

**RENEWAL OF THE AUTHORITY OF THE OMBUDSMAN  
INSTITUTION OF THE REPUBLIC OF INDONESIA IN  
SUPERVISING PUBLIC SERVICES IN INDONESIA**

**Junaidi Usman Lubis, Mirza Nasution, Afnila**  
**Universitas Sumatera Utara**  
Email : [junaidiusman@students.usu.ac.id](mailto:junaidiusman@students.usu.ac.id)

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**ABSTRACT**

*Public services in Indonesia still face various challenges, both at the implementation level and regulatory aspects. One key issue is the weak effectiveness of oversight by the Indonesian Ombudsman regarding maladministration violations. Although Law Number 25 of 2009 concerning Public Services stipulates the Ombudsman's authority to carry out special adjudication as stipulated in Article 50, this provision has not been optimally implemented. As a result, the resolution of maladministration reports still relies on non-binding recommendations, thus creating legal uncertainty and legal disharmony within the public service system. This research uses a normative legal research method with a statutory and comparative legal approach. The study's findings indicate that regulatory weaknesses and the absence of a firm sanction mechanism for public agencies' non-compliance with the Ombudsman's recommendations have hampered the achievement of accountable and equitable public services. Therefore, regulatory reforms are needed to strengthen the Ombudsman's authority, including the implementation of special adjudication, administrative sanctions, social sanctions, and even criminal sanctions to provide legal binding force to recommendations, in order to ensure legal certainty and improve the quality of public service governance in Indonesia.*

**Keywords: Renewal, Authority, Indonesian Ombudsman, Public Services.**

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## INTRODUCTION

The preamble to the 1945 Constitution of the Republic of Indonesia mandates that the objectives of the Republic of Indonesia, among others, are to advance the general welfare and to improve the life of the nation <sup>1</sup>. This mandate implies that the state is obliged to fulfill the needs of every citizen through a system of government that supports the creation of excellent public service delivery in order to fulfill the basic needs and civil rights of every citizen to public goods, public services, and administrative services.

Public services are still faced with conditions that are not yet in accordance with the needs and changes in various areas of social, national and state life. This could be caused by an unpreparedness to respond to the occurrence of broad-dimensional value transformations and the impact of various complex development problems. Meanwhile, the new order of Indonesian society is faced with global hopes and challenges triggered by advances in science, information, communication, transportation, investment, and trade.<sup>2</sup>

Public service is an act or activity carried out by the government to take care of matters needed by the community or general public. With that, every citizen is obliged to receive the best public services provided by the government <sup>3</sup>.

Meanwhile, according to AS Moenir, public service is an effort made by a group or individual or bureaucracy to provide assistance to the community in order to achieve a certain goal.<sup>4</sup>

Changes in the structure, culture, and paradigm of bureaucracy in dealing with society have become urgent and must be carried out immediately considering that bureaucracy has made a large contribution to the multidimensional crisis that is currently occurring.<sup>5</sup>

Good and clean governance is the aspiration of every citizen worldwide. Therefore, every public demand, which has so far been neglected, demands for civil rights as citizens in the public service process. Yet, public service and fair law enforcement are two inseparable aspects of the effort to create a democratic government that aims to improve public welfare, justice, legal certainty, and peace (*good governance*).<sup>6</sup>

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<sup>1</sup>See Paragraphs (2) and (3) of the Preamble to the 1945 Constitution.

<sup>2</sup>Explanation of Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services.

<sup>3</sup>Kridawati Sadhana, *Bureaucratic Ethics in Public Services*, (Malang: CV. Citrab Malang, 2010), p. 131.

<sup>4</sup>Moenir, *Public Service Management*, (Jakarta: PT Bumi Aksara, 1995), p. 7.

<sup>5</sup>Agus Dwiyanto et al., *Public Bureaucratic Reform in Indonesia*, (Yogyakarta: Gajah Mada University, 2012), p. 223.

<sup>6</sup>Sunaryati Hartono, et al., *Investigation Guide for the Indonesian Ombudsman*, (Jakarta: National Ombudsman Commission, 2003), p. 1.

In the concept of a state based on the rule of law, supreme sovereignty rests with the law, and everything is based on it.<sup>7</sup> Public services to the community and law enforcement carried out within the framework of state and government administration are an integral part of efforts to create good, clean, and efficient governance to improve welfare and create justice and legal certainty for all citizens, as stipulated in the 1945 Constitution of the Republic of Indonesia.

Supervision of services carried out by state and government officials is an important element in the effort to create good, clean and efficient governance and is also an implementation of democratic principles that need to be developed and applied in order to prevent and eliminate abuse of authority by state and government officials, not to act as a tool of justification and protection for public officials who actually commit deviations.<sup>8</sup>

Before the reform of state and government administration, it was marked by maladministration practices, including corruption, collusion, and nepotism, so that it was absolutely necessary to reform the bureaucracy of state and government administration in order to realize clean state and government administration. The government must have morals and be proactive as well as *checks and balances*.<sup>9</sup>

Good governance and state administration can only be achieved by improving the quality of state and government officials and upholding the principles of good general governance. Good governance and efforts to improve public services and law enforcement require the existence of an external oversight body. Therefore, representative bodies are authorized in the constitution to exercise control over three aspects: control of the executive, control of expenditure, and control of taxation.<sup>10</sup>

Internal supervision carried out by the government itself in its implementation has apparently not met public expectations, both in terms of objectivity and accountability. From the above conditions, in 2000, President Abdurahman Wahid or Gusdur attempted to realize reform of state and government administration by establishing the National Ombudsman Commission through Presidential Decree Number 44 of 2000. The National Ombudsman Commission aims to help create and develop conducive conditions in implementing the eradication of corruption, collusion, nepotism and increase the protection of people's rights to obtain public services, justice, and welfare.<sup>11</sup>

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<sup>7</sup>JCT Simorangkir, et al., *Legal Dictionary*, Tenth Edition (Jakarta: Sinar Grafika, 2006), p. 143.

