

Ombudsman Systemic Review: Citizen Right Protection Against Maladministration in Indonesia

By

Agus Triono

Faculty of Law, Lampung University, Lampung, Indonesia

Ria Wierma Putri

Faculty of Law, Lampung University, Lampung, Indonesia

Corresponding Author: ria.wierma@fh.unila.ac.id

Marlia Eka Putri

Faculty of Law, Lampung University, Lampung, Indonesia

Abstract

Complaints against public services in Indonesia are frequent and repeated in important and strategic sectors. This indicates that the commitment to reform the bureaucracy and prevent maladministration in the field of public services has not been fully successful. Through normative legal studies by analyzing various legal products related to public services and supervisory institutions specifically formed to supervise public services delivery, this study explains how to protect the right to public services from maladministration in Indonesia and how the ombudsman as a public service supervisory agency prevents maladministration through systemic review. The results of the study show that maladministration occurs when there is no systemic supervision in the field of public services. The systematic review conducted by the ombudsman is an important instrument in preventing maladministration which is detrimental both materially and immaterially for the people in getting the right to public services as a constitutional right. Systemic review of the ombudsman is conducted by administratively evaluating the public services delivery by government agencies and predicting the potential for maladministration that may occur. The results of the Systemic Ombudsman review in order to evaluate the administration are in the form of suggestions for improvement. The problem is that these suggestions are not legally binding and are often ignored.

Keywords: Ombudsman Systemic Review, Citizen Right, Maladministration.

Introduction

In Indonesia, the delivery of public services is still constrained by a government system that is not yet effective or efficient, and the state apparatus's human resources do not meet adequate standards (Nuriyanto, 2016). This can be seen from the number of complaints from the public either directly or through the mass media due to convoluted procedures in the service, the lack of certainty of costs and settlement periods, non-transparent requirements, unresponsive attitudes of officers, and so on (Dwiyanto, 2021). Public service providers take advantage of this situation for personal gain and interest (Nurtjahyo, 2013). This situation causes people to prefer shortcuts to take actions that violate the law because they do not want to be bothered in obtaining services at government offices and other public service agencies.

Unclear public service standards are one of the obstacles in determining the good or bad of a service (Ishak, 2022). In addition, the management of public services is also an important factor of good public services by the government (Dwiyanto, 2018). This is understandable, because the bureaucratic system that has been formed so far seems to lead to

deviations from the standards that have been set. The results of research released by the Ombudsman at the end of 2017 to 2020 show the fact that most of the agencies providing public services in Indonesia are still in the red report card category, both at the center and in the regions. In addition, the mechanism for receiving public complaints has not been made systematically (Apriyani, 2020). This shows that the central and local government have not prioritized the fulfillment of the right to good public services for the community, even though this public service is a form of state presence for its people.

The Ombudsman is an external body that oversees the public service delivery in Indonesia and is tasked with dealing with maladministration. The existence of this Ombudsman has at least been regulated in Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia (Ombudsman Law), Law No. 25 of 2009 concerning Public Services (Public Service Law) and Law No. 23 of 2014 concerning Local Government (Local Government Law). The regulation in the law has given strategic authority in supervising the implementation of public services. The Ombudsman is here to answer the challenge of many maladministration in public services which has been difficult to prove. The need for oversight of the Ombudsman is motivated by the increasing duties and authorities of government administrators that can potentially be misused (Amarini, 2018). The presence of the Ombudsman at this time has given fresh wind in efforts to reform the bureaucracy, particularly in relation to public services (Sucipto, 2022). The public also has high hopes for the improvement of public services through the role of the Ombudsman. The Ombudsman that has the authority to supervise the public services is expected to realize justice for the poor people as well as a means of control over the implementation of government duties.

As an external supervisory body for the public services, the Ombudsman is domiciled in the national capital, with offices covering the whole of Indonesia as mentioned in Article 46 (3) of the Public Service Law. The Ombudsman has hierarchical representatives in the regions to support its control functions (Putri et al., 2021). The Ombudsman's authority is to supervise the provision of public services by government agency, public administration including the judiciary, the police, the National Land Agency, local governments, departmental and non-departmental authorities, state-owned companies and state universities, as well as private bodies and individuals with budgets in full/part of the regional revenue and expenditure budget as well as the state budget. The Ombudsman is a forum for public complaints against government governance. Its existence is highly expected to realize good governance, namely how the state serves its people without any cost, is open, fast and responsive and on time according to applicable laws (Asyikin, 2020). However, the problem is whether the Ombudsman can provide legal protection for the community through the exercise of its authority to resolve maladministration by government officials who have free authority to determine policies in public services.

By paying attention to the authority of Indonesian Ombudsman, then a problem arises, namely that the supervision of the Ombudsman is not optimal and is able to reach public services held by both the government and local governments. Several records show that the effectiveness of the Ombudsman is still in doubt. One of them is because the Ombudsman's legal product is only a recommendation that is not legally binding (non-legally binding) so that it is not obeyed by public service officials (Izzati, 2020). Not to mention the supervision of the public services carried out by the private sector which does not at all use funds sourced from the government or local government budget (Wakhid, 2017). In fact, from several cases of poor public services that occurred, many involved public service providers carried out by the private sector.

