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Indonesian Ombudsman: Strengthening Role in Improving the Quality of Public Services

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Abstract

When residents have issues with a government agency, they may resort to the impartial Ombudsman. This research looks at how the Indonesian Ombudsman has affected service quality there. This research aims to clarify the need for an Ombudsman in the fight against bad administration and to propose reforms to the legislation that would give them more authority. This research blends a normative judicial approach with a descriptive analytic technique. This research shows that the Indonesian Ombudsman has the potential to become a powerful advocate for improving the quality of government services and protecting people's rights against infringement by the state. The Ombudsman in Indonesia can do a better job of sustaining good governance and guaranteeing justice in the provision of public services if given the sufficient resources and support from the government and society, as well as the required legal framework.

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I. Introduction

Legal states, in theory, are those in which the rule of law underpins all aspects of government and social order. Mochtar Kusumaatmaja explains that the rule of law means that authority is established by the rule of law and that everyone is accountable to the law. Whether enacted via the notion of a democratic state (democracy) or through the concept of a rule of law (nomocracy), the idea of law has the same goal: to increase people's well-being (Martitah, 2013).

Rule of law is different from a rule of law, which refers to a particular set of laws or regulations, such as those pertaining to maintaining order, upholding morality in the legal system, or establishing a positive rule of law. It's a legal principle, but the Rule of Law is more of a political morality ideal that describes the relationship between the administration and the judicial and legislative branches (Bingham, 2011).

The 1945 Constitution is the constitutional foundation of the Indonesian state, and it mandates changes in the life of the state, nation, and society during the reform period with the goals of creating a democratic state and government administration, increasing prosperity, achieving justice, and ensuring legal certainty for all Indonesian people. As a legal state founded on Pancasila, Indonesia strives for a social order that is fair, prosperous, and equitable (Martitah, 2013). With this as a guide, Indonesian legislation is drafted with the goal of fostering social justice for all Indonesians. According to the 1945 Constitution, which serves as the legal basis for the Indonesian state, social justice for all Indonesian residents is the ultimate aim or ideal situation.

Laws are established by communities to accommodate divergent group goals (Wantu et al., 2023). Since constitutionalism rests on the premise that the majority of a population can reach a consensus on what kind of government should be established, it is inextricably linked to the concept of the constitution (Muhtar & Kasim, 2023).

The government has a duty to provide for the general public by funding and delivering essential services. Public service providers engage in activities to meet the service requirements of all citizens for products, services, and administrative services in line with Article 1 Paragraph 1 of Law no. 25 of 2009 about Public Services (Rahmadanik, 2021). While maintaining a keen eye on the status of the public coffers, Chi-Kuang maintains that "the principle of public service is social benefit for every citizen." (Sulistiowati, 2012).

Good Governance entails coordinating a better, cleaner, and more efficient state and government, and it is inseparable from public service and the execution of law (Dr. Khoirul Huda, 2015). In line with the mission of the Republic of Indonesia's 1945 Constitution, the goal of this work is to increase prosperity and promote justice and legal certainty for all people.

It is essential to Good Governance that state and government administrators be

subject to oversight of their operations. The public expects state and government system free from KKN—corruption, collusion, and nepotism—that is effective, efficient, honest, clean, open, and free. The Republic of Indonesia's constitution and government have undergone significant revisions in an effort to reorganize national and state life. The creation of new State institutions and government entities like the Ombudsman is an essential first step (Nuriyanto, 2019). On March 10, 2000, under Presidential Decree No. 44 of 2000 establishing the National Ombudsman Commission, this body was established.

It is widely agreed that a solid legal framework is necessary to define and enforce the tasks, powers, and authority of an external supervising organization for state and government management. This led to the creation of Law 37 of 2008, which established the office of Ombudsman for the Republic of Indonesia. Presidential Decree 44 of 2000, which created the position of National Ombudsman, has been superseded by this statute.

Article 2 of Law 37 of 2008 states that "The Ombudsman is a State institution that is independent and has no organic relationship with other state institutions and government agencies, and in carrying out its duties and authority is free from interference from other powers." In accordance with Article 6, the Ombudsman is responsible for monitoring the delivery of public services by all levels of government, including central and regional administrators, State-Owned Enterprises, Regional-Owned Enterprises, State-Owned Legal Entities, and private entities or individuals.

