells issue anticipated such concerns: he identified that it was *"not uncommon"* for people to effectively endure punishment beyond what any court envisaged

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. By advocating for transfers and better conditions, he was aligned with the ICCPR's mandate that detention must not be **arbitrary or unnecessarily prolonged**. Additionally, Article 9(4) of the ICCPR guarantees the right for a detainee to *"take proceedings before a court"* to challenge the lawfulness of detention

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. In the case of those stuck in police cells, this right was practically illusory – they could not easily petition a court about conditions or delays in transfer. The Ombudsman's intervention served as a surrogate mechanism of relief, investigating and pressing the authorities to correct what international law would view as an affront to personal liberty. In essence, **the Ombudsman helped vindicate the spirit of ICCPR Article 9 at the state level**, even in the absence of direct legal enforcement of the treaty.

- **Humane Treatment of Detainees (ICCPR Article 10):** The ICCPR further provides in Article 10(1) that *"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."*

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  . This is a fundamental obligation that applies to prisons, police cells, juvenile detention – any form of state custody. The Ombudsman's detailed scrutiny of conditions in police lockups – lack of bedding and light, constant illumination, inadequate exercise or visitation facilities

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  – was essentially a **human rights audit** in all but name. His report noted that conditions in many police cells were *"inferior to corrections prisons in a number of respects"* and that the situation of mixing different categories of detainees was often unavoidable

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  . This contravened the standard that (per Article 10(2)) *"Accused persons shall, save in exceptional circumstances, be segregated from convicted persons"* and juveniles from adults

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  . Indeed, Australia maintains a reservation to Article 10 about progressive implementation of prisoner segregation

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, but the principle remains an international benchmark. The Ombudsman's work shone a light on where Victoria was falling short of these humane standards and undoubtedly added impetus to improvements. Moreover, some of the troubling behaviors he documented – *"self-mutilation and other forms of behaviour"* by frustrated prisoners

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– raise concerns under **ICCPR Article 7**, which prohibits cruel, inhuman, or degrading treatment. While the state didn't *intend* to degrade prisoners, leaving them in conditions that predictably lead to self-harm and violence could be seen as a constructive failure of the duty to ensure humane treatment. By cataloguing these issues and framing them as matters of public interest, the Ombudsman introduced a human-rights-based perspective into domestic discourse. Today, such matters might also invoke oversight by bodies like the Victorian Ombudsman in its capacity as a designated Human Rights Commission (under the Charter of 2006) or other custodial inspectors, but in the 1990s it was largely the Ombudsman's **moral authority and persistence** driving reform.

- **Rights of the Child and Other International Norms:** Some Ombudsman investigations touched on rights later codified in treaties like the *Convention on the Rights of the Child (CRC)*. For example, cases involving child protection failures (siblings left in abusive situations or bounced between carers) implicate the principle of the *"best interests of the child"* (CRC Article 3). The Ombudsman, in effect, served as an **advocate for children's rights** by ensuring DHS took decisive action when regional offices faltered. Likewise, his insistence that **ex gratia payments** be easier to grant for those wronged by the state aligns with the international right to an effective remedy (ICCPR Article 2(3)). And when Ombudsman Geschke rallied for equal restroom facilities for women at public venues – labeling the lack of women's toilets as *"sexual discrimination of an inconvenient kind"* – he was ahead of his time on gender equity in public services, resonating with CEDAW (Convention on the Elimination of Discrimination Against Women) obligations for equal access to public life. Although his tone was often pragmatic and local rather than legalistic, underlying his work was a commitment to **universal principles of fairness, equality, and dignity**.
- **Treaty Obligations and Government Accountability:** Australia's international human rights commitments began to influence domestic policy more visibly in the 1990s (for instance, the federal government enacted the Human Rights (Sexual Conduct) Act 1994 after a UN Human Rights Committee decision). In Victoria, while there was no state human rights charter yet, the Ombudsman's findings sometimes spurred discussion in Parliament or the media about whether the state was living up to broader human rights standards. The Ombudsman himself participated in the **international ombudsman community**, with Geschke having served as Executive Secretary of the International Ombudsman Institute. This global perspective likely informed his understanding of best practices and treaty

norms. By the end of the period in 1999, one can see the seeds of change – Victoria would soon draft its own human rights Charter, and oversight bodies would increasingly frame their critiques in human rights language. The Ombudsman's 2016 *Good Practice Guide* explicitly tells agencies to consider the Charter rights and ask *"Have you acted compatibly with human rights?"* when responding to complaints. This evolution owes much to the groundwork laid in the prior decades. Thus, the Ombudsman's 1987–99 work can be viewed as part of **Australia's gradual implementation of international human rights ideals** at the state administration level. He translated abstract treaty obligations into concrete administrative improvements – ensuring a prisoner gets a blanket, a child is safe, a widow gets an apology – which is where human rights truly matter for citizens.