<sup>8</sup>Antonius Sujata, *The Role of the Ombudsman in Eradicating and Preventing Corruption and Implementing Good Governance*, (Jakarta: Indonesian Ombudsman Commission, 2006), p. 6.

<sup>9</sup>JH Parper, *Political Philosophy, Plato, Aristotle, Augustine, Machiavelli*, (Jakarta: PT. Raja Grafindo Persada, 2002), p. 59.

<sup>10</sup>Jimly Asshiddiqie, *Introduction to Constitutional Law* (Jakarta: PT. Raja Grafindo Persada, 2012), pp. 301-302.

<sup>11</sup><https://www.ombudsman.or.id/Suara-Ombudsman-Nomor-3-Tahun-2008-Artikel-Winarso-Transition-Towards-Ombudsman-Republik-Indonesia>, accessed on May 17, 2025.

To further optimize the functions, duties, and authority of the National Ombudsman Commission, it is necessary to establish a Law on the Ombudsman of the Republic of Indonesia as a clearer and stronger legal basis. This is also in accordance with the mandate of the People's Consultative Assembly Decree Number VIII/MPR/2001 concerning Recommendations for Policy Directions for the Eradication and Prevention of Corruption, Collusion, and Nepotism, which among other things mandates the establishment of an Ombudsman by law.<sup>12</sup>

Before the National Ombudsman Commission, public service complaints were only submitted to the reporting agency, and these were often handled by the reporting official, leaving the public without adequate protection. Furthermore, public service complaints were resolved through lawsuits. This court process is time-consuming and expensive. Therefore, a separate institution, the Indonesian Ombudsman, is needed to handle public service complaints easily and free of charge. The Indonesian Ombudsman is a state institution that, in carrying out its duties and authorities, is free from interference by other authorities.<sup>13</sup>

Therefore, the presence of the ombudsman institution is a state institution that has the authority to supervise the implementation of public services organized by state and government administrators, including those organized by State-Owned Enterprises, Regionally-Owned Enterprises, and state-owned legal entities as well as private bodies or individuals who are given the task of organizing certain public services, some or all of which are funded by the state revenue and expenditure budget and/or regional revenue and expenditure budget.<sup>14</sup>

The Ombudsman carries out its duties and authorities based on several principles: propriety, justice, non-discrimination, impartiality, accountability, balance, openness, and confidentiality. This law regulates the Ombudsman's duties, including examining reports of alleged maladministration in the provision of public services.

In Article 1 paragraph (3) of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, it is explained that maladministration is behavior or actions that are against the law, exceeding authority, using authority for purposes other than those intended by that authority, including negligence or neglect of legal obligations in the provision of public services carried out by state and government administrators which cause material and/or immaterial losses to the community and individuals.<sup>15</sup>

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<sup>12</sup>Considerations of the Republic of Indonesia Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia

<sup>13</sup> *Ibid.*,

<sup>14</sup>See Article 1 of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia.

<sup>15</sup> *Ibid.*,

There are several types of maladministration violations in public services, namely as follows:

1. Abuse of power.
2. Procedural deviation.
3. Forgery or conspiracy.
4. Intervention.
5. Possession without rights.
6. Neglecting obligations.
7. Practices of corruption, collusion, nepotism.
8. Discrimination in public services.
9. Taking real sides with one person or entity.
10. Receive rewards in service.
11. Muddying the atmosphere of public services.
12. Not providing public services or delaying service.
13. Neglecting the right to public services.
14. Embezzling evidence.
15. Incompetent in public service.<sup>16</sup>

In carrying out its duties to examine reports, the Ombudsman is obliged to be guided by the principles of independence, non-discrimination, impartiality, and free of charge and is obliged to listen to and consider the opinions of the parties and facilitate the Reporter. Thus, the Ombudsman in examining reports does not only prioritize coercive authority, for example summons, but the Ombudsman is required to prioritize a persuasive approach to the parties so that state and government officials have their own awareness to resolve reports on alleged maladministration in the provision of public services.<sup>17</sup> By using this approach, the Ombudsman institution resolves reports that must be resolved through a recommendation mechanism. Recommendations are conclusions, opinions and suggestions compiled based on the results of the Ombudsman institution's investigation to the reported party's superior to be implemented and/or followed up in order to improve the quality of good government administration.<sup>18</sup>

Then, the second quarter report from April to June of the 2024 Ombudsman's annual report, namely the Central Ombudsman and Representative Offices throughout Indonesia, handled 10,979 cases of public service violations. The Indonesian Ombudsman found more than 15 types of maladministration and found more than 35 types of complaints with the main substance of the report in various public services in Indonesia from April to June 2024, namely: prolonged delays, failure to provide services, incompetence, abuse of authority, requests for bribes for corruption, procedural

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<sup>16</sup>Suria Ningsih, *Introduction to State Administrative Law*, (Medan: Usu Press, 2018), p. 231.