In addition, the main problem faced in the supervision of public services so far is in overcoming repeated complaints. There are so many public complaints that are directed to the implementers of public services related to the same type of service and even to the type of service that is strategic and important. This requires the ombudsman's more role in preventing maladministration through a systemic review of these recurring cases. This study is to answer the problem of how to protect the right to public services in Indonesia and how the ombudsman conducts a systemic review to prevent maladministration in public services and how the binding power of the results of the systemic review conducted by the ombudsman is.

Methodology

This study is normative in legal terms (Soekanto & Mamudji, 2014) using a statutory approach, which begins by reviewing various regulations pertaining to the institutional function of the ombudsman in Indonesia to identify how the mechanism for preventing maladministration is. Furthermore, as a complement, a conceptual approach is also used by examining law as a social phenomenon related to efforts to prevent maladministration which has been practiced so far in the course of supervising the ombudsman's work.

The statutory approach is carried out to examine various regulations governing the authority of the Indonesian Ombudsman, namely Law No. 25 of 2009 concerning Public Services, Law No. 37 of 2008 concerning the Indonesian Ombudsman, Law No. 23 of 2014 concerning Local Government and Indonesian Ombudsman Regulation Number 41 of 2019 concerning Procedures for Preventing Maladministration in the context of Public Services. It is equipped with a conceptual approach to understand the concept of public complaint as a means of obtaining legal protection for the community. These two approaches are to answer the problem of how to protect the right to public services in Indonesia and how the ombudsman conducts a systemic review to prevent maladministration in public services and how its binding power of the results of the systemic review.

The obtained data were then qualitatively analyzed by describing the normative study data into a systematic explanation so that a clear picture of the problem under study could be obtained. Inductive conclusions are drawn based on the analysis's findings, namely a way of thinking that is based on specific facts and then concluded in general terms.

Discussion

Protection of the Right to Public Services in Indonesia

Public service is a benchmark for the rule of administrative law in the context of establishing the state's goals to promote the welfare of the people (Peters & Pierre, 2012). Good public service means a service that does not create a gap between what is provided by the government and the expectations of the community as beneficiaries of services (Pranendra, 2016). In accordance with the ideals of the state, the government apparatus plays an important role in providing services to the community which is a form of involvement of the functions of government organs for the realization of an equitable social welfare (Sianipar, 2019). However, there are still many public services that are conditional with problems such as convoluted

service procedures, uncertainty in the time and cost of services as well as abuse of authority (Maryam, 2016). In the end, various kinds of actions that fall into the category of maladministration above cause a loss of public trust in the government apparatus as service providers.

In Article 34 (3) of the Indonesian constitution, it is emphasized that proper public service and health care facilities are the responsibility of the state. The state is obligated by the constitution to meet each citizen's basic needs as a result of these provisions., namely good public services for the sake of realizing prosperity. The purpose of modern government is not to serve itself but rather to the community. In order to achieve mutual progress, the government must be able to provide services to its citizens and create conditions that enable everyone to develop their abilities and creativity.

Public services are defined in Public Service Law as activities or series of activities aimed at meeting the needs of every citizen and resident for goods, services, and/or administrative services provided by public service providers in accordance with laws and regulations. A government system's effectiveness is largely determined by the good and bad implementation of public services because one of the main functions of government is to meet the needs of the community. Building public trust in public service providers' efforts to improve public services is an activity that must be carried out in accordance with all residents' expectations and demands.

According to Article 18 of the Public Service Law, the community has the right to know the truth about the contents of service standards, to oversee their implementation, to receive responses to submitted complaints, and to receive advocacy, protection, and/or service fulfillment. The community can notify the organizers to improve services if the provided services do not meet service standards. In addition, if the implementer fails to meet service standards or provides better services to the organizers and the ombudsman, the public can file a complaint with the implementer.

Based on the points that have been explained regarding the rights of the community, it is clear that the authority to supervise public services is not only owned by the Ombudsman, but the community also has the right or authority to oversee public service standards. The community has the right to file a complaint with the agency and to receive a response to the complaint if the services provided do not meet predetermined standards. According to Article 40 of the Public Service Law, providers who fail to carry out their responsibilities or violate prohibitions and/or implementers who do not provide services in accordance with existing service standards are the subject of complaints.