Due to a number of hurdles and constraints concerning legal considerations, resources, and public image and acceptability, the Ombudsman's position in Indonesia has not been perfect. The following are a few causes for the Ombudsman's underutilized position in Indonesia:

1. One problem is that the general public in Indonesia may not understand what the Ombudsman does. This might discourage people from coming forward to report instances of improper administration to the Ombudsman. Not everyone is aware of the Ombudsman's presence, as 67% of the general population does not know what it is (Septianingtyas & Sulistyowati, 2020).
2. Non-Compliance with Recommendations: The Ombudsman's suggestions are frequently disregarded or not implemented by the relevant government bodies. This may be due to a lack of understanding or a reluctance to implement the recommendations of the Ombudsman. The Ombudsman of the Republic of Indonesia has given recommendations, however more than half of the reporting agencies are not following them (Septianingtyas & Sulistyowati, 2020). Mokh Naj claims that even though the Ombudsman's recommendations are legally binding instructions under the Law, public service organizers are still not acting on them (antaranews.com, 2021)
3. The Ombudsman's power may be constrained in particular situations, such as

when it lacks the capacity to compel compliance with its recommendations. However, there is still room for improvement in the Ombudsman's efforts to extend their reach into other areas, such as the commercial sector. Agencies face social sanctions, such as media coverage of the case and the reporting agency, and political sanctions, such as a referral from the Indonesian Ombudsman to the DPR or the President, if they fail to implement recommendations. Ombudsman Law reform provisions, according to Ninik Rahayu, who will serve as chairman of the office from 2016-2021, should make it easier for the Ombudsman to investigate and resolve citizen concerns (DA, 2023).

Complex problems, like unfairness or ineffective government governance, are frequently what we find when we look into murky situations. Possible solutions include making rules more open or specific to address these concerns. The question "why is there a failure in services that are supposed to be guaranteed by the government?" comes to mind when we encounter an issue of poor management, for instance. As a result of this inquiry, we may have to dig further to determine if the problem stems from insurmountable obstacles, a dearth of resources, or a lack of trustworthiness. Similarly, we may wonder, "Why do these recommendations appear to have no binding legal force, and what are the implications for law enforcement and justice?" while discussing the Ombudsman's proposals. To what extent authority and effectiveness must go hand in hand in maintaining fairness and accountability in government is a question that arises naturally from this topic, as is the importance of mechanisms that not only respect such recommendations but also maintain a balance of power.

2. Research Methods

The concerns and/or themes that have been brought forward as research subjects classify this study as a kind of normative legal research. Philosophy and analysis inform the research methodology, with the study culminating in a conclusion that seeks to generate fresh results as a response to the central challenge identified at the outset (Ishaq, 2017). In addition, it will be studied utilizing descriptive analytical techniques, such as summarizing the relevant legal theory and best practices for law enforcement (Mahmud, 2016).

In this analysis, secondary data are divided into three categories depending on the level of authority they contain: primary, secondary, and tertiary legal documents (Amirudin & Zainal Asikin, 2004). Rules and regulations are examples of secondary legal materials, whereas literature that explains main legal materials is an example of primary legal materials. Public service, the concept of good governance, and other related fields all feature prominently in the literature. Tertiary legal resources are those that provide a more in-depth explanation of the primary and secondary legal documents, such as dictionaries, encyclopedias, and catalogues. Finding the relevant legal material requires a

combination of library research, qualitative descriptive methods, and inductive reasoning (Soerjono Soekanto and Sri Mamudji, 2007).

3. Results and Discussion

6 Duties and Authorities of the Ombudsman of the Republic of Indonesia 3

Representative, agent, delegate, lawyer, guardian, or anybody else authorized to act on behalf of and serve the interests of others might be thought of as an ombudsman (Tauvani, 2020), meaning "persons requested by others to undertake to represent the interests of and act for the benefit of" another party. When discharging its responsibilities and exercising its jurisdiction, the Ombudsman of the Republic of Indonesia is not constrained in any way by the other branches of government or other state organizations with whom it has no formal connection (Desiana, 2013).

According to Article 1 to 1 of the Ombudsman Law, "The Ombudsman of the Republic of Indonesia, hereinafter referred to as the Ombudsman, is a state institution which has the authority to supervise the implementation of public services, both organized by state and government administrators," including the right to investigate complaints about the government's performance.

If the need arises, the Chairman of the National Ombudsman may appoint Ombudsman Representatives in province, Regency/City areas who are an integral component of the National Ombudsman and whose job it is to accelerate oversight of the execution of state tasks in the regions. The regional representatives of the National Ombudsman are subject to the same laws, rules, and regulations as the National Ombudsman.