<sup>17</sup>See Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia.

<sup>18</sup>*Ibid.*,

deviations, acting improperly/improperly, taking sides, conflicts of interest, and discrimination.<sup>19</sup>

Based on the reality on the ground, there is evidence that government institutions at the ministerial level still pay little attention to and heed the recommendations issued by the ombudsman. The Ministry of Research, Technology, and Higher Education tops the list of ministries most frequently ignoring recommendations from the ombudsman. The ombudsman report shows that between 2016 and 2021, the Indonesian Ombudsman issued 14 recommendations, of which 6 were not implemented by officials or related agencies for unacceptable reasons<sup>20</sup>.

Then the Ministry of ATR/BPN and the Ministry of Finance did not implement the court decision that had permanent legal force.<sup>21</sup> Meanwhile, the Ministry of Home Affairs is often in the spotlight related to ignoring the recommendation letter that has been submitted related to improving the quality of public services<sup>22</sup> and the Ministry of Communication and Information which did not follow up on the Ombudsman's recommendation letter regarding the issuance of spectrum band permits to PT Corbec which had been granted by the court.<sup>23</sup> Cases of maladministration in the PPPK Teacher Selection in Langkat Regency, North Sumatra Province in 2023. This case shows that although the Ombudsman has the authority to issue recommendations on findings of maladministration, its implementation is highly dependent on the good faith of the relevant agencies. When recommendations are ignored and there is no effective sanction mechanism, reporters may feel that their efforts to seek justice through the Ombudsman are in vain.<sup>24</sup>

Of course, there is a discrepancy in the legal certainty used as the basis for the Ombudsman's recommendations. Recommendation decisions cannot contain sanctions but only suggestions, whereas court decisions can contain sanctions and can be enforced

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<sup>19</sup>Ombudsman Annual Report for the second quarter of April-June 2024.

<sup>20</sup>Yuda Hanafi Lubis, et al., "Addition of the Magistrature of Sanction Function to the Ombudsman in Improving the Quality of Public Services", *Journal of Social Science Research, Research* Vol. 3. No. 2. Year (2023),

<sup>21</sup> <https://www.ombudsman.go.id/news/r/rekomendasi-belum-dijalankan-ombudsman-ri-gelar-fgd-bersama-12-instansi>, accessed on May 17, 2025.

<sup>22</sup><https://antikorupsi.org/id/mendagri-tito-karnavian-jangan-membangkang-dari-aksi-korektif-ombudsman-republik-indonesia>, accessed on May 17, 2025

<sup>23</sup><https://teknologi.bisnis.com/read/20170515/105/653824/kemenkominfo-abaikan-rekomendasi-ombudsman>, accessed on May 17, 2025.

<sup>24</sup><https://ombudsman.go.id/artikel/r/pwkmedia--ombudsman-ri-temukan-maladministrasi-pelaksanaan-aan-skt-seleksi-pppk-pemerintah-kabupaten-langkat>, accessed on May 17, 2025.

.<sup>25</sup> So the performance of the ombudsman institution in supervising public maladministration violations is less productive.

Thus, the Ombudsman institution does not have special weapons to implement supporting programs in monitoring and resolving violations of public services in an effort to create a democratic government that aims to improve the people's welfare, justice, legal certainty and peace (*good governance*).<sup>26</sup>

The Indonesian Ombudsman is not equipped with *legally binding (su poena) powers*. Instead, it issues legal products called "Recommendations." These recommendation letters are issued by agencies suspected of committing administrative violations through a *morally binding approach*, which involves convincing public institutions and bureaucracies that corrections and recommendations regarding reports of alleged maladministration, as well as detection and advice on potential maladministration, are warranted.

Therefore, the position and authority of the Indonesian Ombudsman are questionable and require evaluation, as the institution lacks the authority to impose sanctions on those committing administrative violations. In the concept of a state based on the rule of law, supreme sovereignty rests with the law, and everything is based on it.<sup>27</sup>

## METHOD

The research conducted is normative legal research that this research includes the identification of legal problems, legal analysis, legal problems. The <sup>28</sup>type and nature of this research is prescriptive research, namely a research aimed at obtaining suggestions on what should be done to overcome certain problems that can produce new arguments, theories or concepts as prescriptions in solving the problems faced. Prescriptive means that the object of legal science is the coherence between legal norms and legal principles, coherence between legal rules and legal norms, and coherence between individual behavior and legal norms.<sup>29</sup>

The approach methods used in this research are the statute approach, analytical approach, comparative approach, *historical approach*, and case approach.<sup>30</sup>

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<sup>25</sup>Cevyn Oktavianus Taroreh, et al., "The Position and Role of the Ombudsman of the Republic of Indonesia in the State Administration System of the Republic of Indonesia", *Lex Crimen*, Vol. 11. No. 3. April (2022), p. 3.