Public complaints can only be filed within 30 days of the occurrence of service violations by the organizers or implementers of public services, as previously mentioned. If it is proven that the organizer or executor has deviated from the service standard, The individual in question might be punished in accordance with the rules that apply. Some types of sanctions received by violators of public services are as follows:

Table 1. *Sanctions for Public Service Violators*

No.	Type of Sanction	Provision
1.	Written warning	Article 54 (1)
2.	Release from office	Article 54 (2)
3.	Decrease in salary by one periodic salary increase for a maximum of one year	Article 54 (5)
4.	Demotion	Article 54 (6)
5.	Dismissal with honor at own request	Article 54 (8)
6.	Disrespectful dismissal	Article 54 (9)
7.	License revocation	Article 54 (10) and (11)

Source: *Law No. 25 of 2009 concerning Public Services*

As shown in the table above, in addition to written warnings, service providers and implementers can also be released from their positions if they do not make improvements within a certain period of time (three months and/or one year). This applies if the service provider or implementer violates the provisions as referred to in Public Service Law Article 10 (1) and (2), Article 13 (1) letter b and letter e, Article 15 letter e and letter e. f, Article 16 letter a, Article 17 letter b and letter c, Article 25 (2), Article 29 (2), Article 33 (2), Article 36 (1) and (4), Article 44 (1), Article 47 (1), Article 48 (1), and Article 50 (9). Public service providers can also be immediately dismissed or released from office without prior warning of improvement.

Public Service Law provides provisions regarding sanctions if the organizer commits a violation in public services, namely in the form of written warning sanctions, sanctions for release from office, reduction in salary, sanctions for demotion, sanctions for respectful dismissal not at their own request, sanctions for dishonorable dismissal, suspension of permits or missions granted by government agencies, sanctions for revocation of permits issued by the government, sanctions for paying compensation, criminal sanctions and fines. The sanctions mentioned above are given according to the level of the violation committed. Sanctions are not only given to service actors, such as the head of the field or section head at the local government level, but can also be given to the leadership of the organizers and private corporations/agencies with the lightest form of written sanctions. This is stated in Article 54 point 1 of Public Service Law, if the service provider or implementer who violates the provisions as mentioned in Article 11 (2) and (3), Article 15 letter g, and Article 17 letter e is subject to a written warning sanction.

The granting of free authority in the concept of a modern legal state to government officials in carrying out their functions can lead to acts of law violations against citizens (Suryana, 2018). So that without the provision of sanctions, there is no coercion on public service providers to do their tasks properly. In an effort to guarantee the state's provision of public services to its citizens and improve the quality of those services, the various types of sanctions outlined above are in place. In addition, the general principles of good governance and regulations have an important role as a benchmark for legal action taken by government officials. In addition, to improve compliance with statutory provisions related to public services,

legal protection instruments are needed for the people in the form of a monitoring system that is oriented towards improvements in the provision of public services.

Citizens need legal protection from government actions for a number of reasons, including:

1. Because citizens and civil law entities depend on government decisions in many ways, such as whether trading, corporate, or mining businesses need permits. As a result, legal protection is necessary for both individuals and legal entities.
2. Citizens are on the weak side in this regard because the relationship between government and citizens does not run parallel.
3. Decisions, as an instrument of the government that is unilateral in determining intervention in the lives of citizens, are the subject of numerous disputes between citizens and the government. (HR, 2010).

There are two types of people's legal protection: repressive legal protection and preventative legal protection. Before a government decision is made official, preventive legal protection gives people a chance to voice their concerns or opinions. This indicates that while repressive legal protection aims to settle disputes, preventive legal protection aims to avoid them. Satjipto Raharjo asserts that the purpose of legal protection is to safeguard the community and human rights that have been violated by others so that they may exercise all of their legal rights (Raharjo, 2000). In the meantime, Philipus M. Hadjon claims that providing people with legal protection is both a proactive and reactive government action (Phillipus, 1987). Preventive legal protection aims to prevent disputes from occurring, including how they are handled by the judicial system. Preventive legal protection requires government actions to be cautious when making decisions based on discretion (Alfons, 2010). Lili Rasjidi and IB Wisa Putra claim that the law can be used to provide protection that is not only adaptable, flexible, and predictive, but also anticipatory (Rasjidi & Putra, 1993). The operation of legal functions to achieve legal objectives, such as justice, expediency, and legal certainty, can be seen in legal protection. As a result, it is possible to draw the conclusion that legal protection is the protection given to legal subjects in accordance with the rule of law. It can be written or unwritten, and it can be used to enforce legal regulations..

A democratic, just, and prosperous legal state is the goal of establishing an ombudsman in the context of public services; encourage the honest, open, and clean operation of the state and government, free of nepotism, collusion, and corruption; enhance efforts to eradicate and prevent maladministration, discrimination, collusion, corruption, and nepotism practices, improve the quality of state services in all fields so that every citizen and resident receives justice, a sense of security, and better welfare; improve the rule of law, public awareness of the law, and national legal culture with a focus on justice and truth (M. Hadjon, et. al, 1999). From an institutional perspective, supervision or control can be divided into internal control/internal control and external control/external control (Hood, 1995). Internal control is supervision carried out by an organ that is structurally still an organization within the government environment (Rae & Subramaniam, 2008). For example: supervision carried out by superior officials to their subordinates in a hierarchical manner. External control is supervision carried out by a body or organ in an organizational structure that is outside the government in the sense of the executive (Hood et al., 1999). The supervisory function within the scope of public services organized by the government is intended to prevent various abuses of authority, corruption, collusion, nepotism, illegal levies, leakage of state finances/wealth and other forms of irregularities (Jeppesen, 2019). In addition, the supervision that is carried out serves as a

means of encouraging the establishment of a hygienic and authoritative government apparatus for the purpose of ensuring the welfare of the people.