The Indonesian Ombudsman Commission serves the following functions, as stated in Article 4 of Law of the Republic of Indonesia No. 37 of 2008 about the Ombudsman of the Republic of Indonesia: Realizing a democratic, just, and prosperous legal state; Encouraging state and government administration that is effective and efficient, honest, open, clean, and free of corruption, collusion, and nepotism; Increasing the quality of state services in all fields so that every citizen and resident obtains justice, a sense of security, and better prosperity; Creating and increasing efforts to eradicate and prevent maladministrative practices, discrimination, collegiality, and nepotism.

The Ombudsman has the task of receiving public reports in relation to maladministration, as stated in Article 7 of Law no. 37 of 2008 concerning the Indonesian Ombudsman, which states The Ombudsman's role is to: (1) receive reports of alleged maladministration in the implementation of public services; (2) conduct a substantive examination of the Report; (3) follow up on reports within the scope of the Ombudsman's authority; (4) investigate allegations of alleged maladministration in the implementation of public services on their own initiative; and (5) coordinate and cooperate with state institutions or other government institutions and community institutions.

The implementation of the Ombudsman's duties is also supported by the authority he has in order to move towards the principles of Good Governance, which are summarized in Article 8 of Law no. 37 of 2008 concerning the Indonesian Ombudsman, which states:

1. In carrying out the functions and duties as intended in Article 6 and Article 7, the Ombudsman has the authority to:
 - a. request verbal and/or written information from the Reporter, Reported Party, or other related parties regarding the Report submitted to the Ombudsman;
 - b. examine decisions, correspondence or other documents held by the Reporting Party or Reported Party to obtain the truth of a Report;
 - c. request clarification and/or copies or photocopies of documents required from any agency for examination of the Report from the Reported agency;
 - d. summon the Reporter, Reported Party, and other parties related to the Report;
 - e. complete reports through mediation and conciliation at the request of the parties;
 - f. make recommendations regarding the completion of the Report, including recommendations for paying compensation and/or rehabilitation to the injured party;
 - g. in the public interest to announce findings, conclusions and recommendations.

The Ombudsman's powers include, but are not limited to, those listed in subparagraphs (a) and (b).

- a. Provide recommendations for improvement and refinement of public service organizations and/or processes to the President, regional leaders, or other heads of State Administrators;
- b. Recommend modifications to law and other statutory rules to the People's Representative Council and/or the President, the Regional People's Representative Council and/or regional leaders in order to avoid maladministration.

Supervision System Carried Out by the Ombudsman of the Republic of Indonesia

The primary focus of supervision is to ensure that the desired outcomes are not compromised in any way (Bate'e & Gea, 2018). It is intended that with proper oversight, the established policies may be put into action to bring about the desired results. In reality, supervision gives rise to a task that is intimately involved in establishing or assessing the degree to which work has been completed (Djadjuli, 2018). In addition to revealing where and how much work has deviated from the plan,

supervision may also reveal how well leadership policies are being put into practice (Gafar et al., 2022).

In the context of government law, supervision may be seen as any activity with the goal of ensuring that the governmental and administrative apparatus is acting within the bounds of the law. If we're talking about the Constitution, "supervision" refers to any action taken to make sure that government agencies are carrying out their responsibilities legally (Mustika, 2018).

The nature of government oversight suggests that it is both preventative and restrictive (Jayanti, 2019). It is the goal of preventive surveillance to ensure that no illegal behavior or attitude is taken by the government. Meanwhile, repressive supervision is a kind of monitoring that is used to counteract illegal government activity. This oppressive monitoring is, essentially, an act of law enforcement (Asmara, 2005).

A person who works on behalf of others is called an ombudsman, a term derived from Old Swedish. Originally established in 1809 as a constitutionally protected entity in Sweden. Courts and government agencies are under its purview, followed by the armed forces. Supervision is carried out by inspecting and investigating facilities and operations based on public reports or on their own initiative. The Swedish Ombudsman has broad powers, including the ability to examine civil and military trial records and minutes, initiate legal action against erring public officials, declare that an existing rule is ineffective, and suggest changes to that legislation. When asked for help, all members of the government, police, and armed forces must supply it.

Participation is a crucial condition of the Ombudsman supervisory system and the current paradigm. The Indonesian Ombudsman's mandate includes encouraging citizen participation in the pursuit of good governance by fostering an environment wherein a transparent and accountable government, high-quality public services, and an impartial and effective judicial system are all more likely to materialize. No favoritism will be shown (Sujata & Surachman, 2002). Every step of the process of making and enforcing laws is subject to public scrutiny and openness, allowing for direct community participation (direct participation) to make up for any gaps or failures in official institutional mechanisms (Asshiddiqie, 2011).