<sup>26</sup>Syaironi Muhammad Isa, "The Position and Authority of the Ombudsman of the Republic of Indonesia in Supervising the Provision of Public Services", *Al Daulah*, Vol. 5. No. 1. April 2015. P. 2.

<sup>27</sup>JCT Simorangkir, et al., *Legal Dictionary*, Tenth Edition (Jakarta: Sinar Grafika, Tenth Edition, 2006), p. 143.

<sup>28</sup>Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana Prenanda, 2014), p. 44.

<sup>29</sup>Sunaryati Hartono, *Legal Research in Indonesia at the End of the 20th Century*, (Bandung: PT Alumni, 2006), p. 146.

<sup>30</sup>Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana Prenanda, 2014), p. 46.

## DISCUSSION

### **Analysis of the Legal Design of the Authority of the Republic of Indonesia Ombudsman in Supervising Indonesian Public Services**

The legal framework for the Ombudsman's authority is explicitly regulated in Law Number 37 of 2008, which stipulates that the Ombudsman is authorized to receive public reports, conduct inspections, clarify clarifications, investigate, and issue recommendations regarding alleged maladministration by state officials. This authority is both repressive and preventive, as it not only follows up on reports but can also be exercised on its own initiative through systemic reviews of public service delivery deemed problematic.<sup>31</sup>

The establishment of the Ombudsman as an external and independent supervisory institution carries out the task of supervising the implementation of public services based on Law Number 37 of 2008 Article 1 number 1 as follows: "The Ombudsman of the Republic of Indonesia, hereinafter referred to as the Ombudsman, is a state institution that has the authority to supervise the implementation of public services both organized by state and government administrators, including those organized by State-Owned Enterprises, Regionally-Owned Enterprises, and State-Owned Legal Entities as well as private bodies or individuals who are given the task of organizing certain public services, some or all of which are funded by the state revenue and expenditure budget and/or regional revenue and expenditure budget."<sup>32</sup>

The Ombudsman has conducted public *outreach* to increase public awareness and reporting to the Ombudsman. However, the public's reporting process to the Ombudsman must be easy. This is unlike reporting to the police, which requires written information in a police report (BAP), which can sometimes be intimidating. Therefore, the Ombudsman has designed an online public complaints system. The goal is to allow the public to submit complaints from anywhere. Given the Ombudsman's role as a community empowerment institution, its effectiveness is also measured by the extent to which the public is accessible to it.

If there are Indonesian citizens or residents who feel that there is poor public service, they have the right to submit a report to the Ombudsman free of charge with the following provisions:

- a. Delivered in writing in good and correct Indonesian .

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<sup>31</sup>Nurul Suci Hidayana and Rahmiati, "Strengthening the Institutional Structure of the Ombudsman of the Republic of Indonesia from the Perspective of *Siyasah Dusturiyah*," *Siyasatuna: Scientific Journal of Siyasah Syar'iyah Students*, Vol. 5. No. 1. (2024), p. 143.

<sup>32</sup>Sujata, A, *Indonesian Ombudsman: Past, Present, and Future*, ( Jakarta: National Ombudsman Commission , 2002), p. 4.

- b. The complaint report must be accompanied by a chronology of the case that is explained clearly and systematically and signed.
- c. Include personal identification, including a photocopy of your KTP/SIM/passport.
- d. Attach photocopies of sufficient supporting data.
- e. Written complaints can be submitted by mail, delivered directly to the ORI office, or through the website [www.ombudsman.go.id](http://www.ombudsman.go.id). Recognizing the need for easy public access, the Ombudsman provides an online reporting system.<sup>33</sup>

In carrying out its functions and duties, according to the provisions of Article 8 of Law No. 37 of 2008 concerning ORI, the Ombudsman has the authority to: paragraph (1) In carrying out its functions and duties as referred to in Article 6 and Article 7, the Ombudsman has the authority to:<sup>34</sup>

- a. Requesting information verbally and/or in writing from the Reporter, Reported Party, or other related parties regarding the Report submitted to the Ombudsman;
- b. Checking decisions, correspondence or other documents held by the Reporter or Reported Party to obtain the truth of a report.
- c. Request clarification and/or copies or photocopies of necessary documents from any agency for examination of the Report from the Reported Agency;
- d. Summoning the Reporter, the Reported Party and other parties related to the Report;
- e. Resolving reports through mediation and conciliation at the request of the parties;
- f. Make recommendations regarding the settlement of the report, including recommendations to pay compensation and/or rehabilitation to the injured party;
- g. In the public interest, we announce the findings, conclusions and recommendations.<sup>35</sup>

Then the Ombudsman issued the Republic of Indonesia Ombudsman Regulation Number 58 of 2023 concerning Procedures for Examination and Completion of Reports

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<sup>33</sup>Regina Angelita Br Sebayang and Hartati Hartati, "The Role of the Ombudsman as a Public Service Oversight Institution in Indonesia," *Mendapo: Journal of Administrative Law*, Vol. 2. No. 2. 2023. P. 71.

<sup>34</sup>Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia

<sup>35</sup>Danang Rizky FA, "The Urgency of Expanding the Authority of the Ombudsman of the Republic of Indonesia Representative of the Special Region of Yogyakarta in Supervising the Execution of State Administrative Court Decisions," *Madani: Multidisciplinary Scientific Journal*, Vol. 1, No. 8. 2023. P. 6.