All levels of society must expect excellent public service. This is understandable because until now the public services received by the community are still classified as poor or below standard. People and the community suffer both tangible and intangible losses as a result of this poor public service, which must be reported to the organization given the responsibility for handling it. Therefore, in public service delivery really needs supervision to ensure the fulfillment of community rights as basic rights and ensure that these rights are not violated or even eliminated. The supervision in question must be carried out internally and functionally based on the bureaucratic structure and also externally, namely by an institution that is given the authority to carry out supervision in order to complete the quality of supervision as an effort to protect the people from acts of maladministration.

Systemic Review of the Ombudsman as a Model for Preventing Maladministration

The term "maladministration" has been very familiar in Indonesia since 2000 in line with the presence of an Ombudsman who has the task, function and authority to deal with it (Nurtjahjo, et al., 2013). The definition of maladministration is very broad and encompasses a wide range of activities that can result in a material or immaterial loss to society. Gerald E. Caiden states that: "maladministration is a dysfunctional systemic performance that can be corrected. Bureau-pathology refers to all the maladies that afflict complex organizations through imperfect operations. Corruption is the deliberate and knowing obstruction of performance that rewards its participants while leaving its victims aggrieved and inadequately compensated" (Caiden, 2016).

Phillipus M. Hadjon and Tatiek Sri Djatmiati argue that corruption is caused by maladministration. Additionally, maladministration is exemplified by the frequent use of authority in the administration of public services (Hadjon & Djatmiati, 2011). While Haliq, et al, define maladministration as behavior that is unreasonable, or based on actions that are unreasonable, unjust, oppressive, imporrer and discriminatory (Haliq et al., 2017). The general definition of misconduct is unreasonable behavior (including late service providers), lack of respect and indifference to the problems that affect people due to the use of force (Kadarsih, 2010). Crosman categorizes the forms of work that can be classified as maladministration as follows: prejudice, neglect, lack of care, delay, lack of authority, inappropriate, evil, cruel and abusive behavior (Masthuri, 2005).

In relation to the provision of public services, it is very possible for maladministration by service providers to be detrimental to the community as service recipients, both immatrially and materially and very rarely can be proven. Maladministration can be carried out by government officials who incidentally have the authority in terms of public services. Settlement of maladministration is an effort to obtain mutually beneficial solutions between the Reporting Party and the Reported Party. Under Law No. 28 of 1999, titled "The Implementation of a Clean and Free State of Corruption, Collusion, and Nepotism," in Article 3, the principles of good governance were established. These principles also apply to the process of receiving, processing, and resolving complaints from the public. (Sutedi, 2010). So that the internal public complaint model is not effective in resolving maladministration and creates ambiguity in the fulfillment of the right to good public services.

The Indonesian Ombudsman given the task of handling public complaints has at least been regulated in Ombudsman Law, Public Service Law and Local Government Law. Strategic authority has been granted to oversee the delivery of public services as a result of these

regulations. However, the problem is whether the Ombudsman institution is able to provide legal protection for the community through the exercise of its authority by resolving public complaints for maladministration acts by government officials with their free authority.

In Indonesia, there are several state institutions that were also formed to carry out the supervisory function, even in the Indonesian constitution it is also clearly mentioned such as the Representative Council/Local Representative Council and the Audit Board of the Republic of Indonesia. Even in Public Service Law, the Representative Council/Local Representative Council is also mandated as a public service supervisory agency. Apart from state institutions, NGOs also emerged which were also formed to carry out independent supervision. However, due to certain factors, the existence of these institutions has not been able to meet the expectations of the community comprehensively, especially in terms of fulfilling the rights of the community from the government as a service provider (Rohayatin et al., 2017). The supervisory agency that has been established has not shown its effectiveness and has achieved the expected goals (Sarjono & Sulistiadi, 2018). For example, the Inspectorate General, which is not yet certain, can be fully independent because it is an integral part of the organization of an agency. The limited BPK only supervises the use of the state budget and cannot accept individual complaints. Meanwhile, the Representative Council/Local Representative Council which in carrying out their supervisory function tend to be political in nature and carry the interests of the groups they represent. If most of the oversight bodies set up by the government and the community itself have not been able to deal with all the problems in the community, can the Ombudsman do so?

The Ombudsman himself has a different way of carrying out supervision which is then referred to as a Magistrate of Influence (*Sari & Karay, 2020*). In resolving maladministration, the ombudsman has several ways, namely mediation/conciliation, adjudication, and recommendations. Mediation is the resolution of public service disputes through the assistance of the Ombudsman himself or a mediator appointed by the Ombudsman. Conciliation is the settlement of complaints carried out by the Ombudsman Conciliator, where he can make a written dispute resolution proposal to end the dispute. Next, adjudication is the public service dispute resolution process that is decided by the ombudsman (Pratama, 2020). Recommendations, on the other hand, are conclusions, opinions and suggestions based on the results of the Ombudsman's investigation (Wirono, 2019). Giving this recommendation is the last option when other efforts to resolve it are unsuccessful.