Ombudsman oversight is symbolic of community or civil society group oversight (Abbas & Lodan, 2020). Like in civil society, the Ombudsman's services are provided without charge and with additional perks. The success of the Ombudsman's efforts depends not only on the political will of state administrators and political support in parliament, but also on the degree to which the public understands the role of the Ombudsman. Knowing it's important to speak out against wrongdoing and having the guts to disclose misconduct by public servants at the state level.

As a result, the Ombudsman's approach to supervision is grounded on the

concept of community supervision. Thus, since the Indonesian Transparency Society defines public transparency as openness that necessitates public engagement, the Ombudsman has positioned participation as a very significant issue and is the cornerstone in its supervisory job from the very beginning of its development.

How public reports are received, followed by administrative research, resume compilation, clarification request drafting, and finally the issue of Ombudsman recommendations are all part of the Ombudsman's procedure (Budhi, 2005).

1. Provide further information to the Ombudsman

The Ombudsman has the authority to ask government officials for an explanation when there has been a complaint filed. In most cases, the Ombudsman may follow up on a report with a desk-based document review (henceforth referred to as a "behind-the-desk investigation"). Clarification requests are an integral component of any inquiry that takes place behind the scenes.

After analyzing the supporting paperwork and receiving written explanation (clarification) from the public authority, a seemingly straightforward report may turn out to be more complicated than first thought. The Ombudsman will often promptly conduct a cross check in the field to verify the veracity of the official's (reported) answer in such cases. The Ombudsman included an interview phase into field cross checks to elicit more information and answer any questions that may have arisen. This kind of explanation request differs somewhat from the formal letter variety due to the more proactive character of the former.

Sometimes, after reviewing the field data, the Ombudsman concludes that further information is required from the responsible government agencies. When presented with such situations, the Ombudsman's standard response is to draft a letter asking clarification as soon as possible in order to address any remaining questions or concerns. There are often two causes of such fuzziness. The first is an effort to hide the issue. The second reason is because there is insufficient evidence. Such requests for clarification are necessary before the Ombudsman can provide a final decision in order to corroborate and enhance the results of the study of discoveries in the field. Recommendations to the appropriate government authorities will be based on this conclusive conclusion.

2. Drafting a Request for Clarification

The Ombudsman sees requests for clarification as an opportunity to clarify the issue in a report. That everyone involved, including the reported individual, can quickly grasp the core issue that prompted the complaint. To put it simply, attempts to conduct in-depth, thorough, and impartial analysis need explanations or clarifications from public authorities. This is an example of adhering to the Ombudsman's universal principle of impartiality. Since the Ombudsman listened to answers from both sides, it is clear that he treated the public official as a responder

equitably by providing them the first chance to explain.

The Ombudsman makes sure the issue has been presented in order, concisely, and clearly before asking for further information. In addition, it is possible to precisely identify the content for which clarification is needed in order to forestall misunderstandings. If the reported issue is a delay in service, for instance, it's important to ask clarifying questions regarding the method, the cause of the delay, and the reporting party's attempts to address the issue.

3. Request for Clarification and Recommendation

The Ombudsman will provide a recommendation as their final product. However, seeking confirmation before beginning work on a suggestion is crucial. Effectiveness and efficiency are also often taken into account by the Ombudsman when following up on public reports. The duration of the bureaucratic process at the agency

The Indonesian government and state institutions need the Ombudsman to regularly update and improve its processes for responding to citizen complaints. Letters from the Ombudsman often have to travel through numerous bureaucratic administrative offices in government or state organizations before a response is issued. It will take quite some time to get back from the appropriate government authority with an explanation or clarification on this matter. Because of the disorganization in the current administrative system, or even worse, because some people deliberately destroy Ombudsman letters for ulterior motives, it is possible that letters requesting clarification may never reach the authorized officials. On the other hand, the reporter may be eager for a speedy solution to the issue. The projected resolution time may increase if the Ombudsman follows the standard procedure of first requesting for clarification, then conducting further studies, investigations, and recommendations. But there are pressing reasons why this issue must be fixed right now. In such a situation, the Ombudsman achieved a breakthrough and amended the letter's preparation by delivering a temporary opinion and then conditional recommendations all at once.

This letter serves as a suggestion to the appropriate public authorities and should be taken into consideration. However, not all issues may be pursued in this manner; in particular, the filed report must be clear, objective, and chronological; in addition, the attached papers must be authentic and accountable. Meanwhile, the reporter's health necessitates a proper answer to the issue at hand.