The procedures are as follows:

1. Examination of reports by means of consultation, receipt of reports and matching of reports which are then verified with the formal and material requirements of the report, then there is an assignment or submission of reports.
2. The report examination consists of: the first part is notification of the commencement of the examination and the progress of the report, the second part is document examination, substantive examination, request for additional data, proof of alleged maladministration, request for clarification, summons of the reported party and/or the reported party's superior, witnesses, experts, and/or translators, field examination, substantive examination is stopped, investigation on one's own initiative, quick response from the ombudsman, results of the report examination ( LHP ).
3. Completion of the report consisting of: mediation and/or conciliation, resolution and recommendations,
4. Monitoring and completion of reports consisting of: monitoring the implementation of mediation and/or conciliation agreements, monitoring the implementation of recommendations, special reports and closing reports.<sup>36</sup>

In examining the report, the Ombudsman does not only prioritize coercive authority, for example summons, but the Ombudsman is required to prioritize a persuasive approach to the parties so that state and government officials have their own awareness to be able to resolve reports on alleged maladministration in the implementation of all reports must be resolved through a recommendation mechanism.

This distinguishes the Ombudsman from law enforcement agencies or courts in resolving reports. In examining reports it receives, the Ombudsman may summon the reported party and witnesses for questioning. If the reported party and witnesses fail to comply with three consecutive summonses for legitimate reasons, the Ombudsman may request the assistance of the Indonesian National Police to bring them in by subpoena .<sup>37</sup>

To enforce Law No. 37 of 2008 concerning the Indonesian Ombudsman, it is also regulated regarding the imposition of administrative and criminal sanctions. Administrative sanctions are imposed on the Reported Party and the Reported Party's superior who does not implement the Ombudsman's Recommendations, recommendations are conclusions, opinions, and suggestions compiled based on the results of the Ombudsman's investigation, to the Reported Party's superior to be

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<sup>36</sup> Regulation of the Ombudsman of the Republic of Indonesia Number 58 of 2023 Concerning Procedures for Examination and Completion of Reports

<sup>37</sup>Bobby Hamzar Rafinus, *Contribution of the Ombudsman of the Republic of Indonesia in the Implementation of Sustainable Development Goals* (Jakarta: Ombudsman RI, 2024), pp. 88–90.

implemented and/or followed up in order to improve the quality of good government administration.<sup>38</sup>

If the recommendation is not implemented, then it will proceed to a special report. A special report is where the Ombudsman institution can submit a special report to the House of Representatives and the President regarding reports or service problems that have received public attention to receive attention and resolution by the House of Representatives and the President.

In carrying out its duties, functions and authority to handle reports of alleged maladministration in the provision of public services, the Ombudsman uses standard values that are the basis for every action taken by Ombudsman personnel in serving the public, namely the principles of appropriateness , *justice* , *non* -discrimination , impartiality , accountability , *balance* , *transparency* and *confidentiality* .<sup>39</sup>

Law No. 25 of 2009 concerning Public Services expands the authority of the ombudsman in supervising and resolving violations of public services, including in the context of administrative sanctions, in Article 50 which states that public service providers who violate these provisions are subject to administrative sanctions regarding compensation.

In terms of settling compensation, the ombudsman can carry out mediation, conciliation and special adjudication, Law No. 25 of 2009 on Public Services, paragraph 6 states that special adjudication as referred to in paragraph (5) must be carried out no later than 5 (five) years from the date this law is enacted. In carrying out special adjudication as referred to in paragraph (5), the mechanisms and procedures are further regulated by ombudsman regulations.

Regulation No. 31 of 2018 regulates the mechanisms and procedures for special adjudication, namely the process of resolving compensation that cannot be resolved through mediation and conciliation for public service disputes that are proven to violate maladministration and are decided by the Ombudsman.

The following are the mechanisms and procedures for special adjudication of the compensation process decided by the ombudsman:

1. Special Adjudication Applications must meet the following requirements:
  - a. The reporter or the person entitled to represent the reporter;
  - b. submitted in writing;
  - c. addressed to the Head of the Ombudsman or Head of the Ombudsman Representative;

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<sup>38</sup> See Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, Article 1 paragraph (7).

<sup>39</sup>Budi Masthuri, *Getting to Know the Indonesian Ombudsman*, ( Jakarta: Pradnya Paramita , 2005), p. 69.