In general, the ombudsman's supervisory model is passive, namely by waiting for complaints from the public. In examining these complaints, the ombudsman not only prefers mandatory authority like the invitation but also must give priority to the convincing approach with the implementation the magistrate of influence. This approach is intended so that public service providers have their own awareness of being able to resolve complaints on suspicion of maladministration in providing public services (Mansur et al., 2018). Using this approach means that it is not necessary to complete all reports through the recommendation mechanism. In exercising his duties and authority, the ombudsman shall be based on decency, fairness, non-discrimination, impartiality, responsibility, and a balance of openness and confidentiality (ORI, 2016). In order to create a better public service delivery, the Ombudsman of the Republic of Indonesia recommends and assists the community in optimally utilizing public services to solve problems experienced by the community.

The Ombudsman plays an important role in implementing the principles of good governance in public services (Reif, 2004). The ideal of the 1945 Constitution as a welfare state constitution is related to the functioning of institutions such as the Ombudsman.

Ombudsmen can play an important role in monitoring and communicating public complaints about poor public services by the government bureaucracy. If the Ombudsman is established based on the law, it is not impossible that someday the interpretation can also develop that this institution will also be considered as a constitutionally important institution. In carrying out its duties, functions, and authorities in handling reports of alleged maladministration, the Ombudsman uses standard values that form the basis of every movement. The standard values include the values of decency, justice, non-discrimination, impartiality, accountability, balance, openness and confidentiality.

Compared to other supervisory institutions, the Ombudsman has advantages, including:

- a. The applicant is not charged any fee (free of charge);
- b. Does not require complicated procedures in the sense of going through a certain procedural law or going through certain stages such as in a judicial institution;
- c. Reports can be made verbally or in writing and can use remote communication facilities;
- d. No need to use a lawyer;
- e. Examinations can be carried out anywhere without having to come to the Ombudsman's office;
- f. Being active, not having to wait for reports, but enough news in the mass media, then the Ombudsman can find the truth about the occurrence of maladministration;
- g. Confidentiality of the reporter is guaranteed and there is no need for replication and duplication.

Such characteristics of the Ombudsman will actually become the capital strength of this institution as well as an opportunity to gain sympathy from the complainant and the reported party.

The task of the Ombudsman in eradicating and preventing maladministration in Indonesia has so far been carried out by receiving and examining reports as well as conducting investigations and coordinating and collaborating with other state institutions. For reports of proven violations, the ombudsman in this case does not provide legal sanctions as is the case with the judicial authorities. With the other nature of the examination, the Ombudsman cannot be equated with the examination of law enforcement officers because the Ombudsman has the duty of moral supervision (Nurdin, 2021). This paradigm views that although it is not legally binding, obeying morals (moral constraints) will be a balance between machines and humans. The ombudsman's leverage under review means that most reports are publicly finalized at the review stage without the need for proposal approval. Based on the above description, according to the author, there is an important influence on the role of the ombudsman on the performance of his main duties and functions. The imposition of sanctions does not always have a positive impact and fails to awaken service actors both institutionally and personally. Precisely by using a persuasive approach, the ombudsman can influence implementing agencies and service agencies to evaluate and improve services comprehensively.

In an effort to prevent maladministration using a systemic review approach model, the product that will be obtained is a recommendation. The Ombudsman's recommendation is not actually a judicial decision, but it is legally enforceable to make it valid even though its validity is not the same as the court. In Article 38 of the Ombudsman Law, the Ombudsman only asks that the reported party follow the Ombudsman's recommendations., as follows: (1) The denounced party and the senior management of the denounced party are required to implement the recommendations; (2) The supervisor of the accused, within 60 (sixty) days of receiving the recommendation, sends a report to the Ombudsman on the implementation of the recommendations made and the results of the review; (3) The Ombudsman may request information from the Respondent and/or his superiors and conduct tests on the spot to ensure the implementation of the recommendations; (4) The Ombudsman may issue a report to the people's representative and to the President in the event that the reported party and the reported

supervisor fail to implement the recommendation or only partially implement the recommendation for reasons that the Ombudsman finds to be unacceptable.