In conclusion, the Victorian Ombudsman's oversight in this era reinforced the **convergence of law and ethics**: domestic administrative law principles meshed with international human rights standards, both aiming to curb arbitrary governance and protect individual rights. The Ombudsman's role complemented the courts and gave life to treaty values, helping Victoria inch towards compliance with global norms even in the absence of direct legal enforcement of those treaties. It is a powerful example of how **soft power and persuasion**, grounded in legal and moral authority, can drive a government toward its higher obligations.

Impact and Reforms in the Aftermath

The findings and pressures generated by the Ombudsman's reports from 1987–1999 led to a number of **reforms and changes** in Victorian public administration – some immediate and practical, others gradual and cultural. Below are the key impacts and responses in the aftermath of this critical period:

- **Legislative and Structural Reforms:** Several legislative changes in the 1990s can be traced to issues raised by the Ombudsman. In direct response to Norman Geschke's lengthy tenure and robust activism, the Victorian Parliament amended the *Ombudsman Act* to **limit the Ombudsman's term to 10 years**. While this was controversial (seen by some as clipping the Ombudsman's wings), it was justified as a good governance measure to ensure regular turnover and independence from any one government. Additionally, the *Deputy Ombudsman (Police Complaints) Act 1988* had established a dedicated Deputy Ombudsman for police matters, following concerns (like those raised by the 1980 Norris Report) about police investigating themselves. This reform was crucial in strengthening oversight of police conduct, a theme prominent in Ombudsman reports (e.g. investigations into police misuse of databases and handling of demonstrations). In 2001, Victoria also passed the *Whistleblowers Protection Act*, designating the Ombudsman to receive and investigate public-interest disclosures. This empowered the Ombudsman to address serious misconduct and corruption allegations from insiders, reflecting an increasing commitment to administrative integrity – a value strongly championed in the 1987–99 reports. Collectively, these legislative moves **expanded the Ombudsman's toolkit** and heralded a more robust integrity framework in Victoria.

- **Policy and Administrative Changes:** On the administrative front, many of the Ombudsman's specific recommendations were implemented by departments and agencies, leading to better practices. For example, after the conflict-of-interest case in DHS, that department put in place **stricter conflict-of-interest policies and staff disclosure requirements**, as well as written agreements with outsourced care providers clarifying standards and monitoring expectations. In child protection, the government realized the dangers of unchecked regional autonomy; DHS took steps to ensure that head office would intervene earlier in intractable cases and that regional directors understood they could not defy lawful instructions. In the corrections realm, Ombudsman Perry's report on police cells added momentum to government plans to alleviate prison overcrowding. The government accelerated construction and opening of new prison units to reduce reliance on police lockups. It also prompted the **introduction of guidelines** for the temporary holding of prisoners in police cells – including maximum duration recommendations and minimum conditions (exercise, lighting, visitation standards) in line with the Ombudsman's findings. Meanwhile, Victoria Police upgraded some cell facilities and improved training for officers managing long-term inmates, partially mitigating the worst conditions until systemic fixes took effect. Another result of Ombudsman scrutiny was improvement in **complaint-handling within agencies**. Stung by Ombudsman criticisms, departments began to establish internal complaint units and review processes so that grievances might be resolved before escalating to the Ombudsman. By 2016, the Victorian Ombudsman could publish a *Complaints Good Practice Guide* showcasing vastly improved agency attitudes – a far cry from the 1990s when, for instance, a manager infamously told staff to "delete" a citizen's complaint email as *"rubbish"*

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  . The cultural shift towards seeing complaints as feedback to learn from (rather than nuisances to suppress) is part of the Ombudsman's legacy of that era.

- **Judicial and Academic Acknowledgment:** The Ombudsman's work did not go unnoticed by the legal community and scholars. Courts in Victoria occasionally referenced Ombudsman reports when adjudicating related issues – for example, using the factual findings or adopting recommended standards as a benchmark for what is reasonable administrative conduct. Although an Ombudsman's conclusions have no binding legal force, they can influence *judicial review* indirectly by highlighting systemic problems. Legal academia also paid attention. The period spurred discussion in administrative law journals about the proper role of Ombudsmen and alternative avenues of justice. Scholars noted that Geschke's approach in Victoria marked a shift from the more diplomatic style of his predecessor (Sir John Dillon) to a **more forceful, transparent form of oversight**. This evolution was studied as part of the growing "integrity branch" of governance in Australia. The concept that institutions like Ombudsmen, auditors, anti-corruption commissions, etc., form

a de facto fourth branch devoted to accountability gained traction. Geschke's parting questions – such as whether Parliament had neglected aspects of the Ombudsman Act – fed into debates on how parliaments should empower and respond to watchdog agencies. Moreover, public law researchers and interns at the Victorian Ombudsman's office continued to delve into the office's history; a 2021 research paper by two interns reaffirmed how Geschke's tenure was a **"radical departure"** in style that cemented the Ombudsman's role as a more **assertive defender of individual rights**. This intellectual recognition helped validate the Ombudsman's contributions and kept the pressure on government to heed his recommendations.