- d. A request for Special Adjudication may be submitted 90 (ninety) days after the Reporter receives a notification letter that the Final Examination Results Report (LAHP) has been submitted to the resolution team and before the recommendation is issued;
2. Request for Special Adjudication by filling out the form provided by the Administration Unit.
3. The Administrative Unit processes the administration of the Special Adjudication trial.
4. The Administration Unit receives and registers applications in the Special Adjudication register book.
5. The Resolution and Monitoring Assistant reviews Special Adjudication requests.
6. The Administration Unit will notify the Reporter of the results of the review in writing no later than 14 (fourteen) days after the application is received based on the receipt of the application.
7. If the results of the examination of the application are declared incomplete, the Reporter is obliged to complete the application files no later than 30 (thirty) working days from the date of receiving the notification letter from the Ombudsman.
8. If the Reporting Party does not complete the application, the Reporting Party is deemed to have withdrawn the application.
9. The Special Adjudication Hearing will be held no later than 14 (fourteen) days after the results of the examination of the completeness of the requirements are declared complete.
10. The Special Adjudication Decision is final, binding and must be implemented by the Reported Party.
11. The Special Adjudication Decision shall be implemented by the Reported Party within a maximum of 60 (sixty) days from the date the decision is received by the Reported Party.
12. The Special Adjudication Decision will be submitted to the Reported Party, the Reported Party's Superior, the DPR, and the President.
13. The Ombudsman carries out monitoring to ensure the implementation of the Special Adjudication decision.
14. Public service providers who do not implement the Special Adjudication decision will be subject to sanctions in accordance with the provisions of laws and regulations.

15. All administrative costs during the Special Adjudication trial process are charged to the Ombudsman's Budget Implementation List (DIPA).<sup>40</sup>

Meanwhile, criminal sanctions are imposed on anyone who obstructs the Ombudsman's investigation. Therefore, the Ombudsman's recommendations are not legally binding because they only penalize those who obstruct the investigation, not those proven to have committed maladministration of public services, in order to achieve justice for the Indonesian people. In the Philippines and India, the Ombudsman's recommendations are legally binding. In Indonesia, however, the Ombudsman's recommendations are not *morally binding*.

The ombudsman institution only gives a predicate or value to public institutions that are considered to have high compliance with public service standards, compliance is based on input, process, output and complaints. The green zone predicate is the highest predicate given by the ombudsman institution, then the yellow zone predicate is an ordinary public service, not bad but not a high standard of service, while the red zone is a very low level of compliance and public service, not carrying out the public service process according to procedures so that maladministration violations are rampant.<sup>41</sup>

With the ombudsman institution's assessment of the implementation of public services that have high, ordinary, poor and low standards of service does not provide guarantees and certainty to the public whether the agency continues to be run in accordance with the rules and guidelines in every public service process. Not only problems in terms of legal disharmony but with the ombudsman institution's assessment of public agencies does not provide an impact on legal certainty, whether public agencies continue to maintain the predicate value achieved every year. As a form of urgency to optimize the functions, duties and authorities of the ombudsman, there needs to be a new breakthrough in the transformation of the authority of the Ombudsman institution in the process of resolving maladministration violations in Indonesia.

The Ombudsman Law limits the ability to follow up on reports if substantive audits indicate the ORI lacks authority. To address this challenge, institutional reform and human resource development within the Ombudsman are crucial steps to enable the institution to operate more effectively and efficiently, ensuring transparency, accountability, and improving the quality of public services.<sup>42</sup>

In addition to being regulated in Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, its authority is also regulated in Law Number 25 of 2009 concerning Public Services, especially in Article 50 paragraph (5) which has

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<sup>40</sup> Regulation of the Ombudsman of the Republic of Indonesia Number 31 of 2018 concerning the Mechanism and Procedures for Special Adjudication

<sup>41</sup><https://www.ombudsman.go.id/artikel/r/penganungrahan-predikat-penilaian-kepatuhan-pelayanan-publik-2023-jumlah-peraih-zona-hijau>, accessed on May 17, 2025.

<sup>42</sup>Nurfaika Ishak, "The Effectiveness of Public Service Supervision by the Ombudsman of the Republic of Indonesia", *Mulawarman Law Review*, Vol. 7. No. 1. (2022), p. 74.

expanded the authority of the Ombudsman as a judicial power, especially by carrying out special adjudication in cases of claims for compensation related to maladministration violations in public services. However, until now, 20 years have passed since Law Number 25 of 2009 concerning Public Services was passed, and the ombudsman has never implemented this, even though Article 50 paragraph (6) of the Public Services Law has expressly ordered the ombudsman to carry out this special adjudication no later than 5 years since the public services law was passed.<sup>43</sup>

The implementation of special adjudication authority by the Ombudsman of the Republic of Indonesia (ORI) also faces obstacles because the technical regulations governing its implementation are not yet complete, so that not all public reports can be handled. The failure to implement special adjudication by the ombudsman so far is due to the absence of a Presidential regulation instrument regarding the mechanism and provisions for payment of compensation for the special adjudication decision in accordance with Article 50 paragraph (8) The mechanism and provisions for payment of compensation as further regulated in the presidential regulation . This shows that the ability of the ombudsman as an institution that carries out special adjudication functions is dependent on the government, in this case the President. Even though the Ombudsman as an independent institution and free from political interference or other powers is now degraded by other bodies or institutions that rely on its authority.