4. Ombudsman Investigation Stages

Following up on incidents of suspected maladministration, whether submitted by the public or on their own initiative, the Ombudsman conducts investigations as a last, crucial step in the process. In order to determine what steps to take next—whether to seek clarification or to provide quick recommendations—investigations are conducted to seek and gather more comprehensive, crisp, balanced, and impartial

information. The Ombudsman's two-stage process is followed here. The first step is a covert probe, during which the reporter's judgments, communications, and other provided papers are scrutinized for accuracy. The examination's findings will dictate what comes next. If the filed report is sufficiently chronological, objective, and supported by genuine and accountable documentation, the Ombudsman will often ask for clarification right away so that the appropriate public authorities may explain the underlying situation.

The Ombudsman's probe is distinct from those of other government bodies. The Ombudsman uses the word "investigation" to distinguish its work from that of the police, the prosecutor's office, and the Civil Servant Investigating Officers (PPNS). The primary distinction is that, unlike past investigations by the Police and Prosecutor's Office, the Ombudsman's work is not done in the context of prosecution (*pro justitia*). The public official who was reported must explain why the action he took did not constitute maladministration, but the Ombudsman is not responsible for proving allegations of wrongdoing by the public. The explanation or rebuttal, if any, must be backed up by reasoning and legal papers, of course. The role of the Ombudsman is to give a recommendation on the acceptability of the explanation from a good governance perspective. To be scientific, fair, fair, and objective, the evaluation process must take into account information gathered from both sides.

The Ombudsman has given many sorts of recommendations in the past. These kinds may be broken down into four categories (Sebayar & Hartati, 2021). The first step in solving the issue reported is making suggestions. Second, suggestions for the imposition of punishments to serve as both a guide and a deterrent. Finally, suggestions for improving the procedures or systems that lead to subpar public services, and measures to avoid future instances of maladministration. Future difficulties with the Ombudsman's oversight outcomes may stem from the public's frequent query of how the Ombudsman's recommendations will be effective if they are merely moral appeals. In order to ensure that the Ombudsman's oversight role is not in vain, it is essential that his or her recommendations be implemented (Setiawan, 2020).

6

Handling of Mal-Administration by the Ombudsman of the Republic of Indonesia

"Maladministration" in English denotes both "bad administration" and "bad governance," from which we get our phrase "mal-administration." (The English term "administration" is derived from the Latin "administrare," which means to manage; variants of the word include "administratio," which denotes government or governance. The term "mal-administration" is described as "Poor Management or Regulation" in the Black Law Dictionary and "administration bad or bad government" in other scientific dictionaries (Philipus et al., 1994). A lack of care, judgment, or honesty in the management of anything, or a person's lack of care or dishonesty in managing something,

is what the Cambridge dictionary means by "mal-administration."

The term "maladministration" is intrinsically linked to the Ombudsman's role and responsibilities. The success of the Ombudsman of the Republic of Indonesia in enforcing administrative reform has made this term well known and discussed in the media every day. In common parlance, "maladministration" refers to inconsequential blunders in administration (Mandasari et al., 2023). In fact, many situations that can result in material and immaterial losses and situations of injustice that harm the rights of citizens are included in the definition of maladministration, as stated in article 1 number 3 of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia.

Maladministration is defined by nine factors in Indonesian positive law: (1) illegal behavior and acts, (2) actions taken that go beyond the scope of one's authority, (3) abuse of power, and (4) failure to carry out duties assigned to one's position. Four) Carelessness Five) Ignorance of Legal Obligations Six) Laxity in Providing Public Services caused tangible and/or immaterial damages (9) to society and people (7) by State and government administrators (Nurtjahjo et al., 2013).

The Ombudsman of the Republic of Indonesia is tasked with receiving and investigating complaints of government mismanagement, as outlined in Law no. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia. Article 1 paragraph 3 of Law number 37 of 2008 pertaining to the Ombudsman of the Republic of Indonesia is the first place the terms "mal-administration" and their meaning appear in any legal text in Indonesia. Mal-administration, as defined in Article 1, Section 3, encompasses not only illegal behavior/actions but also illegal decisions/events, the abuse of power, the use of power for purposes other than those for which it was intended, and the failure to fulfill legal obligations when providing services. tangible and/or immaterial damages to society and people caused by public actions carried out by State and government administrators, including persons who help the government in delivering public services.