As an effort to prevent maladministration, this systemic review approach is carried out with a certain period of time based on actions, behaviors, and policies that have the potential for maladministration or repeated maladministration with the causative factors that are in the external environment of the service provider unit. Based on the Indonesian Ombudsman Regulation Number 41 of 2019 concerning Procedures for Preventing Maladministration in the Implementation of Public Services, Maladministration Prevention is actively conducted by the Indonesian Ombudsman through Detection, Analysis, and Treatment of Implementation of Suggestions so that Maladministration does not occur or recur. Detection is an inventory, identification, and updating activity of Public Service problems in determining the occurrence of potential maladministration. In Article 4 (1) it is explained that the scope of Detection activities includes repeated maladministration and Public Service issues that have a broad impact and become public attention. Analysis is a series of activities for collecting data, reviewing, and formulating suggestions. Article 18 Analysis activities aim to ensure that maladministration has occurred, identify the causes of maladministration and improve implementation by providing suggestions. Meanwhile, the treatment for the implementation of suggestions is a series of activities on conveying and ensuring that the Ombudsman's suggestions are implemented by relevant stakeholders. In Article 30 it is explained that the Suggestion Implementation Treatment Activities aim to: a. ensure that suggestions are implemented by the implementing agency; b. implementation of assistance in the implementation of suggestions; and c. ensure policy changes. The scope of the Suggestion Implementation Treatment includes suggestions for improvements carried out by the Operator and action plans or follow-up actions. The series of Suggestion Implementation Treatment activities are carried out within a maximum of 3 (three) months since the report on the results of the analysis is submitted.

In order to accomplish the goal of preventing maladministration, the Ombudsman is given the authority to provide advice to the President, the Representative Council/Local Representative Council, regional heads or state administrators for the organization improvement in terms of service procedures. Unlike other supervisory institutions, the Ombudsman's supervisory model uses a persuasive approach and the current trend is that the Ombudsman builds a culture of participatory progressive approach to cut down on bureaucratic processes because the nature of the purpose of supervision is not always about recommendations but evaluations to improve. So that when performing supervisory responsibilities, the Indonesian Ombudsman does not always carry out formal mechanisms such as legal steps, even though it has the authority to enforce the law (Harijanti, 2020). This approach is also used to create agency awareness. Therefore, with this approach, the Ombudsman does not always complete the report but must implement the recommendations. The ombudsman's reporting methods are set apart from those of courts or law enforcement agencies by this characteristic. This is where the importance of the ombudsman in carrying out a systemic review approach to various cases of maladministration that have arisen to be then given suggestions for improvement. Suggestions for improvement as mentioned in the form of: a. fulfillment and improvement of Public Service standards; b. strengthening the management of Public Service complaints; c. improvement of regulations and policies; d. evaluation of the Operator's competence; and/or e. any other suggestions deemed necessary.

The results of the systemic review activities are recommendations. According to Article 1 point 7 of the Ombudsman Law, a recommendation is defined as a conclusion, opinion, or

suggestion made to the superiors of the Reported Party based on the findings of the Ombudsman's investigation to be implemented and/or followed up on to improve the quality of effective government administration. Recommendation can be interpreted as advice from this definition, but it can also sometimes mean advice. Recommendations from the Ombudsman are aimed at improving the implementation of good governance in Indonesia (Nurtjahyo, 2013). However, this recommendation is still a problem related to its implementation. This is because the binding power of this recommendation is not like court decisions which have legally binding force. The ombudsman's recommendations are implemented in a non-real way, which is different from the way the judiciary executes people. Ombudsman recommendations and Court decisions are two different things. Recommendations are issued by the Ombudsman through the reporting process until a recommendation is issued by the Ombudsman itself, while the Court decision is a decision issued by a judge who goes through a pro justitia examination process.

Regarding how the power to bind the ombudsman's recommendations, Article 38 of the Ombudsman Law is determined as follows:

1. The Ombudsman Recommendation must be implemented by the Reported Party and its superiors.
2. Within sixty (60) days of receiving the recommendation, the superior of the reported party is required to provide the Ombudsman with a report detailing the implementation of the recommendation and the examination's findings.
3. In order to ensure that the Recommendation is carried out, the Ombudsman may request information from the Reported Party and/or its superiors and carry out inspections in the field..
4. The Ombudsman may publish the Reported Party's superior who does not implement the Recommendation and submit a report to the House of Representatives and the President in the event that the Reported Party and the Reported Party's Superior do not implement the Recommendation or only part of it for reasons that are unacceptable to the Ombudsman.

Furthermore, Article 39 of the Ombudsman Law states that: "Administrative sanctions in accordance with the provisions of the legislation will be imposed on the Reported Party and the Reported Party's superior for violating the provisions referred to in paragraphs (1), (2), or (4) of Article 38".

Based on the provisions in Article 38 and 39 above, it can be said that explicitly the Ombudsman is not an institution that can give absolute sanctions, but only provides suggestions so that state administrators who receive these recommendations to improve their performance. In the event that the Ombudsman's recommendations are not implemented, the Ombudsman can only submit them to their superiors or the President and House of Representatives for further action. The Ombudsman cannot issue any kind of sanction to state officials who have received their recommendations. This indicates that the Indonesian ombudsman's supervisory nature is still combined with a persuasive approach to influence the delivery of public services in order to enhance services.