However, there are stages of special adjudication trial mechanisms through administrative processes (carried out by the Ombudsman), trial stages and execution stages (carried out by the government) in accordance with the Public Service Law Article 50 Paragraph (7) has been given the authority to regulate its own mechanisms or proceedings even since 2018 the Republic of Indonesia Ombudsman Regulation Number 31 of 2018 concerning Special Adjudication Mechanisms and Procedures has been issued, so it is not dependent on other bodies or institutions. The trial and execution stages of special adjudication that are not carried out by the ombudsman are not the duties and functions of the ombudsman but rather the responsibility of the government which must comply with the decisions of the special adjudication. This certainly affects the performance of the ombudsman in carrying out its authority in supervising public services.<sup>44</sup>

### **The Strength of the Indonesian Ombudsman's Recommendations and Solutions That Can Strengthen Decisions in Monitoring Public Services in Indonesia**

According to Philipus M. Hadjon in his book, maladministration is defined as an unlawful act, abuse of authority, negligence, or neglect of legal obligations in public

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<sup>43</sup>See Law Number 25 of 2009 concerning Public Services

<sup>44</sup>See the Republic of Indonesia Ombudsman Regulation Number 31 of 2018 concerning the Mechanism and Procedures for Special Adjudication

service. He emphasizes that maladministration is not only a procedural violation, but also concerns the substance and purpose of administrative actions. Personal misconduct occurs when officials act beyond their authority or with the intention of abusing their position for personal gain.<sup>45</sup>

Official misconduct occurs in the performance of official duties, even if the results are detrimental to the public, as long as the action is still within the limits of formal authority. criminal liability (personal), civil liability (can be official or personal), and state administrative liability (generally official). Responsibility for maladministration can result in criminal sanctions if there is an element of intent or abuse of authority. Civil compensation if losses occur due to violations of the law by officials. Administrative sanctions if the violation occurs in the context of office without malicious intent. Maladministration is seen as a threat to the principles of good governance, especially in terms of transparency, accountability, and responsive public services. Handling maladministration is part of the effort to strengthen bureaucratic integrity and public trust in the government.<sup>46</sup>

To strengthen the position of the Ombudsman's recommendations in the public service oversight system, a multi-level approach is needed that includes institutional, regulatory, and public participation aspects.<sup>47</sup>

1. Institutional and Regulatory Strengthening Expansion of the Ombudsman's authority to carry out direct corrective actions and unannounced inspections, as stipulated in Law No. 37/2008 and reinforced by Law No. 25/2009 concerning Public Services. Imposing administrative, moral, and criminal sanctions on parties who obstruct the inspection process or do not implement recommendations, including regional heads who may be subject to special guidance or revocation of authority.
2. Improving Transparency and Accountability: The Ombudsman must continue to promote public information transparency and establish a reporting system that is easily accessible to the public. This will increase public trust and strengthen the legitimacy of recommendations as a means of correction.
3. Participation and Protection of Whistleblowers  
The public needs to be empowered as oversight partners. Protection for *whistleblowers* must be guaranteed to prevent intimidation or administrative threats that could impact their careers and personal lives. Sanctions are necessary to increase public institutions' compliance and ensure they implement all

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<sup>45</sup> Djatmiati, Tatiek Sri. "Maladministration in the Context of Personal and Official Errors." In Administrative Law and Good Governance, by Philipus M. Hadjon et al, (Jakarta: Trisakti University Publisher, 2010), p. 123.

<sup>46</sup> *Ibid.*,

<sup>47</sup> Sari Melani, "The Role of the Ombudsman in Handling Public Complaints about Public Services," *Journal of Social and Political Sciences*, Vol. 26. No. 2. (2023), p. 145.

Ombudsman audit findings, both in the form of corrective actions and recommendations.

Strengthening the Indonesian Ombudsman institution through a recommendation mechanism can be explained in depth using the theory of authority developed by Philipus M. Hadjon. In this theory, authority is understood as the legal right to act, which consists of attribution, delegation, and mandate. The Ombudsman's recommendation is a form of attribution authority, because it is given directly by Law Number 37 of 2008. Therefore, these recommendations have formal legitimacy and should be viewed as valid legal products, not merely administrative advice. In carrying out its oversight function, the Ombudsman exercises functional authority to assess and correct maladministration, so its recommendations must be based on a legitimate audit process, objective evidence, and in-depth legal analysis.

In addition, recommendations also reflect evaluative authority, namely the right to assess an agency's compliance with public service principles. Strengthening is carried out through follow-up monitoring, publication of compliance status, and the imposition of moral or administrative sanctions on agencies that ignore recommendations. In order for recommendations to have stronger binding power, harmonization is needed between the Ombudsman's authority and the national legal system, including revision of laws and regulations and explicit recognition of recommendations as part of the state's legal products. With this approach, the Ombudsman's recommendations can be positioned as a legitimate, corrective, and strategic legal instrument in encouraging accountability and public service reform.

Thus, the effectiveness of the recommendations of the Indonesian Ombudsman is highly dependent on the existence of clear and firm sanction aspects. Without a sanction mechanism, recommendations tend to be seen as mere moral exhortations, rather than as binding legal instruments. In the context of the theory of authority, sanctions are an integral part of the implementation of evaluative and corrective authority. When the reported agency ignores recommendations, the existence of structured administrative sanctions, moral sanctions and criminal sanctions can encourage compliance and strengthen the Ombudsman's position as a state supervisory institution. Therefore, strengthening the Ombudsman institution does not only lie in the quality of recommendations, but also in a thorough enforcement system.

This includes strengthening the legal basis which confirms that the Ombudsman's recommendations are part of the implementation of state authority, as well as harmonization with other laws and regulations to prevent overlapping or legal vacuums. In addition, it is necessary to establish a systematic monitoring and evaluation mechanism for follow-up to recommendations, including compliance indicators, response times, and impact on improving public services. With this approach, the Ombudsman's recommendations can be positioned as a legitimate, corrective, and strategic legal instrument in encouraging accountability and public service reform in Indonesia.