Bureaucracy in Indonesia is in a sorry state due to a number of factors, including a lack of public awareness, a culture of *ewuh pakewuh* (fear, discomfort, and reluctance), lots of extortion (illegal levies), protracted delays, long and complicated bureaucracy, and the habits of public officials who ask to be served; not serve in administrative matters in government offices. Because of the difficulty in obtaining services from government offices and other public service institutions, many individuals are tempted to use illegal shortcuts. Providers of public services also profit personally from this setup (Nurtjahjo et al., 2013). Maladministration encompasses a wide range of improper behaviors taken by public servants (Hasibuan, 2015):

1. First, Error in the sense of acting in a way that is counterproductive to the workplace as a whole.
2. A dishonest method specifically public dishonesty and lying. For the advantage of bureaucrats, the public is given deceptive information, information that is

- not accurate.
3. Third, corruption happens when someone uses his power for selfish ends, such as benefiting himself or others at the expense of the state's coffers, or when he uses his authority for objectives other than those for which it was provided.
 4. Poor policy implementation, in which the policymaking process is not completed. Political choices or pledges end only when a legislation is discussed or ratified, not before implementation.
 5. Fifthly, a bureaupathologist Some examples of bureaucratic ills are:
 - a. Uncertainty especially, the lack of a definitive ruling on a certain matter. Thus, an existing case is left unresolved, or "dangling," in the absence of a definitive ruling. In such situations, many high-ranking authorities are usually involved. In actuality, a plethora of ice instances must occur.
 - b. Red Tape, or the bureaucratic illness that causes the delivery of services to be slow and confusing even while they are feasible
 - c. Cicumloution, sometimes known as the ailment of too verbose bureaucrats. Lots of empty assurances. A lot of soothing remarks to help you through this difficult moment. The general population may be easily thrown off by the various inflammatory terms used among elites.
 - d. Rigidity in particular, the malady of inflexible bureaucracy. This is the result of the bureaucracy's paradigm of isolation and impersonality. This malady manifests itself in overly bureaucratic services that blindly adhere to the rules without evaluating individual situations.
 - e. Psychophancy in particular, bureaucrats' pernicious propensity to seek approval from higher-ups. As long as you're content, you'll have symptoms. This bureaucratic bias toward pleasing superiors rather than the public and conscience. The term "loyalty to individuals" might be used to describe this phenomena instead of "loyalty to the public."
 - f. A bureaucratic illness shown by bloated personnel levels. A large workforce might be inefficient.
 - g. Paperasserie is the propensity of bureaucracy to utilize a great deal of paper, a great deal of forms, and a great deal of reports, none of which are ever used for their intended purpose.
 - h. Defective accounting a defective financial audit, to be specific. This indicates that there is a deliberate practice of double-reporting financial data for fraudulent ends, which is contrary to generally accepted accounting principles. A common blunder in the financial sector is the practice of overcharging for projects.

The public service provider is obligated to immediately correct any

maladministrative action, decision, or incident, either at the advice or ⁵ recommendation of the Ombudsman, or on the initiative of the public service provider (public sector official), if there are provisions regarding special adjudication. itself (Nurtjahjo, 2016). Providers of public services are required by law to accept these liabilities as part of their responsibilities and obligations. The Ombudsman may propose administrative penalties against the public service provider if it is found that certain duties and responsibilities have not ¹ been met.

If the services provided result in losses in the field of state administration, members of the public can sue civil service providers or implementers in the state administrative court under Law no. 25 of 2009 concerning Public Services. civil lawbreaking by the public sector. If a member of the public suspects a public servant or public servant of committing a crime, they can file a criminal complaint ⁴ with the police; however, this does not relieve the offender of the duty to carry out the decision of the ⁴ ombudsman and/or the superior of the official who committed the maladministration. The Ombudsman has the authority to propose administrative punishment in cases of maladministration. The Ombudsman has the authority to suggest a variety of disciplinary actions, including a written warning, removal from office, suspension from pay for up to one year, or relegation to a lesser rank for up to one year. one) year, punishment for dishonorable dismissal, punishment for honorable dismissal, ⁴ punishment for the freezing of missions and/or the revocation of permissions provided by government agencies, and punishment for the revocation of permits issued by government agencies. The Ombudsman only proposes civil law remedies, such as penalties and compensation payments, as well as criminal law remedies, such as imprisonment and fines for breaking relevant laws and regulations. The reporting official's superior then has final say over any action taken as a result.

Case Study ⁷ on the Arrest of Bambang Widjojanto: An Analysis of the Binding Strength of the Recommendations of the Ombudsman of the Republic of Indonesia in the Process of Resolving Mal-Administration Cases

The Ombudsman, a judicial agency established by Law No. 37 of 2008, was ruled to have no authority. As was previously mentioned, the Ombudsman exercises its supervisory responsibilities via a trifecta of means: mediation, conciliation, and recommendation-based adjudication. As such, the ombudsman's advice is only one of several options for addressing customer concerns.