The Ombudsman must employ a systemic review strategy in order to achieve this persuasive approach in the performance of its duties. However, in order to strengthen the Ombudsman's oversight role in preventing mismanagement in public services, the recommendations resulting from this systemic review must be supported by a variety of parties. The support of the Representative Council/Local Representative Council, as people's

representative institutions authorized to exercise control over government policies, is required for the Ombudsman's recommendations to be implemented in the context of improving public services and preventing maladministration. In addition, in order for the community to be brave enough to implement social control, the implementation of this recommendation still needs to be strengthened. The Ombudsman's recommendations must be interpreted as more than merely advice to government officials or state administrators on how to improve the services that the public complains about, both on a case-by-case and a systemic level, given the Ombudsman's duties and authority. When evaluating the organizers' performance, all agencies should take into account the impact of its recommendations, and even the general public can have access to properly submit complaints.

Conclusion

In order to safeguard Indonesians' right to public services, the Ombudsman of the Republic of Indonesia oversees improper administration. The Ombudsman cannot impose any kind of punishment on state officials who have received their recommendations because it would violate the law. Instead, the Ombudsman only sends them to their superiors or to the President and House of Representatives for further investigation in the event that the Ombudsman's recommendations are not implemented. Explicitly, in the Ombudsman Law, the authority of the Ombudsman is not as an institution that can give absolute sanctions, but only to provide suggestions so that state administrators who receive these recommendations to improve their performance. The approach taken by the Indonesian Ombudsman in supervising the implementation of public services is persuasive, which really requires community participation. This is related to the passive nature of the ombudsman in receiving public complaints. However, the ombudsman can optimize its function in preventing maladministration by using a systemic review approach. Systemic review are carried out to address repeated maladministration and detect potential maladministration in public services. Although a systemic review that results in a recommendation also has no legal binding power, the recommendation can be considered in improving public services and preventing maladministration.

Acknowledgment

This article is a summary of the results of research conducted with financial support from the Lampung University Research Institute. We are very grateful to all parties who supported this research, including the Lampung representative ombudsman who was willing to be invited to discuss the development of supervision of public service delivery.

References

- Alfons, M. (2010). Implementasi Perlindungan Indikasi Geografis Atas Produk-Produk Masyarakat Lokal Dalam Prespektif Hak kekayaan Intelektual. Universitas Brawijaya.
- Amarini, I. (2018). Mewujudkan Keadilan Sosial dalam Penyelesaian Sengketa Di Pengadilan Administrasi. *Jurnal Media Hukum*, 25(2), 162–170. <https://doi.org/10.18196/jmh.2018.0111.162-170>
- Apriyani, T. (2020, March 21). Potret Buram Pelayanan Publik di Indonesia. *suara.com*. <https://yoursay.suara.com/news/2020/03/21/095345/potret-buram-pelayanan-publik-di-indonesia>

- Asyikin, N. (2020). Pengawasan Publik terhadap Pejabat Publik yang Melakukan Tindakan Korupsi: Perspektif Hukum Administrasi. *Jurnal Wawasan Yuridika*, 4(1), 80–102. <https://doi.org/10.25072/jwy.v4i1.316>
- Dwiyanto, A. (2018). *Manajemen Pelayanan Publik: Peduli Inklusif Dan Kolaborasi*. UGM PRESS.
- Dwiyanto, A. (2021). *Reformasi Birokrasi Publik di Indonesia*. UGM PRESS.
- Harijanti, S. D. (2020). Complaint Handling Systems In The Public Sector: A Comparative Analysis Between Indonesia and Australia. *Indonesian Comparative Law Review*, 3(1), 1–24. <https://doi.org/10.18196/iclr.v3i1.11454>
- Hood, C. (1995). Control over Bureaucracy: Cultural Theory and Institutional Variety. *Journal of Public Policy*, 15(3), 207–230. <https://www.jstor.org/stable/4007533>
- Hood, C., James, O., Jones, G., Scott, C., & Travers, T. (1999). *Regulation Inside Government: Waste-Watchers, Quality Police, and Sleazebusters*. OUP Oxford.
- HR, R. (2010). *Hukum Administrasi Negara*. Rajawali Pers.
- Ishak, N. (2022). Efektivitas Pengawasan Pelayanan Publik oleh Ombudsman Republik Indonesia. *Mulawarman Law Review*, 71–88. <https://doi.org/10.30872/mulrev.v7i1.834>
- Izzati, N. F. (2020). Ombudsman Sebagai Lembaga Pengawas Pelayanan Publik Di Indonesia. *SASI*, 26(2), 176–187. <https://doi.org/10.47268/sasi.v26i2.235>
- Jeppesen, K. K. (2019). The role of auditing in the fight against corruption. *The British Accounting Review*, 51(5), 100798. <https://doi.org/10.1016/j.bar.2018.06.001>
- Kadarsih, S. (2010). Tugas dan Wewenang Ombudsman RI dalam Pelayanan Publik Menurut UU Nomor 37 Tahun 2008. *Jurnal Dinamika Hukum*, 10(2), 2010.
- M. Hadjon, et. al, P. (1999). *Pengantar Hukum Administrasi Negara*. Gajah Mada University Press.
- Mansur, Asmara, G., Abdullah, I., & Cahyowati, R. R. (2018). The Ombudsman Reconstruction of the Republic of Indonesia in Promoting a Responsive Legal Culture. *Journal of Liberty and International Affairs (JLIA)*, 4, 88. <https://heinonline.org/HOL/Page?handle=hein.journals/jlia4&id=299&div=&collection=n=>
- Masthuri, B. (2005). *Mengenal Ombudsman Indonesia*. Pradnya Paramita.
- Nurdin, N. (2021). Kekuatan Hukum Rekomendasi Ombudsman Sebagai Bentuk Pengawasan Terhadap Pelayanan Publik. *JATISVARA*, 36(2).
- Nuriyanto, N. (2016). Penyelenggaraan Pelayanan Publik Di Indonesia, Sudahkah Berlandaskan Konsep “Welfare State”? *Jurnal Konstitusi*, 11(3), 428. <https://doi.org/10.31078/jk1132>
- Nurtjahyo, H. (2013). *Memahami Maladministrasi*. ORI.
- ORI. (2016). *Laporan Tahunan Ombudsman Republik Indonesia*. Ombudsman RI.
- Peters, B. G., & Pierre, J. (2012). *The SAGE Handbook of Public Administration*. SAGE.
- Phillipus, M. H. (1987). *Perlindungan Hukum bagi Rakyat Indonesia*. : PT. Bina Ilmu.
- Pratama, Z. Z. B. (2020). KEWENANGAN AJUDIKASI OLEH OMBUDSMAN REPUBLIK INDONESIA DALAM PROSES PENYELESAIAN SENGKETA PELAYANAN PUBLIK. *JOURNAL EQUITABLE*, 5(1), 89–107. <https://doi.org/10.37859/jeq.v5i1.2467>
- Putri, N. N. W. P., Budiarta, I. N. P., & Suryani, L. P. (2021). Eksistensi Ombudsman Republik Indonesia Dalam Pengawasan Terhadap Lembaga Pelayanan Publik. *Jurnal Analogi Hukum*, 3(3), 369–375. <https://doi.org/10.22225/ah.3.3.2021.369-375>
- Rae, K., & Subramaniam, N. (2008). Quality of internal control procedures: Antecedents and moderating effect on organisational justice and employee fraud. *Managerial Auditing Journal*, 23(2), 104–124. <https://doi.org/10.1108/02686900810839820>