### Comparison of the Indonesian Ombudsman with Other Countries

When compared with the existence of ombudsmen in various countries of the world in terms of supervising public services, there is a powerful ombudsman institution *in* carrying out the mandate of supervising public services, namely the Swedish Ombudsman called *the Parliamentary Ombudsman*, in terms of carrying out its duties, functions and authorities, *the Parliamentary Ombudsman* is tasked with promoting legal certainty and ensuring that authorities and courts comply with the provisions of government instruments regarding impartiality and objectivity that public activities do not violate the freedoms and basic rights of citizens.<sup>48</sup>

*The Parliamentary Ombudsman* commences its duties through public reports or its own initiative in the event of a violation of public maladministration and can examine various authorities and courts throughout the country. *The Parliamentary Ombudsman* has the right to declare whether an action by an official authority is contrary to the law or statutory regulations or not and to issue guidance statements contributing to the uniform and effective application of the law. Then *the Parliamentary Ombudsman* can act as a special prosecutor in filing charges against officials who, by neglecting what is their obligation in their position or power, have committed crimes other than violations of press freedom or freedom of expression and report the official for disciplinary action and submit a petition for constitutional amendment to the government or *Riksdag*.<sup>49</sup>

Furthermore, the Polish Ombudsman, named *Commissioner for Civil Rights Protection*, Law Number 15 July 1987 concerning *the Commissioner for Civil Rights Protection*, Article 8 paragraph (1) states that the Ombudsman will take action as regulated by law if he receives information indicating a violation of human rights and civil rights and freedoms including the principle of collective treatment.<sup>50</sup> In handling cases, the Ombudsman can conduct an independent investigation or request that the case be partially investigated by the competent authorities, Prosecutors, State Supervisors, Professionals or Social. Then after examining the case, Law Number 15 July 1987 concerning *the Commissioner for Civil Rights Protection*, Article 14.<sup>51</sup>

Then the Czech Ombudsman, named *Defender of Rights Investigates*, also implemented recommendations regarding public services and imposed sanctions. that is If the guilty authority continues to reject the proposal to correct the proposed improvements, the ombudsman will impose sanctions, notify a higher authority about the

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<sup>48</sup> <https://www.jo.se/om-jo/uppgift-och-befogenheter/>, accessed on May 17, 2025.

<sup>49</sup> *Ibid.*,

<sup>50</sup> <https://www.lovdatabasen.no/dokument/NL/Lov?2021-06-18-121?q=sivilombudet>, accessed on May 17, 2025.

<sup>51</sup> *Ibid.*,

guilty authority and request that corrective action be taken. The ombudsman will also publish the case, including mentioning the name of the official who made the mistake.<sup>52</sup>

Of the three countries mentioned above, when compared to the Ombudsman in Indonesia, there are fundamental differences. If maladministration is proven by the government, the Ombudsman will only issue recommendations to the relevant agency without any coercive power to enforce those recommendations. Unlike the three countries mentioned above, the Ombudsman is very strict in its oversight of public services. Therefore, if a government agency is clearly proven to have committed maladministration, the Ombudsman, in addition to providing oversight, also has the authority to conduct investigations and enforce decisions issued by the relevant agency to ensure they are implemented.

## CONCLUSION

The legal framework for the Indonesian Ombudsman's authority to oversee public services remains suboptimal, both normatively and functionally. Although regulated by Law No. 37 of 2008 and Law No. 25 of 2009, the Ombudsman's authority is not yet equipped with legal coercive instruments to ensure the effective implementation of recommendations. This weakens the Ombudsman's position as an external oversight body, often neglected by the reporting agency. Although there is special adjudication, until now this authority has not been implemented. This results in limited effectiveness of the Ombudsman in resolving public service conflicts directly, and raises doubts about the legitimacy of the adjudication results in the eyes of government agencies and the public.

The recommendations of the Indonesian Ombudsman are currently not legally binding, this causes the recommendations to be ineffective as a control tool in supervising public services, so that their implementation is very dependent on the good faith, moral and political commitment of the supervised agency. Many recommendations are ignored or not followed up on, resulting in a merely symbolic oversight function that lacks substance. This demonstrates the Ombudsman's weak position in driving concrete change. To strengthen recommendations, solutions are needed to expand the Ombudsman's authority within the final recommendations, such as imposing administrative sanctions, social sanctions, and criminal sanctions for maladministration violations in public services.

Compared to Sweden, Poland, and Czech Republic, the Ombudsman's regulations and authority are greater than those of the Indonesian Ombudsman. The Indonesian Ombudsman, in principle, only issues recommendations regarding administrative violations without the power to enforce them. In contrast, in these three countries, if an

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<sup>52</sup> [https://www.ochrance.ez/o-nas/history\\_defender\\_of\\_rights\\_republik\\_cekko](https://www.ochrance.ez/o-nas/history_defender_of_rights_republik_cekko), accessed on 17 May 2025.

administrative violation does occur, the decision issued must be implemented by the agency. Therefore, the decision has the power to enforce it.

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