Recommendations may be thought of as advise or ideas. When considering the ombudsman's role and power, however, the ombudsman's comments are more than simply that (Sari et al., 2019). In accordance with Article 17 "Recommendations are conclusions, opinions and suggestions prepared based on the results of the Ombudsman's investigation to the Reported Party's superiors to be implemented

and/or followed up in order to improve the quality of good government administration"

While the output of the Ombudsman's efforts to resolve reported concerns is not a legally enforceable court ruling, as this article demonstrates, it should not be disregarded either. Ombudsman recommendations are binding by their very nature. In accordance with the terms of Article 38, Paragraph 1:

"The Reported Party and the Reported Party's superiors are obliged to implement the Ombudsman's Recommendations."

As well as the provisions in Article 39, which reads:

"The Reported Party and the Reported Party's superiors who violate the provisions as intended in Article 38 paragraph (1), paragraph (2), or paragraph (4) will be subject to administrative sanctions in accordance with the provisions of statutory regulations."

Even though the Ombudsman is not a legislative institution but rather an independent independent institution as in Article 2 of the Ombudsman Law, its recommendations are mandatory but not necessarily final and binding, as evidenced by the existence of provisions for imposing sanctions for non-implementation of Ombudsman recommendations. This necessitates more bureaucratic work to address the Ombudsman's suggestions.

The Police committed maladministration in the 2010 West Kotawaringin Regional Election in Central Kalimantan after misleading statements were made in the trial before the Constitutional Court in 2015. On January 23, 2015, around 07:30, a team of police officers executed the arrest of Bambang Widjojanto. In accordance with Article 18 of the Criminal Procedure Code, an arrest warrant must be presented in order to conduct a search incident to an arrest. However, the police failed to provide the required Letter of Assignment and Arrest Warrant when they arrested Bambang Widjojanto.

The arrest of Bambang Widjojanto is one of the Ombudsman's concerns as a supervisory entity whose responsibilities and activities are intimately tied to acts of mal-administration of public services. The Ombudsman conducted an exhaustive investigation into this case of maladministration and validated the issue by providing a full, chronological account of the events leading up to the investigation. In the case of Bambang Widjojanto's arrest, the term "maladministration" encompasses a wide range of transgressions, such as those against statute, disregard of legal responsibilities, carelessness, and procedural errors.

The Ombudsman has found that the police have committed maladministration

in many areas, including (Solechan, 2018):

1. The police detained Budi Widjojanto without first issuing a warrant or summons. According to Article 36 of the Republic of Indonesia Police Chief Regulation (Perkap) No. 14 of 2012 Governing the Management of Criminal Investigations, a Summons is required before any criminal investigation may begin.
2. According to Article 18 paragraph (1) of Law no. 8 of 1981 concerning the Criminal Procedure Code (KUHAP), the suspect's identity was misstated in the Arrest Letter, and the provisions (articles) indicating the role and qualifications of the suspect as the perpetrator of a criminal act were not described in sufficient detail.
3. Third, the Ombudsman's investigation revealed that the NP issued a Home Search Issuance Letter without first obtaining approval from the PN's District Court Chairman. In reality, Article 57 paragraphs (1) and (2) of Perkap No. 14 of 2010 Governing Management of Criminal Investigations as well as Article 33 paragraph (1) of the Criminal Procedure Code govern the application for a search warrant.
4. No preliminary research was done for this study. 4. As such, Article 12 and 5 of the Criminal Procedure Code, as well as Articles 4 and 15 of Perkap no. 14 of 2012, have been broken.
5. The Bambang Widjojanto case seems to have been handled in a biased manner. There have been several instances like the Bambang Widjojanti case since 2003, but the police have yet to solve any of them. In contrast, Bambang Widjojanto's case was dealt with swiftly, from the time of the first police complaint on January 19 until the time of his arrest on January 23. This demonstrates bias in case processing, in violation of Paragraph (2) of Article 16 of Law No. 2 of 2002 Regarding the National Police.

The Ombudsman issued Letter of Recommendation Number 003/REK/0105.2015/PD-21/II/2015 on February 18, 2015, regarding the matter of police maladministration in the arrest of Bambang Widjojanto. Bambang Widjojanto, an investigator for Economic and Special Crimes, was arrested, as stated in the referral letter. The Ombudsman has made four (4) suggestions to the National Police Chief.

First, he instructed Kabareskrim and his team to follow all applicable laws and procedures while they conducted their inquiry. Perkap No. 8 of 2009, Implementation of Human Rights Principles and Standards in the Performance of the Duties of the National Police of the Republic of Indonesia, and the Criminal Procedure Code are all examples of such laws.

Second, in order to raise the level of professionalism and competence among

investigators and their superiors, instruction, training, and supervision must be made available. Because the reporter (Bambang Widjojanto) has yet to be arrested in accordance with Article 100 of Perkap No. 14 of 2012 about the Management of Criminal Investigations.