- **Governmental and Public Response:** At the political level, the Ombudsman's revelations sometimes prompted ministerial action or even apologies. For instance, if a particularly egregious case of maladministration was exposed (such as a family's tragic experience in the child protection system or a prisoner abusively treated), ministers would be questioned in Parliament and compelled to respond. On a few occasions, **formal inquiries or inter-departmental committees** were established to address issues the Ombudsman raised. One example is the **interdepartmental working group on ex gratia payments** that Geschke had long pushed for. By the late 1990s, the State Government finally streamlined the process for small compensation payments, acknowledging the absurdity (which Geschke highlighted) of requiring a Minister or Cabinet to approve trivial sums for obvious wrongs. Additionally, the **public's awareness and expectations** shifted due to high-profile Ombudsman cases. Victorians increasingly came to see the Ombudsman as a guardian of their rights in dealings with government. The media gave coverage to Ombudsman reports – for example, reporting on the problem of kids in care or the plight of prisoners in police cells – which generated public pressure for humane and fair administration. In one notable instance, the Ombudsman's multi-year crusade for adequate women's restrooms at public venues succeeded when building regulations were amended – a small but symbolic victory for responsiveness in public administration. Finally, when Deborah Glass became Ombudsman in 2014 (two decades after Geschke), she publicly paid tribute to Norm Geschke's impact, noting that he served Victoria *"with independence and integrity"* and *"helped so many thousands of people"*. Such acknowledgments by successors and officials underscore that the **institutional memory** of those findings lives on. The Victorian Ombudsman's office, now 50+ years old, often reflects on past reports to measure progress and ensure past mistakes are not repeated. The legacy of 1987–1999 is thus baked into ongoing reform – visible in everything from **modern training of public servants on conflict of interest and human rights**, to the **language of government codes of conduct**, which emphasize values like integrity, impartiality, and accountability, mirroring the Ombudsman's core concerns.

Conclusion

The period from 1987 to 1999 was formative for the Victorian Ombudsman and for public administration in Victoria. Norman Geschke's 1994 relinquishing office report serves as a **landmark document**, shining a light on chronic issues – **conflicts of interest, lack of procedural fairness, abuses of power (subtle or overt), and**

threats to the independence of oversight. Through comparative analysis, we see that these issues were not isolated: they recurred in case after case, testing the resilience of Victoria's governance structures. The Ombudsman's relentless inquiries and frank reporting forced both **introspection and change**. They led to tightened ethical rules, fairer processes for citizens, improved conditions for the vulnerable (prisoners, children, the elderly in care), and a strengthened framework for integrity in government.

Legally, the Ombudsman's work intersected with evolving constitutional doctrines and foreshadowed the rise of human rights in Australian law. It complemented judicial efforts to uphold the rule of law and filled gaps where courts could not readily intervene, thereby advancing principles enshrined in instruments like the ICCPR – **dignity, equality before the law, and the right to be free from arbitrary governance**. The Victorian Ombudsman emerged from this era not only as a complaint-handler but as a **crucial guardian of the public interest**, with a status approaching that of an accountability institution entrenched in the democratic system.

In the aftermath, Victoria saw a series of reforms – from legislative tweaks to cultural shifts in the bureaucracy – that bear the Ombudsman's imprint. While challenges to good governance are perpetual, the legacy of the 1987–1999 Ombudsman work is evident in the far more robust **integrity landscape Victoria enjoys today**. As one reflection on the Ombudsman's 50-year history put it, the role is to *"humanise the bureaucracy"*, to ensure that **compassion, reason, and justice** guide the exercise of public power. The deep dive into Norman Geschke's special report and its context confirms that, during those years, the Victorian Ombudsman indeed lived up to that lofty mission – often against the odds – and in doing so, left Victoria's public administration decidedly better than he found it.

Sources: The analysis above integrates content and insights from Norman Geschke's 1994 **Special Report to Parliament**, Victorian Ombudsman **Annual Reports 1989–2002** (Parliamentary Papers) including case studies, relevant provisions of the **International Covenant on Civil and Political Rights**

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, and subsequent commentary on the Ombudsman's role and legacy. These sources collectively illustrate the issues, legal context, and impact discussed in this report.