- Raharjo, S. (2000). Ilmu Hukum. PT. Citra Aditya Bakti.
- Rasjidi, L., & Putra, I. B. W. (1993). Hukum Sebagai Suatu Sistem. Remaja Rusdakarya.
- Reif, L. C. (2004). The Ombudsman, Good Governance, and the International Human Rights System. Martinus Nijhoff Publishers.
- Rohayatin, T., Warsito, T., Pribadi, U., Nurmandi, A., Kumorotmo, W., & Suranto, S. (2017). FAKTOR PENYEBAB BELUM OPTIMALNYA KUALITAS PENYELENGGARAAN PELAYANAN PUBLIK DALAM BIROKRASI PEMERINTAHAN. Caraka Prabu: Jurnal Ilmu Pemerintahan, 1(01), 22–36. <https://doi.org/10.36859/jcp.v1i01.50>
- Sari, F. K., & Karay, A. C. (2020). KEWENANGAN OMBUDSMAN SEBAGAI LEMBAGA INDEPENDEN DALAM PELAKSANAAN LAPORAN MASYARAKAT. Adil: Jurnal Hukum STIH YPM, 2(1), 13–24. <http://adil.stihypm.ac.id/index.php/ojs>
- Sarjono, A. H., & Sulistiadi, W. (2018). Analysis of Policy Implementation for The Improvement Capability of Internal Government Supervisory Apparatus (APIP) at Inspectorate General of Ministry of Health. Journal of Indonesian Health Policy and Administration, 3(1), 1–8. <https://doi.org/10.7454/ihpa.v3i1.2104>
- Sianipar, E. D. S. (2019). Efektivitas Ombudsman Provinsi Kepulauan Riau Sebagai Lembaga Pengawas Pelayanan Publik Di Batam. 19.
- Sucipto, P. (2022, March 19). Peran Ombudsman di Indonesia. NgertiHukum.ID. <https://ngertihukum.id/peran-ombudsman-di-indonesia/>
- Suryana, N. M. (2018). Pembatasan Terhadap Asas Freies Ermessen. SINTESA (Jurnal Ilmu Sosial dan Ilmu Politik), 9(2), 105–108. <https://doi.org/10.22225/sintesa.9.2.1285.105-108>
- Sutedi, A. (2010). Hukum Perizinan dalam Sektor Pelayanan Publik. Sinar Grafika.
- Wakhid, A. A. (2017). REFORMASI PELAYANAN PUBLIK DI INDONESIA. Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam, 13(1), 53–59. <https://doi.org/10.24042/tps.v13i1.1619>
- Wirono, P. H. (2019). KEKUATAN MEMAKSA PELAKSANAAN REKOMENDASI OMBUDSMAN REPUBLIK INDONESIA DALAM PENANGANAN KASUS MALADMINISTRASI [S1, UAJY]. <http://e-journal.uajy.ac.id/20391/>