Third, conducting investigations and applying punishments for the alleged maladministration committed by Kombes Po Daniel Tifaona as Head of Subunit VI of the Directorate of Economic and Special Crimes and investigators who handled the arrest and examination of Bambang Widjojanto.

Fourth, investigate and punish Police Commissioner Victor E. Simanjuntak for his role in the arrest, which went beyond the terms of the Investigation and Arrest Warrant.

The majority of these suggestions deal with making sure every rule is followed, fixing the faults that have been identified, punishing those responsible, and preventing the same mistakes from happening again. According to paragraph (1) of Article 36 of the Ombudsman Law, the Reported Party must follow the Ombudsman's four recommendations. Additional administrative work is needed to execute suggestions, but they have legal weight in resolving issues of maladministration. The reporting superior is responsible for carrying out the recommendations and submitting a report detailing the results of the disciplinary action taken. According to Article 36, sections 1 and 2, which state:

- (1) *"The Reported Party and the Reported Party's superiors are obliged to implement the Ombudsman's Recommendations.*
- (2) *The Reported Party's superior is obliged to submit a report to the Ombudsman regarding the implementation of the Recommendations that have been carried out along with the results of the examination within a period of no later than 60 (sixty) days from the date of receipt of the Recommendations."*

The party who has been reported is under responsibility to follow the Ombudsman's recommendations and failing to do so will result in repercussions. In accordance with Article 38(4) of the Ombudsman Law, the Ombudsman may publish the names of the Reported Party's superiors who do not implement the Recommendations and submit a report to the House of Representatives and the President if the Reported Party and the Reported Party's superiors do not implement the Recommendations or only partially implement the Recommendations for reasons that are not acceptable to the Ombudsman. According to Article 39 of the Ombudsman Law, both the reporting party and the reporting supervisor may face administrative consequences if they fail to implement the ombudsman's recommendations. Based on the above, the author proposes the following changes to

the law to better reflect the Ombudsman's function:

1. First, the Ombudsman's authority might be expanded if the rules regulating them were revised to provide them greater legal ability to guarantee their recommendations are carried out.
2. Encouraging the Ombudsman and other government agencies to work together more effectively is a top priority for improving interagency collaboration. In order to improve communication and teamwork, it may be required to implement new processes.
3. More people will be aware of the Ombudsman's existence and be more likely to report instances of maladministration if public education initiatives are improved.
4. Increased Funding and Staffing: The Ombudsman's office needs more money and people to function effectively.
5. Robust Legal Enforcement: The function of the Ombudsman may be strengthened by making it possible to take legal action if the Ombudsman's recommendations are ignored.

It will require cooperation between the legislative and executive branches, as well as the Ombudsman, to rethink the Ombudsman's role in the legal system. By establishing a firm legal grounding for the exercise of their supervisory duty, this strengthens the Ombudsman as an organization committed to fostering good governance and protecting citizen rights.

4. Conclusion

The Ombudsman plays a critical role in ensuring the government operates ethically and fairly. Complaints of administrative malfeasance can be received, investigated, and recommendations made by these independent authorities. The Ombudsman is a kind of law enforcement used by the public when they have complaints about government services. Despite the importance of the Ombudsman's work in Indonesia's fight against corruption and poor administration, the Ombudsman's ability to accomplish his or her job is hampered by a variety of factors. These include a lack of resources, a public that is unclear about the Ombudsman's role, an unwillingness to collaborate with other government agencies, and a lack of legal support for the Ombudsman's conclusions and recommendations.

If the law could be changed to give the Ombudsman more authority, it might improve the quality of government services. Legislation governing the Ombudsman must be updated as part of this process, and one reform should be to give them broader authority to issue recommendations with binding legal repercussions. Improving public education initiatives and strengthening coordination between the Ombudsman's office and other government organizations are also crucial to raising awareness of the

Ombudsman's role. The Ombudsman's office needs adequate funds from the government in order to do its job. As a result, the Ombudsman has a great chance to become a leading force in reforming Indonesia's public sector. Reconstructing the law, raising public awareness, and working more closely with other government agencies could all help the Ombudsman in Indonesia do a better job of guaranteeing accountability, justice, and legal clarity in the administration of public services.

The results of this study underline the value of the Ombudsman's role in preventing misconduct by public officials. However, for the Ombudsman to be successful, the government must provide support through legislation, financing, and awareness-raising initiatives. By taking these steps, the Indonesian Ombudsman will be better able to protect citizens' rights from corrupt officials and boost the standard of government services.

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